

NOTICE OF RULE MAKING

During the October 2025 Special Legislative Session, \$12 million was appropriated to provide food assistance to certain SNAP recipients affected by changes to federal law under H.R. 1, Section 10108 (Immigration SNAP Eligibility). These federal changes, signed into law by Donald J. Trump on July 4, 2025, modified eligibility for some lawfully present noncitizens, resulting in the loss of SNAP benefits for individuals who were previously eligible. The state funding is intended to support impacted individuals during this transition.

The Authority implemented a temporary emergency rule effective April 1, 2026, to begin issuing benefits to eligible households. This emergency rule does not permanently amend or repeal existing regulations and will remain in effect only until a permanent rule is adopted through the standard rulemaking process.

The Authority proposes to adopt a new rule in section 8.106.640 NMAC, establishing a State-Funded Assistance Program. The purpose of this program is to provide food assistance to households in New Mexico affected by changes to federal law under H.R. 1.

8.106.640 NMAC

This part is being opened to add the rules for the State Funded Food Assistance Program.

8.106.640.1 ISSUING AGENCY: New Mexico Health Care Authority.
[8.106.640.1 NMAC - N/E, 4/1/2026; N, 9/1/2026]

8.106.640.2 SCOPE: This rule applies to the general public.
[8.106.640.2 NMAC - N/E, 4/1/2026; N, 9/1/2026]

8.106.640.3 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.
[8.106.640.3 NMAC - N/E, 4/1/2026; N, 9/1/2026]

8.106.640.4 DURATION: Permanent.
[8.106.640.4 NMAC - N/E, 4/1/2026; N, 9/1/2026]

8.106.640.5 EFFECTIVE DATE: April 1, 2026, unless a later date is cited at the end of the section.
[8.106.640.5 NMAC - N/E, 4/1/2026; N, 9/1/2026]

8.106.640.6 OBJECTIVE: The objective of the New Mexico state funded food assistance program is to provide households with a one-time state funded food assistance payment for lawfully present individuals who do not qualify for the supplemental nutrition assistance program (SNAP) under the Food and Nutrition Act of 2008.
[8.106.640.6 NMAC - N/E, 4/1/2026; N, 9/1/2026]

8.106.640.7 DEFINITIONS: [RESERVED]

8.106.640.8 STATE FUNDED FOOD ASSISTANCE FOR LAWFULLY PRESENT INDIVIDUALS:

- A. General:** One-time state funded food assistance payment for lawfully present individuals.
- B. Purpose:** provide a one-time state funded food assistance payment to lawfully present individuals who were receiving SNAP benefits and are currently ineligible solely due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).
- C. Method of payment:** a one-time lump sum payment will be issued into the EBT account accessible to the participant.
- D. Eligibility:** An individual must meet the following criteria:
 - (1) was, or is a current SNAP recipient; and

(2) has submitted a timely recertification; and
(3) lost SNAP benefits during recertification solely due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).

E. Benefit amount: will be determined by the authority based on legislative intent and the availability of funds.

(1) this will be a one-time lump sum payment; and
(2) will be calculated based upon a percentage of the average of the recipient's SNAP benefits issued over a six-month period; and
(3) the total amount of the funds appropriated; and
(4) the number of individuals that lost SNAP benefits during recertification solely due to changes in the treatment of their immigration status pursuant to the July 4, 2025, amendment to 7 USC § 2015(f).

F. Receipt of payment under this part does not establish an entitlement to ongoing or future benefits.

G. Limitation of funds:

(1) the authority shall not issue benefits for more than the amount appropriated for this one-time state funded food assistance (OSFA) program;
(2) no benefits shall be issued once the appropriated funds have been exhausted.

H. Disclosure: Use or disclosure of information from SNAP applicants and recipient households who receive this one-time state food benefit shall be restricted to:

(1) HCA employee's investigation simple overpayments that aren't tied to intentional act of wrongdoing.

(2) Local, state, or federal law enforcement officers acting in their official capacity, upon written request by such law enforcement officers that includes the name of the household member being sought, for the purpose of obtaining the address, social security number, and, if available, photograph of the household member, if the member is fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or a high misdemeanor in New Jersey), or is violating a condition of probation or parole imposed under a federal or state law. The state agency shall provide information regarding a household member, upon written request of a law enforcement officer acting in his or her official capacity that includes the name of the person being sought, if the other household member has information necessary for the apprehension or investigation of the other household member who is fleeing to avoid prosecution or custody for a felony, or has violated a condition of probation or parole imposed under federal or state law. The state agency must accept any document that reasonably establishes the identity of the household member being sought by law enforcement authorities. The HCA shall disclose only such information as is necessary to comply with a specific written request of a law enforcement agency authorized by this paragraph enforcement agency authorized by this paragraph.

[8.106.640.8 NMAC - N/E, 4/1/2026; N, 9/1/2026]

8.106.640.9 BENEFIT ISSUANCE AND DELIVERY:

A. Benefit issuance: state funded food assistance will be issued through a direct deposit into a household's EBT account. EBT cards are issued and maintained as defined at 8.139.610 NMAC.

B. Expungement: the state food assistance shall be subject to expungement in accordance with 8.100.100.17 NMAC.

C. Household use of state food assistance: the household shall only be allowed to use the food assistance for food purchases in accordance with 8.139.610.11 NMAC.

[8.106.640.9 NMAC - N/E, 4/1/2026; N, 9/1/2026]

History of 8.106.640 NMAC: 8.106.640 NMAC, State Food Assistance Program was renamed and became effective 4/1/2026.

History of repealed material:

8.106.640 NMAC, Description of Program/Benefits - Benefit Corrections, filed 7/1/2004 - Repealed effective 4/1/2014.

The Authority is developing a new State Funded Assistance Food Program, that will benefit the households affected by H.R. 1. The permanent rule will be effective no later than September 1, 2026.

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 these families.

The register and rule language is available on the HCA website at:

<https://www.hca.nm.gov/lookingforinformation/income-support-division-registers-2/>.

If you do not have internet access, a copy of the final register and rules may be requested by contacting HCA Office of the Secretary at (505) 827-7750.

A hybrid public hearing to receive testimony on Open Section-State Funded Assistance will be held pursuant to Section 14- 4-5.6 NMSA 1978, on July 09, 2026, from 11:00 am-12:00 pm. You may join in person, virtually, or by phone.

You may join in person at: HCA Income Support Division, Santa Fe County Field Office Large Conference Room, 39B Plaza La Prensa, Santa Fe NM 87507.

You may join virtually from your computer, tablet or smartphone:

Microsoft Teams link for teams meeting Need help? Join the meeting now:

+1 505-312-4308,,285492595# United States, Albuquerque (888) 506-1357,,285492595# United States (Toll-free)

Meeting ID: 272 951 905 269 87 Passcode: ZS9ZQ9pH Find a local number Phone conference ID: 285 492 595#

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 HCA public hearing, program, or service, please contact the American Disabilities Act Coordinator, at Office-505-709-5468, Fax- 505-827-6286 or through the New Mexico Relay system, toll free at #711. The Authority requests at least a 10-day advance notice to provide the requested alternative formats and special accommodations.

Individuals who do not wish to attend the hearing may submit written or recorded comments by the following ways:

- Dropping of at HCA Income Support Division, HCA Income Support Division, Santa Fe County Field Office, 39B Plaza La Prensa, Santa Fe NM 87507. Attn: Monica Pineda
- Calling (505) 819-8118.
- Mailing comments to: Income Support Division: Attn, Monica Pineda at P.O. Box 2348, Santa Fe, NM 87504-2348.
- Emailing electronically to: hca-isdrules@hca.nm.gov

Written or recorded comments must be received by 5:00 p.m. on the date of the hearing, July 9, 2026. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing.

All written comments will be posted on the agency website at Income Support Division Registers - New Mexico Health Care Authority within 3 days of receipt.