

TITLE 9 HUMAN RIGHTS
CHAPTER 2 AGE
PART 3 ELIGIBILITY FOR AGING AND LONG-TERM SERVICES DEPARTMENT SERVICES

9.2.3.1 ISSUING AGENCY: New Mexico Aging and Long-Term Services Department (NMALTSO).
[9.2.3.1 NMAC - Rp, 9.2.3.1 NMAC, 09/23/2025]

9.2.3.2 SCOPE: These rules apply to members of the public and organizations that participate in the delivery of services to New Mexico's aging and disability populations.
[9.2.3.2 NMAC - Rp, 9.2.3.2 NMAC, 09/23/2025]

9.2.3.3 STATUTORY AUTHORITY: Aging and Long-Term Services Department Act, Aging and Long-Term Services Department Act, Sections 9-23-1 to 9-23-12 NMSA 1978; Older Americans Act of 1965, 42 U.S.C. Sections 3001 to 3058, and implementing regulations.
[9.2.3.3 NMAC - Rp, 9.2.3.3 NMAC, 09/23/2025]

9.2.3.4 DURATION: Permanent.
[9.2.3.4 NMAC - Rp, 9.2.3.4 NMAC, 09/23/2025]

9.2.3.5 EFFECTIVE DATE: September 23, 2025, unless a later date is cited at the end of a section.
[9.2.3.5 NMAC - Rp, 9.2.3.5 NMAC, 09/23/2025]

9.2.3.6 OBJECTIVE: The objective of this rule is to establish eligibility standards for the federal and state-funded programs administered by the department.
[9.2.3.6 NMAC - Rp, 9.2.3.6 NMAC, 09/23/2025]

9.2.3.7 DEFINITIONS: See 9.2.1.7 NMAC for definitions.
[9.2.3.7 NMAC - Rp, 9.2.3.7 NMAC, 09/23/2025]

9.2.3.8 OLDER AMERICANS ACT SERVICES:

A. An individual must be age 60 or older at the time of service to be eligible to participate in services under the Act, unless the Act otherwise provides an explicit exception. Exceptions are limited to the following specific services:

- (1)** Nutrition services:
 - (a)** Services shall be available to spouses of any age of older individuals.
 - (b)** Services may be available to:
 - (i)** A person with a disability who lives with an adult age 60 or older or who resides in a housing facility that is primarily occupied by older adults at which congregate meals are served; and
 - (ii)** A volunteer during meal hours.
- (2)** Family caregiver support services for:
 - (a)** adults caring for older adults and adults caring for individuals of any age with Alzheimer's or a related disorder;
 - (b)** older relative caregivers who are caring for children and are not the biological or adoptive parent of the child, where older relative caregivers shall no longer be eligible for services under this part when the child reaches 18 years of age; or
 - (c)** older relative caregivers who are caring for individuals age 18 to 59 with disabilities and who may be of any relationship, including the biological or adoptive parent.
- (3)** Services such as information and assistance and public education, where recipients of information may not be age 60 or older, but the information is targeted to those who are age 60 or older or the information benefits those who are age 60 or older.
- (4)** Ombudsman program services, as provided in 45 C.F.R. Section 1324.

B. State agencies, area agencies on aging, and local service providers may develop further eligibility requirements for implementation of services for older adults and family caregivers, as long as they do not conflict with the Act, this part, or guidance as set forth by the assistant secretary for aging. Such requirements may include:

- (1) assessment of greatest social need;
- (2) assessment of greatest economic need;
- (3) assessment of functional and support need;
- (4) geographic boundaries;
- (5) limitations on number of persons that may be served;
- (6) limitations on number of units of service that may be provided;
- (7) limitations due to availability of staff/volunteers;
- (8) limitations to avoid duplication of services; and
- (9) specification of settings where services shall or may be provided.

C. Area agencies on aging and providers shall not means test for any service for which contributions are accepted or deny services to any individual who does not contribute.

[9.2.3.8 NMAC - Rp, 9.2.3.8 NMAC, 09/23/2025]

9.2.3.9 CORPORATION FOR NATIONAL AND COMMUNITY SERVICE VOLUNTEER

PROGRAMS: Except as otherwise provided, eligibility for federally-funded foster grandparent, senior companion, and retired senior volunteer programs shall be pursuant to Title II, Part B, of the Domestic Volunteer Service Act of 1973, 42 U.S.C. Sections 4950 to 5028, 42 U.S.C. Sections 4950 to 5028, and 45 C.F.R. Sections 2551 to 2553. The CNCS handbooks are incorporated by reference into this part.

A. Criteria for the foster grandparent program is further set forth in 9.2.14 NMAC.

B. Criteria for the senior companion program is further set forth in 9.2.15 NMAC.

C. Criteria for the retired senior volunteer program is further set forth in 9.2.16 NMAC.

[9.2.3.9 NMAC - Rp, 9.2.3.9 NMAC, 09/23/2025]

9.2.3.10 STATE-FUNDED SERVICES: Eligibility for programs funded solely with state funds are as follows:

A. Except where otherwise noted, the following may be deemed eligible for state-funded services provided under contract with the department:

- (1) persons age 50 or older;
- (2) spouses (of any age) of persons age 50 or older; and
- (3) persons with disabilities age 18 or older.

B. Criteria for adult protective services is set forth in 8.11.4 NMAC.

C. Area agencies on aging and other contract providers may elect to serve subsets of the populations specified in Subsection A of 9.2.3.10 NMAC, which shall be defined in their area plans and contract documents.

D. Area agencies on aging and other contract providers may request waivers from the department to serve additional populations other than those specified in Subsection A of 9.2.3.10 NMAC, based upon community need. Application for such a waiver shall include a description of:

- (1) the population(s) to be served;
- (2) the need for the proposed service(s) by the proposed population(s); and
- (3) a budget for the proposed service(s).

Approval of any such waiver will be made by the department contingent upon documented need and availability of funding. Final or conditional written approval will be provided by the department.

[9.2.3.10 NMAC - Rp, 9.2.3.10 NMAC, 09/23/2025]

9.2.3.11 [RESERVED]

[9.2.3.11 NMAC - Repealed, 09/23/2025]

9.2.3.12 [RESERVED]

[9.2.3.12 NMAC - Repealed, 09/23/2025]

9.2.3.13 SUPPLEMENT, NOT SUPPLANT: Funds awarded under the Act for services provided under Sections 306(a)(9)(B) (42 U.S.C. 3026(a)(9)(B)), 315(b)(4)(E) (42 U.S.C. 3030c-2(b)(4)(E)), 321(d) (42 U.S.C. 3030d(d)), 374 (42 U.S.C. 3030s-2), and 705(a)(4) (42 U.S.C. 3058d(a)(4)), must be used to supplement, not supplant existing federal, state, and local funds expended to support those activities.

[9.2.3.13 NMAC - N, 09/23/2025]

HISTORY OF 9.2.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

SAA Rule No. 95-3, Eligibility for State Agency on Aging Services, filed 4/13/1995.

History of Repealed Material:

SAA Rule No. 95-3, (filed 4/13/1995) - Repealed 6/30/2015.

9.2.13 NMAC, Eligibility For Aging And Long - Term Services Department Service (filed 6/17/2015), Repealed effective 09/23/2025.

Other: 9.2.13 NMAC, Eligibility For Aging And Long - Term Services Department Services (filed 6/17/2015)
Replaced by 9.2.13 NMAC, Eligibility For Aging And Long - Term Services Department Services effective 09/23/2025.