

This is an amendment to 8.139.410 NMAC, Section 9 and 14 effective 5/1/2026.

**8.139.410.9 CITIZENSHIP AND IMMIGRATION STATUS FOR ELIGIBILITY:** Participation in SNAP is limited to individuals who live in the United States and who are U.S. citizens or are otherwise eligible per the criteria below. [The department will determine eligibility for non-citizens in accordance with 7 CFR 273.2 and 7 CFR 273.4. No individual is eligible to participate in SNAP unless that individual is otherwise eligible and is:

- ~~A. A U.S. citizen;~~
- ~~B. A U.S. non-citizen national;~~
- ~~C. An individual who is:
  - ~~(1) a member of Hmong or Laotian tribe during the Vietnam era, when the tribe militarily assisted the U.S.; (including a spouse, surviving spouse, or child of tribe member) who are lawfully present in the U.S.;~~
  - ~~(2) an American Indian born in Canada who possesses at least fifty percent of blood of the American Indian race to whom the provisions of section 289 of the Immigration and Nationality Act apply; or a member of an Indian tribe as defined at section 4(e) of 25 U.S.C. 450b(e) which is recognized as eligible for the special programs and services provided by the U.S. to Indians because of their status as Indians; or~~
  - ~~(3) a victim of human trafficking and their derivative beneficiaries, in accordance with 7 CFR 273.4(a)(5); or~~~~
- ~~D. A qualified immigrant meeting the criteria in Subsection D, Paragraph (2) below:
  - ~~(1) A qualified immigrant is a:
    - ~~(a) lawful permanent resident;~~
    - ~~(b) refugee;~~
    - ~~(c) asylee;~~
    - ~~(d) person granted withholding of deportation or removal;~~
    - ~~(e) conditional entrants, (in effect prior to April 1, 1980);~~
    - ~~(f) person paroled into the U.S. for at least one year;~~
    - ~~(g) Cuban/Haitian entrants;~~
    - ~~(h) battered spouses and children with a pending or approved self petition for an immigrant visa and whose need for benefits has a substantial connection to the battery or cruelty (including qualified parents, spouses, and children of same), or battered spouses and children with an application for cancellation of removal or suspension of deportation, and whose need for benefits has a substantial connection to the battery or cruelty (including qualified parents, spouses, and children of same).~~~~
  - ~~(2) Qualified immigrants are eligible only if they:
    - ~~(a) were 65 or older and were lawfully residing in the U.S. on August 22, 1996, or~~
    - ~~(b) are under age 18, or~~
    - ~~(c) have been in "qualified" immigrant status for at least five years, or~~
    - ~~(d) are lawful permanent residents who have worked or can be credited with 40 qualifying quarters of employment, or~~
    - ~~(e) were granted refugee or asylum status or withholding of deportation/removal; or~~
    - ~~(f) are a Cuban/Haitian entrant, or Amerasian immigrant, or~~
    - ~~(g) are receiving blindness or disability related assistance or~~
    - ~~(h) are a veteran, active duty military; or the spouse, or the surviving spouse who has not married, or the child;~~
    - ~~(i) are in Iraqi or Afghan special immigrant status.~~~~~~
- ~~E. Lawfully present and exempt from five year bar: Effective December 27, 2020, per section 208 of the Consolidated Appropriations Act, 2021 individuals who are considered compact of free association migrants (COFA) are also referred to as compact citizens. COFA is an agreement between the United States and the three Pacific Island sovereign states of federated states of Micronesia, the republic of the Marshall Islands, and the republic of Palau known as freely associated states.] The authority will determine eligibility for non-citizens:
  - ~~A. a resident of the United States; and~~
  - ~~B. one of the following:
    - ~~(1) a citizen or national of the United States; or~~
    - ~~(2) an individual who lawfully resides in the United States in accordance with compacts of~~~~~~

free association (COFA) citizens referred to in section 402(b)(2)(G) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996; or

(3) a non-citizen who has been granted the status of Cuban and Haitian entrant, as defined in section 501(e) of the Refugee Education Assistance Act of 1980 (Public Law 96-422); or

(4) a non-citizen lawfully admitted for permanent residence (LPR) as an immigrant as defined by sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act, excluding, among others, visitors, tourists, diplomats, and students who enter the United States temporarily with no intention of abandoning their residence in a foreign country must meet one of the following requirements:

(a) Have resided in the United States with a qualified non-citizen status for a period of five years or more beginning on the date of their entry into the United States; or

(b) Exempt from the five-year waiting period by meeting one of the following below:

(i) under 18 years of age; or

(ii) individual with 40 qualifying quarters; or

(iii) lawfully residing in the U.S. and 65 or older on August 22, 1996; or

(iv) individuals with a military connection including veterans, active duty personnel, and their spouses and dependents the spouse or unmarried dependent child of an individual; or

(v) Hmong or Highland Laotian tribal members; or

(vi) blind or disabled; or

(vii) certain American Indians born abroad; or

(viii) a non-citizen admitted as a refugee under section 207 of INA; or

(ix) a non-citizen granted asylum under section 208 INA; or

(x) a non-citizen's deportation is withheld under section 243(h) INA or section 241(b)(3) INA; or

(xi) a non-citizen admitted to the United States as an Amerasian; or

(xii) a non-citizen admitted to the United States as an Iraqi or Afghan special immigrant (SIV-Special Immigrant Visa); or

(xiii) a non-citizen is a victim of human trafficking; or

(xiv) certain Afghan Nationals granted parole between July 31, 2021, and September 30, 2023; or

(xv) certain Ukrainian Nationals granted parole between February 24, 2022, and September 30, 2024.

~~[F-]~~ **C.** Verification of immigrant status is determined in accordance with 7 CFR 273.2(f) and reasonable opportunity is provided pursuant to 7 CFR 273.2(f)(1)(c).

~~[G-]~~ **D.** Reporting undocumented ~~[aliens]~~ non-citizens:

(1) ~~[HSD]~~ HCA shall inform the local DHS office only when an official determination is made that any individual who is applying for or receives benefits is present in the U.S. in violation of the INA. An official determination that an undocumented immigrant is in the U.S. in violation of the INA is only made when:

(a) the undocumented ~~[aliens]~~ non-citizens unlawful presence is a finding of fact or conclusion of law that is made by ~~[HSD]~~ HCA as part of a formal determination about the individual's eligibility; and

(b) ~~[HSD]~~ HCA finding is supported by a determination by DHS or the executive office of immigration review (EOIR) that the non-citizen is unlawfully residing in the US, such as a final order of deportation.

(2) A systematic alien verification for entitlements (SAVE) response showing no service record on an individual or an immigration status making the individual ineligible for a benefit is not a finding of fact or conclusion of law that the individual is not lawfully present.

(3) Undocumented immigrant status is considered reported when ISD enters the information about the non-citizen into the household's computer file.

(4) When a household indicates inability or unwillingness to provide documentation of immigrant status for any household member, ~~[HSD]~~ HCA must classify that member as an ineligible immigrant. ~~[When a person indicates inability or unwillingness to provide documentation of immigrant status, [HSD]HCA must classify that person as an ineligible immigrant.]~~ In such cases ~~[HSD]~~ HCA must not continue efforts to obtain that documentation.

[8.139.410.9 NMAC - Rp, 8.139.410.9 NMAC, 11/1/2023; A, 6/1/2025; A/E, 1/1/2026; A, 5/1/2026]

**8.139.410.14 REQUIREMENTS FOR ABLE BODIED ADULTS:** ISD will administer this program in accordance with 7 Code of Federal Regulation (CFR) 273.24. This program is referred to as the time limit rule or the able bodied adults without dependents (“ABAWD”) program. The program is mandatory at all times unless there is a federally approved statewide waiver in place in accordance with 7 CFR 273.24(f). A statewide waiver makes the program non-mandatory for all ABAWDs who would otherwise be subject to the three month time limit requirement. When a statewide waiver is not in place, ABAWDs are mandatory for all requirements as detailed below. ISD will inform all potential ABAWD households of the ABAWD time limit prior to the expiration of a statewide waiver. ISD will use a fixed 36 month period for measurement and tracking purposes beginning June 1, 2017 through May 31, 2020, and every subsequent fixed three year period.

A. The age limit standards for individuals who are subject to the ABAWD work requirement are ages 18-64.

<del>Age Limit</del>	<del>Date ends</del>
<del>18-49</del>	<del>September 5th 2023</del>
<del>18-50</del>	<del>September 30th 2023</del>
<del>18-52</del>	<del>September 30th 2024</del>
<del>18-54</del>	<del>September 30th 2025</del>

B. **Able bodied adults can comply by:** working 20 hours per week, averaged monthly; for purposes of this provision, 20 hours per week averaged monthly means 80 hours per month; work is defined as:

- (1) work in exchange for money;
- (2) work in exchange for goods or services (“in kind” work); or
- (3) unpaid work, which includes work without compensation that gives a person experience in a job or industry, tests a person’s job skills, or involves volunteer time and effort to a not-for-profit organization.

C. **Good cause:** As determined by ISD, if an individual would have worked an average of 20 hours per week but missed some work for good cause, the individual shall be considered to have met the work requirement if the absence from work is temporary. Good cause shall include circumstances beyond the individual's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, or the unavailability of transportation.

D. **Waived from the time limit requirements:** Upon approval from united states department of agriculture (USDA) food and nutrition service (FNS), ISD will waive the three-month time limit ~~[requirement for the following individuals]~~ in accordance with 7 CFR 273.24(f).

~~[\_\_\_\_\_ (1) \_\_\_\_\_ any individual residing in or relocating to a county that has an unemployment rate twenty over ten percent above the national average as defined by ISD;~~

~~\_\_\_\_\_ (2) \_\_\_\_\_ any individual residing in or relocating to pueblos, tribes, and nations, with an estimated employment to population ratio as a measure for insufficient job availability as determined by ISD.]~~

E. Able bodied adults who are determined to be ineligible for SNAP benefits because of non-compliance with the time limit requirements can regain eligibility in accordance with 7 CFR 273.24(d)(i), (d)(ii), (d)(iii), or (d)(v).

F. **Exceptions to the three month time limit:** The time limit does not apply to an individual if they are:

(1) ~~[Exceptions to the three month time limit required participation are found at 7 CFR 273.24(e)-] Under 18 or 65 years of age or older.~~

(2) Physical and mental unfitness for the three month time limit requirements exception is defined as an individual who has a mental or physical illness or disability, temporary or permanent, which reduces their ability to financially support themselves.

(a) unfitness can be obvious to ISD and documented in the case file; or

(b) not obvious, but is documented by a physician, physician's assistant, nurse, nurse practitioner, a licensed or certified psychiatrist or a licensed or certified psychologist or social worker as being unfit to work; this claim of physical or mental unfitness must be substantiated by written documentation identifying the physical or mental condition and certifying that the person is unfit for employment.

~~\_\_\_\_\_ (c) \_\_\_\_\_ applying for or receiving disability benefits such as supplemental security income (SSI) or general assistance (GA) disability..~~

~~[\_\_\_\_\_ (3) \_\_\_\_\_ Individuals who are homeless as outlined at Subsection A of 8.139.100.7 NMAC.~~

~~\_\_\_\_\_ (4) \_\_\_\_\_ Individuals who are Veterans.~~

~~\_\_\_\_\_ (5) \_\_\_\_\_ Individuals 24 years of age or younger who were in foster care under the responsibility of the state through the maximum age permitted by the state.]~~

~~\_\_\_\_\_ (3) \_\_\_\_\_ a parent or other member of a household with responsibility for a dependent child under~~

the age of 14 or an incapacitated person;

(4) otherwise exempt from the SNAP general work rules under 7 U.S.C. 2015(d)(2) which includes a person who is:

(a) currently subject to and complying with a work registration requirement under title IV of the Social Security Act or the Federal-State unemployment compensation system; or

(b) a student enrolled at least half time in any recognized school, training program, or institution of higher education unless ineligible; or

(c) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or

(d) employed a minimum of thirty hours per week or receiving weekly earnings which equal the minimum hourly rate under the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 206 (a) (1)), multiplied by thirty hours; or

(e) a person between the ages of 16 and 18 who is not a head of a household or who is attending school, or enrolled in an employment training program, on at least a half-time basis.

(5) Indians, also referred to as Native Americans, Alaska Natives, Indigenous Peoples, and Tribal Members:

(a) a member of a federally recognized tribe, or

(b) an "Indian" as defined in 25 U.S.C 1603 (13); or

(c) an "Urban Indian" as defined in 25 U.S.C 1603 (18); or

(d) an "California Indian" as defined in 25 U.S.C 1679 (a).

(6) a pregnant woman.

**G.** ISD will administer the eight percent discretionary exemptions, as allowed by ~~the food and nutrition service~~ FNS and as determined by ISD, in accordance with 7 CFR 273.24(g).

[8.139.410.13 NMAC - Rp, 8.139.410.13 NMAC, 11/1/2023; A/E, 1/1/2026; A, 5/1/2026]