

NOTICE OF PROPOSED RULEMAKING

**8.100.130 NMAC
Section 26**

On July 4, 2025, President Donald J. Trump signed into law House of Representatives (H.R. 1), which included Section 10102 (SNAP Work Requirements), Section 10105 (SNAP Matching Funds Requirements), and Section 10108 (Immigration SNAP Eligibility). Under H.R. 1, Section 10102 and 10108, the federal requirements were to be implemented no later than November 1, 2025. However, the Authority received formal notification and detailed federal guidance from the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) on:

- * October 3, 2025: Received SNAP Provisions for Section 10102
- * October 30, 2025: Received SNAP Provisions for Section 10108

These changes became effective upon enactment. Due to the untimely receipt of federal guidance, the Authority was unable to meet November 1, 2025. The Health Care Authority (HCA) Income Support Division (ISD) implemented a temporary emergency rule effective January 1, 2026. This emergency rule does not permanently amend or repeal the existing rule and will remain in effect only until a permanent rule is adopted through the regular rulemaking process.

HCA is also proposing amendments to 8.100.130 NMAC to eliminate client self-attestation as verification for shelter, utility, and dependent care expenses. H.R. 1 Section 10105, SNAP Matching Funds, establishes a SNAP Quality Control incentive requiring states to contribute matching funds toward SNAP benefit allotments based on their payment error rate. The required state share ranges from 0 to 15 percent depending on the States SNAP Payment Error Rate (PER) and begins in Fiscal Year 2028.

HCA is working to reduce its payment error rate to below 6 percent to minimize the State's required match. Eliminating client self-attestation for shelter, utility and dependent care expenses is expected to reduce the error rate.

HCA's analysis found that client self-attestation significantly contributes to payment errors, particularly client-caused errors that could have been prevented with documentation. Error data from federal fiscal years 2023 and 2024 and October 2024–July 2025 indicate the overall payment error rate could have been reduced by an average of 3–6%. This corrective action is essential to protect program integrity, accuracy, and State resources. The Authority is proposing rule to implement the following sections of the New Mexico Administrative Code (NMAC):

Revises the language in accordance with H.R.1 Section 10105:

A. The applicant/recipient is required to provide verification to determine if the household can claim the shelter expense:

(1) An obligation to pay for monthly shelter expenses is considered a deduction for SNAP. If verification of a shelter expense is requested and not provided, the SNAP benefits will be determined without allowing a deduction for shelter expenses. Documents which may be used to verify the obligation to pay for shelter include:

(2) If documentary evidence is not readily available, a collateral contact may be selected to verify the obligation to pay for shelter or the use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

B. An obligation to pay for the utility expense is considered a deduction for SNAP. If verification of a utility expense is requested and not provided, the SNAP benefits will be determined without allowing a deduction for the utility expenses. Documents which may be used to verify the obligation to pay for the utility expense include:

(5) if documentary evidence is not readily available, a collateral contact may be selected to verify the obligation to pay for utilities or the use other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

Section 28

Revises the language in accordance with H.R.1 Section 10105:

A. An obligation to pay for the dependent care expense is considered a deduction for SNAP. If verification of a dependent care expense is requested and not provided, the SNAP benefits will be determined without allowing a

deduction for the dependent care expenses. Documents which may be used to verify the obligation to pay for the dependent care expenses include:

B. (4) if documentary evidence is not readily available, a collateral contact may be selected as verification of dependent care cost or use the other acceptable methods of verification as set forth in 8.100.130.9 NMAC.

8.139.410 NMAC

Section 9:

Revises the language in accordance with H.R.1 Section 10108:

“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 county must meet one of the following requirements:

(a) Have resided in the United States with a qualified non-citizen status for a period of 5 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.

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).

D. Reporting undocumented non-citizens:

(1) 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 non-citizens unlawful presence is a finding of fact or conclusion of law that is made by HCA as part of a formal determination about the individual’s eligibility; and

(2) 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. 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, HCA must classify that member as an ineligible immigrant. In such cases HCA must not continue efforts to obtain that documentation.”

Section 14:

Revises the language in accordance with H.R. 1 Section 10102:

* Subsection A. by:

* Adding language “are ages 18-64” to clarify the applicable age range

* Removing the table with “age limit” and “date ends”.

* Subsection D. by:

* Adding “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)”

* Removing language in “(1)” and “(2)”.

* Subsection F. by:

* Removing the following individuals “(3) homeless, (4) Veterans, (5) 24 years or younger”.

* Adding the following language:

* “The time limit does not apply to an individual if he or she is:

(1) Under 18 or 65 years of age or older;

(2) (c) applying for or receiving disability benefits such as Supplemental Security Income (SSI) or General Assistance (GA) Disability.

(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).

* a pregnant woman. Adding the following language to subsection G: “discretionary”

The HCA-ISD implemented a temporary emergency rule effective January 1, 2026. This emergency rule does not permanently amend or repeal the existing rule and will remain in effect only until a permanent rule is adopted through the regular rulemaking process.

Regulations issued pursuant to the act are contained in 7 CFR 270-282. Administration of the HCA, including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).The Authority

must promulgate these rules to make them effective no later than May 1, 2026, to be in compliance with Federal law.

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 HCAR Vol. 49 No. 3, will be held pursuant to Section 14-4-5.6 NMSA 1978, on Thursday March 26, 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, 39B Plaza La Prensa, Santa Fe NM 87507.

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

Microsoft Teams [Need help? Join the meeting now](#) +1 505-312-4308,,759633655# United States, Albuquerque (888) 506-1357,,759633655# United States (Toll-free) Meeting ID: 245 216 900 398 50
Passcode: qD3gT9KG [Find a local number](#) Phone conference ID: 759 633 655#

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:

- * Drop 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.
- * Emailed 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, March 26, 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.