

NOTICE OF RULEMAKING

The Health Care Authority (HCA) Income Support Division (ISD) implemented a temporary emergency rule in NM Health Care Authority Register Vol. 48 No. 34, which was effective November 1, 2025, this does not permanently amend or repeal the existing rule and will only remain in effect until this permanent rule takes effect under the normal rule making process.

July 4, 2025, President Donald J. Trump signed into law HR 1 2025. HR 1: Section 10103 amends how state agencies treat receipt of a payment under the Low-Income Home Energy Assistance Act of 1981 or other similar energy assistance programs for the purposes of the Heating and Cooling Standard Utility Allowance (HCSUA), depending on whether the household contains an elderly or disabled member. If a household does not contain an elderly or disabled member, the household would need to provide verification in order to get the deduction, this is not a condition of eligibility. It also updates how SNAP treats Third-Party Energy Assistance Payments provided under State Law. The treatment of these payments and how the HCSUA applies depends on whether the household contains an elderly or disabled household member.

The Authority received notification on August 29, 2025, that the United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) provided guidance to States on the Implementation of Section 10103 of the HR 1 Act of 2025.

FNS will, as appropriate, hold States harmless for Quality Control (QC) purposes for 120 days from the implementation date of July 4, 2025, meaning States had to adopt the new rule no later than November 1, 2025. For HCA to be compliant with HR 1: Section 10103, the Income Support Division (ISD), implemented a temporary emergency rule effective November 1, 2025. The Authority is now proposing the normal rule making process to implement the following NMAC rules:

8.100.631 NMAC

Section 26:

- Updated language in “A. The applicant/recipient is required to provide verification to determine if the household can claim the shelter care expense.”

Section 28:

- Updated language in “A. The applicant/recipient is required to provide verification to determine if the household can claim the shelter care expense.”

8.106.631 NMAC

Section 8:

- Removing “Benefits shall be processed annually at the beginning of the federal fiscal year dependent on the availability of funding.”
- Adding to B. Household: “(6) include an elderly or disabled household member.”
- Removing language “and” from section B
- Updating the language in C. “will receive the HCSUA in accordance with Subsection B of 8.139.631.8 NMAC”
- No other language in section 8 is under review at this time

Section 9:

- Removing “Benefits shall be processed annually at the beginning of the federal fiscal year dependent on the availability of funding.”
- Adding to B. Household: “(6) include an elderly or disabled household member.”
- Removing language “and” from section B
- Updating the language in C. “will receive the HCSUA in accordance with Subsection B of 8.139.631.8 NMAC”
- Updating language in A. to read “At the beginning of every federal fiscal year, a one-time energy assistance cash payment will be issued to eligible households as defined in Subsection B of 8.106.631.8 NMAC.”

- Updating language in B. to read “The Heat and Eat benefit is a cash payment issued through a direct deposit onto the households EBT card and is issued one time per federal fiscal year. For new SNAP households the initial cash payment is issued upon approval of the SNAP benefits. A Heat and Eat benefit will not be issued if a payment was already received in the current federal fiscal year. For active and ongoing SNAP households, the cash payment will be issued at the start of each Federal Fiscal Year, on or about October 1. Cash payment benefits are issued and maintained pursuant to 8.106.610 NMAC.
- No other language in section 9 is under review at this time.

8.139.520 NMAC

Section 6:

- Updating language “the human services department” to “the health care authority”
- Updating the language “food stamp” to “SNAP”
- No other language in section 6 is under review at this time

Section 9:

- Updating C. (4) language to read “Any payment made to a household that does not contain an elderly or disabled household member, under a state law to provide energy assistance shall be considered money payable directly to the household, unless under the law the payment cannot be provided in cash.”
- Updating the language “food stamp” to “SNAP”
- Adding number “(17) Third party energy assistance payments: Any payment provided under a state law to a household that contains elderly or disabled members shall be excluded as income.”
- No other language in section 9 is under review at this time

Section 10:

- Updating C. (4) (c) by removing the “HSD” and adding “HCA”
- No other language in section 10 is under review at this time

Section 11:

- Updating E. (1):
 - “(a) Allowable cost:
 - (i) the costs of care given by an individual care provider or care;
 - (ii) transportation costs to and from the care facility; and
 - (iii) activity or other fees associated with the care provided to the dependent that are necessary for the household to participate in the care.
 - (b) Verification: household is required to provide verification to determine if the household can claim the dependent care expense, acceptable documents that may be used to verify can be located in 8.100.130.28 NMAC.”
- Updating F.
 - Updating (1)(a) with “Verification is required to determine if household can claim the shelter expense, acceptable documents that may be used to verify can be in 8.100.130.26 NMAC.
 - Updating the language “food stamp” to “SNAP”
 - Updating (b)
 - Removing the language “The household's heating or cooling expense must be billed separately from other shelter expenses.”
 - (ii) “with an elderly or disabled member that received a payment, or on behalf of which a payment was made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if in the current month or in the immediately preceding 12 months, the household either received such a payment, or such a payment was made on behalf of the household, that was greater than \$20 annually; or”
- No other language in section 11 is under review at this time.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations necessary to carry out the duties of the Authority and its divisions.

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

The Authority must promulgate these rules and make them effective no later than April 1, 2026, to be in compliance

with Federal Law.

A hybrid public hearing to receive testimony on Heating and Cooling Standard Utility Allowance Rule will be held pursuant to Section 14- 4-5.6 NMSA 1978, on Monday January 22, 2026 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 Sandoval County Office at 4363 Jager Dr NE, Rio Rancho, NM 87144.

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.

You may join virtually from your computer, tablet or smartphone: **Microsoft Teams** Need help?

Join the meeting now Meeting ID: 264 684 793 496 38 **Passcode:** qc3SZ3EX

You may join virtually from your computer, tablet or smartphone: +1 505-312-4308,,921056199# United States, Albuquerque (888) 506-1357,,921056199# United States (Toll-free) Find a local number Phone conference ID: 921 056 199#

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 HSD 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, Sandoval County Office Attn: Monica Pineda at 4363 Jager Dr NE, Rio Rancho NM 87144
- 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, January 22, 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.