

NOTICE OF EMERGENCY RULEMAKING

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. 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.

On August 29, 2025, United States Department of Agriculture (USDA) Food and Nutrition Service (FNS) provided guidance to States on the Implementation Section 10103 of the HR1 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 must adopt the new rule no later than November 1, 2025. For HCA to be compliant with HR1: Section 10103, the Income Support Division (ISD), will implement a temporary emergency rule effective November 1, 2025, to the following NMAC rules:

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:

- * 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 F. (7)
- * 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 HCA, including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).

The Authority must promulgate these emergency rules and make them effective no later than November 1, 2025, to be in compliance with Federal law. The emergency rulemaking process is necessary to avoid placing HCA in violation of 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.