

This is an amendment to 8.50.125 NMAC Sections, 10, 12, 15, 19 and 20 effective 1/1/2024.

**8.50.125.10 COLLECTION OF FEES/RECOUPMENTS:** New Mexico is a cost recovery state, and other states' IV-D agencies have been notified of this fact. All fees charged to the custodial party are deducted from payments the IV-D agency distributes to the custodial party. The amount the IV-D agency deducts from each payment will not exceed ten percent of the total amount of the distribution. Once the percentage for the fee is deducted, the balance of the distribution is sent to the custodial party. Title IV-A, Title IV-E and medicaid-only (Title XIX) recipients are not charged any fees. Federal regulations will not allow cost recovery on these cases. A listing of any applicable fees will be given to all customers.

- A. Potential fee types: [~~and amounts:~~]
- (1) non-IV-D wage withholding payment processing only: actual cost;
  - (2) non-IV-A full service IRS collection: [~~applicable federal fee~~] actual cost;
  - (3) paternity genetic testing: [~~as charged by lab~~] actual cost;
  - (4) non-IV-A/IV-E case processing: actual cost;
  - (5) filing fee: actual cost;
  - (6) witness fee: actual cost;
  - (7) service of process: actual cost;
  - (8) expert witness fee: actual cost;
  - (9) court costs: [~~as assessed~~] actual cost;
  - (10) establishment of support [~~obligation~~] order and paternity (if necessary): [~~\$250~~] actual cost;
  - (11) order modification: [~~\$150~~] actual cost;
  - (12) enforcement actions: [~~\$250~~] actual cost;
  - (13) [~~tax intercept related: as determined by federal regulations;~~]
  - ~~(14)~~ IRS tax intercept service: [~~\$25~~] actual cost per intercept;
  - ~~(15)~~ TRD tax intercept service: [~~\$20~~] actual cost per intercept;
  - ~~(16)~~ administrative offset: applicable federal fee;
  - (16) parental kidnapping locator fee: actual cost;
  - (17) bad check: actual cost;
  - (18) recoupment: actual cost.
- B. Refund of fees: Fees are to be refunded only under the following conditions:
- (1) fees have been charged in error or overcharged;
  - (2) the court orders a refund.
- C. Fees are assessed to the custodial or non-custodial party requesting an action or service (i.e. establishment of paternity, modification or enforcement of support obligation) in a IV-D case in accordance with the fee schedule above.
- D. Genetic testing fees: See 8.50.107.12 NMAC in addition to the fee schedule listed above.
- E. Recoupment: The IV-D agency will recoup from the custodial party for any over-distribution of funds and for any funds collected from the non-custodial party that are returned for insufficient funds. If the recoupment is pursuant to an over-distribution of funds, the recoupment amount shall not exceed twenty-five percent of any future distribution to the custodial party until paid in full. If the recoupment is pursuant to insufficient funds received from the non-custodial party's payment, the recoupment amount shall be one hundred percent of any future distribution to the custodial party until paid in full.
- [8.50.125.10 NMAC - Rp, 8.50.125.10 NMAC, 9/1/2022; A, 1/1/2024]

**8.50.125.12 DISTRIBUTION OF COLLECTIONS THROUGH FEDERAL INCOME TAX REFUND OFFSET:** Any amount of support collected through federal income tax refund offset may be retained by the state to the extent support arrearages have been assigned to the state up to the amount necessary to reimburse the state for cumulative amounts paid to the family as assistance by the state. The state will pay to the federal government the federal share of the amounts so retained. To the extent the amount collected exceeds the amount required to be retained, the state will pay the excess to the family.

A. Current assistance cases: Support collections through federal income tax refund offsets in current assistance cases are retained by the state up to the cumulative amount of unreimbursed assistance paid to the family.

Collections over and above the cumulative amount of unreimbursed assistance are paid to the family. The order in which collections are applied to satisfy assigned and unassigned arrearages in current assistance cases differ by state.

(1) For collections made prior to January 23, 2023 the state of New Mexico has selected the following option:

(a) collections will first be applied to temporarily assigned arrearages or conditionally assigned arrearages;

(b) additional collections will be applied to permanently assigned arrearages; and

(c) additional collections will be applied to never assigned arrearages, unassigned pre-assistance arrearages and unassigned during assistance arrearages.

(2) For collections made on or after January 23, 2023, the state of New Mexico has selected the following option:

(a) collections will be first applied to current support (pass through described in Section 8.50.125.13 NMAC may apply here);

(b) additional collections will be first applied to permanently assigned arrearages;

(c) additional collections will be applied to temporarily assigned arrearages or conditionally assigned arrearages; and

(d) additional collections will be applied to never assigned arrearages, unassigned pre-assistance arrearages and unassigned during assistance arrearages.

B. Former assistance cases: ~~For Support collections made through federal income tax refund offsets in former assistance cases, the state shall:~~

(1) For support collections made through federal income tax refund offsets made prior to January 23, 2023, the state has selected the following options:

(a) collections will first be applied to temporarily assigned arrearages or conditionally assigned arrearages;

(b) additional collections will be applied to permanently assigned arrearages; and,

(c) additional collections will be applied to never assigned arrearages, unassigned pre-assistance arrearages and unassigned during assistance arrearages.

(2) For support collections made through federal income tax refund offsets made on or after January 23, 2023, the state has selected the following options:

~~[(1)]~~ (a) distribute the amount collected to satisfy the current monthly support obligation and pay that amount to the family;

~~[(2)]~~ (b) distribute any amount above the current monthly support obligation to satisfy never-assigned arrearages and pay that amount to the family;

~~[(3)]~~ (c) distribute any amount above amounts distributed in ~~[Paragraphs (1) and (2)]~~ Subparagraphs (a) and (b) of this subsection to satisfy unassigned pre-assistance arrearages and pay that amount to the family;

~~[(4)]~~ (d) distribute any amount above amounts distributed in ~~[Paragraphs (1), (2) and (3)]~~ Subparagraphs (a), (b) and (c) of this subsection to satisfy unassigned during assistance arrearages and pay those amounts to the family;

~~[(5)]~~ (e) distribute any amount above amounts distributed in ~~[Paragraphs (1), (2), (3) and (4)]~~ Subparagraphs (a), (b), (c) and (d) of this subsection to satisfy conditionally-assigned arrearages and pay that amount to the family; the state must pay the federal government the federal share of the amount collected that is applied to assigned support; the state must retain the state share of the amount so collected with one exception; the state may retain or pay to the family the state and federal share of collections applied to conditionally assigned arrearages; and

~~[(6)]~~ (f) distribute any amount above amounts distributed in ~~[Paragraphs (1), (2), (3), (4) and (5)]~~ Subparagraphs (a), (b), (c), (d) and (e) of this subsection to satisfy permanently-assigned arrearages and reduce the cumulative amount of unreimbursed assistance by the total amount distributed under ~~[Paragraph (5) and (6)]~~ Subparagraphs (e) and (f) of Paragraph (2) of Subsection B of 8.50.125.12 NMAC; the state must pay the federal government the federal share of the amount collected that is applied to assigned support; the state must retain the state share of the amount so collected with one exception; the state may retain or pay to the family the state and federal share of collections applied to permanently assigned arrearages and conditionally assigned arrearages.

C. Never-assistance cases: Support collections through federal income tax refund offsets in non-assistance cases are paid to the family.

[8.50.125.12 NMAC - Rp, 8.50.125.12 NMAC, 9/1/2022; A, 1/1/2024]

**8.50.125.15 ASSIGNED MEDICAL SUPPORT COLLECTIONS:** ~~[Any amounts collected by the IV-D agency that represent specific dollar amounts designated in the support order for medical purposes that have been assigned to the state will be forwarded to the medicaid agency for distribution. When a family ceases receiving assistance under the state's Title XIX (medicaid) plan, the assignment of medical support rights under section 1912 of the act terminates, except for the amount of any unpaid medical support obligation that has accrued under such assignment. The IV-D agency will attempt to collect any unpaid specific dollar amounts designated in the support order for medical support purposes. Under this requirement, any medical support collection made by the IV-D agency will be forwarded to the medicaid agency for distribution.]~~ The IV-D agency is not pursuing cash medical support on cases in which the child(ren) receives health care coverage through a public entity.  
[8.50.125.15 NMAC - Rp, 8.50.125.14 NMAC, 9/1/2022; A, 1/1/2024]

**8.50.125.19 CHILD SUPPORT CASE SERVICES:** The IV-D agency provides two types of case services: full service and payment processing only.

**A.** Full services cases: Recipients of IV-A services are automatically enrolled for full services and recipients of title XIX may elect to receive full services for all support or solely for medical support. Full services cases include all services listed below as specific services may not be selected. Applicants not receiving any type of public assistance may also request full services that include:

- (1) establishment of paternity;
- (2) establishment of a child support order, medical support order, or both;
- (3) enforcement of [a] child support orders, spousal support orders (so long as there is a current order for child support), and medical support orders;
- (4) administrative enforcement of orders, including but not limited to referrals for tax intercepts, passport denial, license revocation, and financial institution data match;
- (5) issuance of wage withholding against a non-custodial party's earnings/wages for support obligations; and
- (6) modification of child support orders, if appropriate.

**B.** Payment processing only cases: A custodial party currently receiving full services from the IV-D agency or opening a new case with the IV-D agency may elect to receive payment processing only services so long as they are not currently receiving public assistance (Title IV-A or Title XIX) and does not have an outstanding balance of arrears owed to the state for prior public assistance. Payment processing only services are charged an annual fee as stated in section 10, above. In order to receive payment processing only services, the ~~[custodial party]~~ applicant for services must produce a valid court order (either issued by or registered by a court in New Mexico) for a support obligation that contains an income withholding provision or a copy of an income withholding order indicating that payments are to be sent to the IV-D agency.

- (1) The IV-D agency is not responsible for:
  - (a) establishing, modifying, or enforcing the support obligation;
  - (b) establishing, modifying, enforcing, sending, or terminating the income withholding order;
  - (c) calculating or determining the appropriate amount of support, payment toward arrears, delinquencies, and arrearages;
  - (d) appearing in court for any issues involving the establishment, modification, enforcement or termination of the support obligations.
- (2) The IV-D agency will provide either the custodial party or the non-custodial party a printout of the payments received by the IV-D agency after receiving a written request.
- (3) The IV-D agency may terminate the payment processing only services if no payments are received for a period of two months.

[8.50.125.19 NMAC - Rp, 8.50.125.18 NMAC, 9/1/2022; A, 01/01/2024]

**8.50.125.20 ISSUANCE OF REPLACEMENT WARRANTS:** If a custodial party or non-custodial parent claims that a warrant issued to ~~[him or her]~~ them has not been received, a replacement warrant shall be issued only if the original warrant has not been redeemed or at the discretion of the IV-D agency. If the IV-D agency determines that a replacement warrant will be issued, any warrants that were fraudulently redeemed shall be reported by the intended recipient to the proper authorities as a pre-condition for the issuance of a replacement warrant. An unredeemed warrant is subject to the undistributed collections process, see 8.50.132 NMAC. The IV-D agency will replace a warrant that it can confirm was not redeemed and has not escheated to the IV-D agency through the undistributed collections process. If the IV-D agency is unable to confirm that a warrant has been redeemed due to

the length of time that has passed since the warrant was issued, the IV-D agency will deny the request for a replacement warrant.

[8.50.125.20 NMAC - Rp, 8.50.125.19 NMAC, 9/1/2022; A, 01/01/2024]