

TITLE 8 SOCIAL SERVICES
CHAPTER 50 CHILD SUPPORT ENFORCEMENT PROGRAM
PART 107 DETERMINATION OF PARENTAGE

8.50.107.1 ISSUING AGENCY: New Mexico Health Care Authority - Child Support Services Division.
[8.50.107.1 NMAC - Rp 8.50.107.1 NMAC, 7/1/2024]

8.50.107.2 SCOPE: To the general public. For use by the Title IV-D agency and recipients of Title IV-D services.
[8.50.107.2 NMAC - Rp 8.50.107.2 NMAC, 7/1/2024]

8.50.107.3 STATUTORY AUTHORITY: Public Assistance Act, Section 27-2-27 et seq., NMSA 1978. The health care authority is designated as the single state agency for the enforcement of child and spousal support obligations pursuant to Title IV-D of the Social Security Act (42 USC 651 et. seq.). Section 9-8-1 et seq. NMSA 1978 establishes the health care authority (HCA) as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.
[8.50.107.3 NMAC - Rp 8.50.107.3 NMAC, 7/1/2024]

8.50.107.4 DURATION: Permanent.
[8.50.107.4 NMAC - Rp 8.50.107.4 NMAC, 7/1/2024]

8.50.107.5 EFFECTIVE DATE: July 1, 2024, unless a later date is cited at the end of a section.
[8.50.107.5 NMAC - Rp 8.50.107.5 NMAC, 7/1/2024]

8.50.107.6 OBJECTIVE: To provide regulations in accordance with federal and state law and regulations.
[8.50.107.6 NMAC - Rp 8.50.107.6 NMAC, 7/1/2024]

8.50.107.7 DEFINITIONS: [RESERVED]
[8.50.107.7 NMAC - Rp 8.50.107.7 NMAC, 7/1/2024]

8.50.107.8 DETERMINATION OF PARENTAGE: A determination of parentage is necessary for the establishment of child support. The Title IV-D agency extends full faith and credit to a determination of parentage made by another jurisdiction, whether established through voluntary acknowledgment or through administrative or judicial process. Alleged fathers may initiate parentage actions through the Title IV-D agency. The Title IV-D agency may petition a court of competent jurisdiction to establish parentage so long as the dependent child is still under the age of majority.

A. Federal time-frames and requirements for establishment of parentage. The IV-D agency shall establish an order for support or complete service of process necessary to commence proceedings to establish a support order and, if necessary, parentage (or document unsuccessful attempts to serve process) within 90 calendar days of locating the alleged father or non-custodial parent. (45 CFR Section 303.4(d)).

B. The Title IV-D agency is not required to establish parentage or pursue genetic testing in any case involving incest or rape, or in any case in which legal proceedings for adoption are pending, or if, in the opinion of the IV-D agency, it would not be in the best interests of the child.

C. The Title IV-D agency may identify and use laboratories that perform, at reasonable cost, legally and medically acceptable genetic tests that tend to identify the biological parent or exclude the alleged biological parent. The IV-D agency may make available a list of such laboratories to appropriate courts and law enforcement officials, and to the public upon request.

D. The Title IV-D agency may seek entry of a default order by the court or administrative authority in a parentage case according to state law and rules of procedure regarding default orders.

E. The Title IV-D agency may seek to establish maternity in compliance with the New Mexico Uniform Parentage Act, as appropriate.

F. The IV-D agency will not initiate an action to rescind or disestablish parentage.

G. If a child in a Title IV-D case has an acknowledged, presumed, or an adjudicated father as defined within the New Mexico Uniform Parentage Act, then parentage has been determined and the Title IV-D agency will pursue the establishment of support on behalf of or against the parent, as appropriate.

[8.50.107.8 NMAC - Rp 8.50.107.8 NMAC, 7/1/2024]

8.50.107.9 PARENTAGE INVOLVING MINOR FATHERS AND MOTHERS: If the biological parent is under the age of emancipation, and is not otherwise emancipated by law, the Title IV-D agency will take measures to establish parentage and support, as appropriate. If a biological parent is a minor, their parent, legal guardian, or attorney who has entered an appearance on behalf of the minor biological parent may be present at all meetings or discussions between the minor biological parent and the representatives of the Title IV-D agency. The Title IV-D agency will seek to establish parentage. If the alleged minor non-custodial parent is employed, the Title IV-D agency will pursue guideline support. Any order or stipulation will include a requirement that the minor non-custodial parent will notify the Title IV-D agency of their employment and educational status on a regular basis. In uncontested cases, the Title IV-D agency may seek the concurrence of the minor biological parent's parent(s), legal guardian, or attorney. In contested cases, the minor biological parent(s) may request the court to appoint a guardian ad litem. Any legal notices or pleading prepared following the appointment of the guardian ad litem will be sent in accordance with the rules of civil procedure.
[8.50.107.9 NMAC - Rp 8.50.107.9 NMAC, 7/1/2024]

8.50.107.10 DETERMINATION OF PARENTAGE THROUGH VOLUNTARY ACKNOWLEDGMENT OF PATERNITY: State and federal laws provide for voluntary acknowledgment of paternity after the birth of a child. A man is determined to be the natural father of a child if he and the mother acknowledge parentage by filing a written acknowledgment with the vital statistics bureau of the public health division of the department of health, in accordance with the requirements of Article 3 of the New Mexico Uniform Parentage Act.
[8.50.107.10 NMAC - Rp 8.50.107.10 NMAC, 7/1/2024]

8.50.107.11 LONG ARM STATUTE CASES:
A. The Title IV-D agency will use the long arm statute as appropriate to exercise jurisdiction over a non-custodial parent residing in another state pursuant to Section 40-6A-201 et seq., NMSA 1978.
B. Genetic testing may be used in long arm statute cases in the establishment of parentage. New Mexico shall advance the costs associated with the testing in cases wherein the state initiated long arm statute actions. The Title IV-D agency shall seek reimbursement for the advancement of the costs pursuant to the genetic testing section below.
[8.50.107.11 NMAC - Rp 8.50.107.11 NMAC, 7/1/2024]

8.50.107.12 GENETIC TESTING:
A. The Title IV-D agency provides genetic testing services, as appropriate. The Title IV-D agency will not provide genetic testing services when parentage is presumed by law or has already been adjudicated unless ordered by a court of competent jurisdiction to do so. The Title IV-D agency will seek the admission into evidence, for purposes of establishing parentage, the results of a genetic test that are performed by a laboratory contracted with the Title IV-D agency to provide this specific service, unless the results are otherwise stipulated to by the parties. Any party to a Title IV-D case may seek genetic testing outside of the Title IV-D agency, at their own expense, and obtain a genetic test and report in compliance with Sections 40-11A-503 to 504 et seq., NMSA 1978. The Title IV-D agency will not present or introduce into evidence the results of a genetic test report obtained through a laboratory not contracted with the Title IV-D agency.
B. The Title IV-D agency may charge any individual who is not a recipient of state aid for the cost of genetic testing in accordance with the fee schedule in 8.50.125 NMAC. The Title IV-D agency may advance the cost of the fee if the IV-D agency is a party in a pending court case and is providing full services. If the Title IV-D agency is not a party in a pending court case and is not providing full services, the Title IV-D agency may require payment of the fee from any or all parties prior to scheduling the genetic testing. If a party paying any or all of the genetic testing fee wants reimbursement from the other party, they must seek a court order against that party.
C. The Title IV-D agency will charge a father for genetic testing when parentage is already presumed by law or has already been adjudicated, regardless of the results of the paternity test. The Title IV-D agency will charge an alleged father for genetic testing when parentage is not presumed by law or adjudicated and the results of the test show the alleged father to be the biological father. The Title IV-D agency will charge the mother for genetic testing when parentage is not presumed by law or adjudicated and the results of the test show the alleged father not to be the biological father.
[8.50.107.12 NMAC - Rp 8.50.107.12 NMAC, 7/1/2024]

8.50.107.13 JUDGMENTS AND ORDERS IN PARENTAGE CASES: The judgment or order of the court determining the existence or nonexistence of the parent and child relationship is determinative for all purposes. The IV-D agency will seek the following orders, as appropriate:

- A. an order adjudicating parentage in accordance with the New Mexico Uniform Parentage Act, and
- B. after parentage has been adjudicated, the establishment of child and medical support for the minor child(ren).

[8.50.107.13 NMAC - Rp 8.50.107.13 NMAC, 7/1/2024]

History of 8.50.107 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center and Archives:

ISD CSEB 501.1100, State and Local Requirements, filed 6/23/980.

ISD CSEB 551.0000, Procedures for the Establishment of Paternity, filed 6/23/1980.

ISD CSEB 555.0000, Blood Tests, filed 6/23/1980.

NMAC History:

8 NMAC 5.CSE.000 through 8 NMAC 5.CSE.970, filed 12/30/1994.

History of Repealed Material:

8 NMAC 5.CSE, Child Support Enforcement, filed 12/30/1994 - Repealed effective 5/31/2001.

8.50.107 NMAC, Establishment of Paternity, filed 5/14/2001 - Repealed effective 1/1/2010.

8.50.107 NMAC, Establishment of Paternity, filed 12/30/2009 - Repealed effective 7/1/2024.

Other:

8.50.107 NMAC, Establishment of Paternity, filed 12/30/2009 Replaced by 8.50.107 NMAC, Establishment of Paternity, effective 7/1/2024.