

TITLE 8 SOCIAL SERVICES
CHAPTER 50 CHILD SUPPORT ENFORCEMENT PROGRAM
PART 111 GENERAL ENFORCEMENT OF SUPPORT OBLIGATIONS

8.50.111.1 ISSUING AGENCY: New Mexico Health Care Authority - Child Support Services Division.
[8.50.111.1 NMAC - Rp, 8.50.111.1 NMAC, 12/30/2010; A, 7/1/2024]

8.50.111.2 SCOPE: To the general public. For use by the Title IV-D agency and recipients of Title IV-D services.
[8.50.111.2 NMAC - Rp, 8.50.111.2 NMAC, 12/30/2010; A, 1/1/2022]

8.50.111.3 STATUTORY AUTHORITY: Public Assistance Act, Section 27-2-27 et seq., NMSA 1978. The health care authority (HCA) 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 as a single, unified department to administer laws and exercise functions relating to health care facility licensure and health care purchasing and regulation.
[8.50.111.3 NMAC - Rp, 8.50.111.3 NMAC, 12/30/2010; A, 1/1/2022; A, 7/1/2024]

8.50.111.4 DURATION: Permanent.
[8.50.111.4 NMAC - Rp, 8.50.111.4 NMAC, 12/30/2010]

8.50.111.5 EFFECTIVE DATE: December 30, 2010, unless a later date is cited at the end of a section.
[8.50.111.5 NMAC - Rp, 8.50.111.5 NMAC, 12/30/2010]

8.50.111.6 OBJECTIVE: To provide regulations in accordance with federal and state laws and regulations.
[8.50.111.6 NMAC - Rp, 8.50.111.6 NMAC, 12/30/2010]

8.50.111.7 DEFINITIONS: [RESERVED]
[See 8.50.100.7 NMAC]

8.50.111.8 GENERAL ENFORCEMENT OF SUPPORT OBLIGATIONS: The Title IV-D agency uses a variety of processes, both administrative and judicial, to enforce support obligations.
[8.50.111.8 NMAC - Rp, 8.50.111.8 NMAC, 12/30/2010; A, 1/1/2022]

8.50.111.9 PERSONS OWING OVERDUE SUPPORT: Pursuant to state and federal law, the Title IV-D agency may seek to obtain an order that requires the obligor to adhere to the support obligations or, if the person is not incapacitated, to participate in work activities. The Title IV-D agency does not charge a late fee for overdue support.
[8.50.111.9 NMAC - Rp, 8.50.111.9 NMAC, 12/30/2010; A, 1/1/2022]

8.50.111.10 INTEREST CALCULATIONS: The Title IV-D agency calculates interest in accordance with:
A. New Mexico law regarding the accrual of interest on support obligations is applied to New Mexico support orders; and
B. the interest rules of the issuing state (state that issued the order) apply when New Mexico registers a foreign support order; the initiating state (state requesting registration of a foreign support order) is responsible for providing an accurate audit to include interest, as appropriate.
[8.50.111.10 NMAC - Rp, 8.50.111.12 NMAC, 12/30/2010; A, 1/1/2022]

8.50.111.11 NON-DISCHARGEABILITY IN BANKRUPTCY: A debt of support is not released by a discharge in bankruptcy. (11 USC 523 (a)).
[8.50.111.11 NMAC - Rp, 8.50.111.15 NMAC, 12/30/2010]

8.50.111.12 CONTEMPT PROCEEDINGS: The Title IV-D agency will pursue contempt provisions when the non-custodial parent has a delinquency of at least three months, and there is sufficient evidence that the non-custodial parent has an ability to pay or otherwise comply with the order. If an obligor is found by a court to be in contempt of court, the Title IV-D agency may request the court issue a bench warrant for the arrest of the obligor.

Any bond requested by the Title IV-D agency in a bench warrant shall be a cash only bond to be paid to the Title IV-D agency and distributed in accordance with federal and state laws regarding distribution of support payments.

A. The Title IV-D agency will screen the case for information regarding the non-custodial parent's ability to pay or otherwise comply with the order.

B. The Title IV-D agency will provide the court with information regarding the non-custodial parent's ability to pay or otherwise comply with the order.

C. The Title IV-D agency will provide clear notice to the non-custodial parent that their ability to pay constitutes the critical question in the civil contempt action.

[8.50.111.12 NMAC - Rp, 8.50.111.16 NMAC, 12/30/2010; A, 1/1/2020; A, 1/1/2022]

8.50.111.13 GARNISHMENT: The Title IV-D agency may pursue garnishment of an obligor's wages to reduce his or her arrearage balance. A garnishment will not be pursued if there is currently a wage withholding in effect.

[8.50.111.13 NMAC - Rp, 8.50.111.17 NMAC, 12/30/2010; A, 1/1/2022]

8.50.111.14 LIENS: The Title IV-D agency has in effect and uses procedures for the imposition of liens against the real or personal property of an obligor who owes overdue support and who resides or owns property in New Mexico. Once a lien is secured, a release of lien will not be issued until there is a complete or partial satisfaction of the arrears, or upon agreement of the parties.

[8.50.111.14 NMAC - Rp, 8.50.111.18 NMAC, 12/30/2010]

8.50.111.15 POSTING OF BOND, GUARANTEE, OR OTHER SECURITY: The Title IV-D agency may request the court to order an obligor to secure the support payment by bond, guarantee, surety or other security deemed appropriate by the court.

[8.50.111.15 NMAC - Rp, 8.50.111.19 NMAC, 12/30/2010; A, 1/1/2022]

8.50.111.16 STATE OR FEDERAL CRIMINAL PROSECUTIONS: The Title IV-D agency will refer support obligors for state or federal criminal prosecution pursuant to state and federal law (See 18 USC 228 and Section 30-6-2 et seq., NMSA 1978). During the time a referral is being considered by or accepted by a state or federal agency for prosecution, the Title IV-D agency will suspend civil enforcement (court proceedings) unless otherwise instructed by the appropriate prosecutor's office. The Title IV-D agency will continue to administratively enforce the obligation.

[8.50.111.16 NMAC - Rp, 8.50.111.20 NMAC, 12/30/2010; A, 1/1/2022]

HISTORY OF 8.50.111 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, 6/23/1980.

ISD CSEB 501.1100, State and Local Requirements, 6/23/1980.

ISD CSEB 561.0000, Procedures for Enforcement, 6/23/1980.

ISD CSEB 564.0000, Collection by IRS, 6/23/1980.

ISD CSEB 564.0000, Collection by IRS, 3/7/1984.

ISD CSEB 565.0000, U.S. District Court Enforcement, 6/23/1980.

ISD CSEB 566.0000, Voluntary Wage Allotments of Federal Employees and Processing of Garnishment Orders for Child Support and/or Alimony, 11/3/1981.

NMAC History:

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

History of Repealed Material:

8 NMAC 5.CSE, Child Support Enforcement - Repealed effective 5/31/2001.

8.50.111 NMAC, General Enforcement of Support Obligations, filed 5/14/2001 - Repealed effective 12/30/2010.