

**TITLE 8 SOCIAL SERVICES**  
**CHAPTER 139 FOOD STAMP PROGRAM**  
**PART 500 FINANCIAL ELIGIBILITY - NEED DETERMINATION**

**8.139.500.1 ISSUING AGENCY:** New Mexico Human Services Department  
[02/01/95; 8.139.500.1 NMAC - Rn, 8 NMAC 3.FSP.000.1, 05/15/2001]

**8.139.500.2 SCOPE:** General public  
[02/01/95; 8.139.500.2 NMAC - Rn, 8 NMAC 3.FSP.000.2, 05/15/2001]

**8.139.500.3 STATUTORY AUTHORITY:** The food stamp program is authorized by the Food Stamp Act of 1977 as amended (7 U.S.C. 2011 et. seq.). Regulations issued pursuant to the act are contained in 7 CFR Parts 270-282. State authority for administering the food stamp program is contained in Chapter 27 NMSA, 1978. Administration of the human services department (HSD), including its authority to promulgate regulations, is governed by Chapter 9, Article 8, NMSA 1978 (Repl. 1983).  
[02/01/95; 8.139.500.3 NMAC - Rn, 8 NMAC 3.FSP.000.3, 05/15/2001]

**8.139.500.4 DURATION:** Permanent  
[02/01/95; 8.139.500.4 NMAC - Rn, 8 NMAC 3.FSP.000.4, 05/15/2001]

**8.139.500.5 EFFECTIVE DATE:** February 1, 1995, unless a later date is cited at the end of a section.  
[02/01/95; 8.139.500.5 NMAC - Rn, 8 NMAC 3.FSP.000.5, 05/15/2001; A, 09/01/2017]

**8.139.500.6 OBJECTIVE:** Issuance of the revised food stamp program policy manual is intended to be used in administration of the food stamp program in New Mexico. This revision incorporated the latest federal policy changes in the food stamp program not yet filed. In addition, current policy citations were rewritten for clarification purposes or were simply reformatted. Issuance of the revised policy manual incorporated a new format which is the same in all income support division policy manuals. A new numbering system was designated so that similar topics in different programs carry the same number. The revised format and numbering standards were designed to create continuity among ISD programs and to facilitate access to policy throughout the human services department.  
[02/01/95; 8.139.500.6 NMAC - Rn, 8 NMAC 3.FSP.000.6, 05/15/2001]

**8.139.500.7 DEFINITIONS:** [RESERVED]

**8.139.500.8 BASIS OF ISSUANCE:**

**A. Income standards:** Determination of need in SNAP is based on federal guidelines. Participation in the program is limited to households whose income is determined to be a substantial limiting factor in permitting them to obtain a nutritious diet. The net and gross income eligibility standards are based on the federal income poverty levels established in the Community Services Block Grant Act [42 USC 9902(2)].

**B. Gross income standards:** The gross income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin islands is one hundred thirty percent of the federal income poverty levels for the 48 states and the District of Columbia. One hundred thirty percent of the annual income poverty guidelines is divided by 12 to determine monthly gross income standards, rounding the results upward as necessary. For households larger than eight, the increment in the federal income poverty guidelines is multiplied by one hundred thirty percent, divided by 12, and the results rounded upward if necessary.

**C. Net income standards:** The net income eligibility standards for the 48 contiguous states, District of Columbia, Guam and the Virgin islands are the federal income poverty levels for the 48 contiguous states and the District of Columbia. The annual income poverty guidelines are divided by 12 to determine monthly net income eligibility standards, (results rounded upward if necessary). For households larger than eight, the increment in the federal income poverty guidelines is divided by 12, and the results rounded upward if necessary.

**D. Yearly adjustment:** Income eligibility limits are revised each October 1st to reflect the annual adjustment to the federal income poverty guidelines for the 48 contiguous states and the District of Columbia and can be found at <https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information>.

**E. Deductions and standards:**

**(1) Determination:** Expense and standard deduction amounts are determined by federal guidelines and may be adjusted each year. Households eligible based on income and resource guidelines, and other

relevant eligibility factors, are allowed certain deductions to determine countable income.

(2) **Yearly adjustment:** The expense and standard deductions may change each year. If federal guidelines mandate a change, it is effective each October 1st, and can be found at <https://www.fns.usda.gov/snap/cost-living-adjustment-cola-information> and [http://www.hsd.state.nm.us/LookingForInformation/Federal\\_Poverty\\_Level\\_Guidelines.aspx](http://www.hsd.state.nm.us/LookingForInformation/Federal_Poverty_Level_Guidelines.aspx) [02/1/95, 10/01/95, 02/29/96, 10/01/96, 3/15/97, 01/15/98, 11/15/98, 12/15/99, 01/01/01, 03/01/01; 8.139.500.8 NMAC - Rn, 8 NMAC 3.FSP.501, 05/15/2001; A, 10/01/2001; A, 10/01/2002, A, 09/01/2003; A, 10/01/2003; A/E, 10/01/2004; A/E, 10/01/2005; A/E, 10/01/2006; A/E, 10/01/2007; A/E, 10/01/2008; A/E, 04/01/2009; A/E, 10/01/2009; A, 10/30/2009; A, 04/01/2010; A/E, 10/01/2010; A/E, 10/01/2011; A/E, 10/01/2012; A/E, 10/01/2013; A/E, 10/01/2014; A, 04/16/2015; A, 10/01/2015; A, 10/01/2016; A/E, 10/01/2017; A, 2/01/2018]

### **8.139.500.9 PROSPECTIVE BUDGETING:**

**A. Initial month procedures:** "Initial month" means the first month for which a household is certified for participation in the food stamp program following any period during which the household was not certified for participation. Eligibility and food stamp benefit amount for households submitting an initial application will be based on circumstances for the entire calendar month in which a household files its application.

(1) **Changing eligibility:**

(a) Because of anticipated changes, a household may be eligible for the month of application, but ineligible in the next month. The household is entitled to benefits for the month of application, even if the application is processed and benefits issued in the subsequent month.

(b) A household may be ineligible for the month of application but eligible in the next month because of anticipated changes in circumstances.

(c) Even if denied for the month of application, a household does not need to reapply in the next month. The same application is used for the denial of the month of application and the determination of eligibility in subsequent months.

(2) **Prorating initial month's food stamp benefit amount:** A household's food stamp benefit amount for the initial month is based on the day of the month the household applies.

**B. Varied benefit amount:** As a result of anticipating changes, a household's food stamp benefit amount for the month of application may differ from the amount in later months.

(1) The income support specialist (ISS) will establish a certification period for the longest period over which changes in the household's circumstances can reasonably be anticipated.

(2) For changes discussed at the application interview, a household's food stamp benefit amount may vary from month to month during the certification period to reflect changes anticipated at the time of certification.

(3) Adverse action notices will not be required for any subsequent month in which the food stamp benefit amount decreases. Adequate notice will be required for each month in which the food stamp benefit amount changes.

**C. Retroactive benefits:** For households that have completed the application process by the 30th day after application, and have been determined eligible, the food stamp benefit amount will be provided retroactively to the date of application.

**D. Recertification procedures:** Eligibility and food stamp benefit amount for recertification will be determined prospectively based on circumstances anticipated for the certification period beginning the month following the expiration of the current certification period.

**E. Mass change procedures:** Adjustments to the maximum food stamp benefit amount, income standards, shelter and dependent care deduction limits, state utility standard adjustments, and overall adjustments to financial assistance payments and mass changes in federal benefits, such as social security and SSI benefits, are made by a mass change. The adjustment is made in the month before the change is effective to allow for adequate notice to affected households.

**F. Determining resources:** Available resources at the time the household is interviewed will be used to determine the household's eligibility.

(1) Nonrecurring lump sum payments are counted as resources in the month received and are not counted as income.

(2) Resources received or available in the month of application but expended before the day of the interview are not used to determine the household's eligibility, unless the resource was transferred for the purpose of qualifying for food stamp benefits.

[02/01/95; 8.139.500.9 NMAC - Rn, 8 NMAC 3.FSP.502.1-502.6, 05/15/2001]

**8.139.500.10 DETERMINING INCOME:**

**A. Anticipating income:** In determining a household's eligibility and SNAP benefit amount ISD shall use income already received by the household during the certification period and any income the household and ISD are reasonably certain shall be received during the remainder of the certification period.

(1) If the amount of income or date of receipt is uncertain, that portion of the household's income that is uncertain shall not be counted.

(2) If the exact amount of the income is not known, that portion of the income which can be anticipated with reasonable certainty shall be considered income.

(3) In cases where the receipt of income is reasonably certain but the monthly amount may fluctuate, a household may choose to average its income.

**B.** Income received during any past 30-day consecutive period that includes 30 days prior to the date of application through the date of timely disposition shall be used as an indicator of the income that is and shall be available to the household during the certification period.

(1) Past income is not used as an indicator of income anticipated for the certification period if changes in income have occurred or can be anticipated during the certification period.

(2) If income fluctuates to the extent that a single four-week period does not provide an accurate indication of anticipated income, a longer period of past time can be used if it gives a more accurate indication of anticipated fluctuations in income.

(3) Income already received is not used and verification is obtained from the income source, if the household and ISD decide that income already received by the household is not indicative of income expected to be received in future months.

**C. Simplified reporting:** A household filing an interim report form is subject to the income methodology specified at 8.139.500.9 NMAC.

**D.** Income anticipated during the certification period shall be counted only in the month it is expected to be received, unless the income is averaged.

**E. Use of conversion factors:** Whenever a full month's income is anticipated and is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

(1) income received on a weekly basis is averaged and multiplied by four;

(2) income received on a biweekly basis is averaged and multiplied by two;

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

**F. Held wages:**

(1) Wages withheld at the request of an employee shall be considered income to a household in the month the wages would otherwise have been paid by the employer.

(2) Wages withheld by the employer as a general practice, even in violation of the law, shall not be counted as income to a household, unless the household anticipates that it will ask for and receive an advance.

(3) If a household anticipates asking for and receiving income from wages that were previously withheld by the employer as a general practice, the income shall be counted to determine eligibility.

**G. Earned income:**

(1) Earned income shall be anticipated based on income received when the following criteria are met:

(a) the applicant and ISD are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification period; and

(b) the anticipated income is based on income received from any consecutive past 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and ISD determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and ISD are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

**H. Unearned income:**

(1) Unearned income shall be anticipated based on income received when the following

criteria are met:

(a) the applicant and ISD are reasonably certain the income amounts received are indicative of future income and expected to continue during the certification; and

(b) the anticipated income is based on income received from any consecutive past 30-day period that includes 30 days prior to the date of application through the date of timely disposition of the application.

(2) When the applicant and ISD determine that the income received is not indicative of future income that will be received during the certification period, a longer period of time may be used if it will provide a more accurate indicator of anticipated income.

(3) Provided the applicant and ISD are reasonably certain the income amounts are indicative of future income, the anticipated income shall be used for the month of application and the remaining months of the certification period.

(4) Households receiving state or federal assistance payments, such as Title IV-A, GA, SSI or social security payments on a recurring monthly basis are not considered to have varied monthly income from these sources simply because mailing cycles may cause two payments to be received in one month.

**I. Income received more frequently than weekly:** The amount of monthly gross income paid more frequently than weekly (i.e., daily) is determined by adding all the income received during the past four weeks. The gross income amount is used to anticipate income in the application month and the remainder of the certification period. Conversion factors shall not be applied to this income.

**J. Income received less frequently than monthly:** The amount of monthly gross income paid less frequently than monthly is determined by dividing the total income by the number of months it is intended to cover. ISD shall carefully explain to the household how the monthly income was computed and what changes might result in a reportable change. Documentation shall be filed in the case record to establish clearly how the anticipated income was computed.

**K. Use of conversion factors:** Whenever a full month's income is anticipated but is received on a weekly or biweekly basis, the income shall be converted to monthly amount as follows:

(1) income received on a weekly basis is averaged and multiplied by four;

(2) income received on a biweekly basis is averaged and multiplied by two;

(3) averaged income shall be rounded to the nearest whole dollar prior to application of the conversion factor; amounts resulting in \$.50 or more are rounded up; amounts resulting in \$.49 or lower are rounded down.

**L. Known changes in income for future months at application:**

(1) At application or recertification, it shall be determined if any factors affecting income will change in future months. Such factors include a new income source, termination of income, or increases or decreases in income.

(2) Income is considered only when the amount of the income and the date it will be received are reasonably certain.

(3) In the event that a change is known for future months, benefits are computed by taking into account the change in income.

**M. Averaging income over the certification period:**

(1) All households may choose to have their income averaged. Income is usually not averaged for destitute households because averaging would result in assigning to the month of application income from future periods which is not available for its current food needs.

(2) To average income, ISD uses a household's anticipation of income fluctuations over the certification period. The number of months used to arrive at the average income need not be the same as the number of months in the certification period.

(3) **Contract income:** Households which, by contract, derive their annual income in a period of less than one year shall have that income averaged over a 12-month period, provided that the income is not received on an hourly or piecework basis.

(a) Contract income includes income for school employees, farmers, self-employed households, and individuals who receive annual payments from the sale of real estate.

(b) These procedures do not include migrant or seasonal farm worker households.

(4) **Educational monies:** Households receiving scholarships, deferred educational loans, or other educational grants shall have such income, after exclusions, averaged over the period for which it is provided. All months which the income is intended to cover shall be used to average income, even if the income is received during the certification period. If the period has elapsed completely, the educational monies shall not be considered

income.

**N. Using exact income:** Exact income, rather than averaged income, shall be used if:

- (1) the household has chosen not to average income;
- (2) income is from a source terminated in the application month;
- (3) employment has just begun in the application month and the income represents only a

partial month;

- (4) in the month of application, the household qualifies for expedited service or is considered a destitute, migrant or seasonal farm worker household; or

- (5) income is received more frequently than weekly, (i.e., daily).

[02/01/95, 11/01/95, 07/01/97, 06/01/99; 8.139.500.10 NMAC - Rn, 8 NMAC 3.FSP.502.7, 05/15/2001; A, 02/14/2002; A, 01/01/2004; A, 08/30/2007; A, 04/01/2010; A, 09/01/2017; A/E, 10/01/2017; A, 2/01/2018]

**8.139.500.11 DETERMINING DEDUCTIBLE EXPENSES:** Household expenses which can be deducted from income include only certain costs of dependent care, child support, medical and shelter expenses.

**A. Expenses not allowed as deductions:**

(1) **Vendor payments and reimbursements:** An expense covered by an excluded reimbursement or vendor payment is not deductible. Vendor payments are those paid directly to a household's creditors by a non-household member, while reimbursements are paid to a household after it has paid creditors.

(2) **Reimbursable medical expenses:** That portion of an allowable medical expense which is reimbursable will not be included as a household's medical expense when calculating the medical expense deduction.

(3) **Service provided by household member:** Expenses will be deductible only for a service provided by someone outside a participating household, and for which the household makes a money payment. Only money received from an outside source is considered income to a household; money paid to a provider outside the household is counted as a deductible expense.

(4) **Child care expenses:** Child care expenses which are reimbursed or paid for by the Jobs Opportunities and Basic Skills Training Program (JOBS) under Title IV-F of the Social Security Act [42 USC 681] or the transitional child care (TCC) program will not be deductible when calculating the dependent care deduction allowed for a household.

(5) **Child support expenses:** A child support deduction will not be allowed if the household does not report or verify its monthly child support payment or a change in its legal obligation.

**B. Billed expenses:**

(1) **Allowing a deduction:** A deduction is allowed only in the month the expense is billed or otherwise becomes due, regardless of when the household intends to pay it.

(2) **Arrears:** Amounts carried forward from past billing periods (arrears) are not deductible, even if included in the most recent billing and actually paid by the household, unless these expenses are billed less often than monthly and are averaged. A particular expense may be deducted only once. Rent, mortgage payments or property taxes that are in arrears are not allowed, even if they were not previously allowed in any certification period.

(3) **Expense not allowed:** If a household receives a bill during the certification period but does not report it until it is past due, the expense may not be allowed as a deduction. Similarly, late charges assessed to a household on a past due bill are not allowed as a deductible expense.

(4) **Billed medical expenses:** If a household claims a deduction for billed medical expenses, but does not know or cannot verify the portion of billed expenses that will be reimbursed, the expense is allowed after the reimbursement is received or can otherwise be verified, rather than in the month the bill is received. Only the unreimbursed amount of the bill is deductible. A deduction will be allowed when the household verifies that a billed medical expense will not be paid directly to the provider by a third party, or will not be reimbursed to the household by an insurance company or government program.

(5) **Child support deduction:**

(a) Child support is not an allowable deduction when billed. Verification of payment must be received prior to allowance of the deduction.

(b) The child support deduction will include amounts paid toward arrearages, provided that the household has at least a three month record of payments.

**C. Anticipating expenses:** A household's expenses will be calculated based on the expenses the household expects to be billed during the certification period.

(1) Anticipation of expenses is based on the most recent month's bills, unless the household

is reasonably certain a change will occur.

(2) If actual costs for a household's heating/cooling or other utility expenses are anticipated to be less than the appropriate mandatory utility standard, the appropriate mandatory utility standard shall be allowed.

(3) Income conversion procedures will apply to anticipated expenses billed on a weekly or biweekly basis.

(4) Child support will be anticipated based on actual payments during past months and reasonably certain changes expected in the future.

**D. Averaging expenses:** A household may choose to have fluctuating expenses averaged.

**E. One-time expenses:** A household may choose to have a one-time only expense averaged over the entire certification period, or allowed in the month the expense is billed or becomes due.

(1) If a household chooses the one-time expense deduction, the caseworker will document the expense in the case file. Such expenses include annual property taxes and insurance.

(2) A one-time expense may be averaged over the period the billing is intended to cover.

(3) A household may choose to have a one-time only expense reported at certification deducted in a lump sum or averaged over the certification period.

(4) A household reporting a one-time only medical expense during its certification period may choose to have a one-time expense deduction or to have the expense averaged over the remaining months of the certification period.

(a) If a household incurs a one-time only medical expense and makes arrangements with the provider to pay in monthly installments (beyond the current certification period), the expense may be allowed each month as arranged.

(b) A household reporting a one-time only medical expense during the certification period may choose to have a one-time deduction or to have the expense averaged over the remaining months of the certification period. Averaging would begin the month the change becomes effective.

(c) If a household is billed for and reports an expense during the last month of the certification period, the deduction may not be allowed unless it will be paid in installments during the following certification period. The deduction will be allowed during the appropriate number of months in the following certification period.

**F. Expenses billed less often than monthly:** Households may choose to have expenses which are billed less often than monthly averaged forward over the interval between scheduled billings or, if there is no scheduled interval, averaged forward over the period the expense is intended to cover. Averaging may be used even if the bill is received before the certification period. Averaging is governed by the scheduling of the bill or the period the expense is intended to cover.

**G. Fluctuating medical expenses:** Fluctuating medical expenses will be allowed as deductions if regularly recurring, reasonably anticipated, and verified. Medical expenses will not be calculated by averaging past months' medical expenses. Past expenses are used only as an indicator of what can reasonably be anticipated.

**H. Dependent care:** Dependent care expenses paid on a weekly or biweekly basis will be averaged if a household has chosen to average income. Conversion procedures will be used if a household is billed on a weekly or biweekly basis.

[02/01/95, 10/01/95; 8.139.500.11 NMAC - Rn, 8 NMAC 3.FSP.502.8, 05/15/2001; A, 01/01/2004]

### **8.139.500.12 ESTABLISHING CERTIFICATION PERIODS:**

**A.** The caseworker shall establish a definite period of time within which a household is eligible to receive benefits.

**B.** Entitlement to SNAP benefits ends at the expiration of the household's certification period. Continued eligibility is determined only when an application has been filed, an interview held, and all verification provided.

**C.** Under no circumstances shall benefits be continued beyond the end of a certification period without a redetermination of eligibility.

**D.** A household shall be provided with an expiration notice before or at the beginning of the last month of a certification period.

**E.** If a household is determined eligible for the initial month but ineligible the following month, it shall be certified for one month only. Conversely, a household may be ineligible for the month of application but eligible for the following month(s). If the household is denied for the month of application, it does not need to file a new application for the following month.

**F. Conformity with calendar month:** Certification periods shall conform to calendar months. At the initial application, the first month in the certification period is the month of application, even if the household's eligibility is not determined until a later month.

**G. Length of certification period:** All households will be assigned to simplified reporting and shall be assigned a certification period in accordance with Subsection A of 8.139.120.9 NMAC. Households shall be assigned the longest certification period possible based on the stability of the household's circumstances. A certification period cannot exceed 12 months, except for households in which all adult members in the household are elderly or disabled. Households in which all members are elderly or disabled will be assigned a 24-month certification period. At least one contact with each certified household shall be made every 12 months.

**H. Shortening the certification period:**

(1) The caseworker may not end a household's certification period earlier than its assigned termination date, unless the caseworker receives information that the household has become ineligible, or the household has not taken action to clarify or provide verification of a change in household circumstances for which the caseworker has requested verification.

(2) Loss of cash assistance or a change in employment status is not sufficient to meet the criteria necessary for shortening a certification period.

**I. Lengthening the certification period:** The caseworker may lengthen a household's current certification period once it is established, as long as the total months of the certification period do not exceed 24 months for households in which all adult members are elderly or disabled, or 12 months for other households. If the caseworker extends the household's certification period, the caseworker shall issue written notice advising the household of the new certification end date.

[02/01/95, 01/01/97, 07/01/98; 8.139.500.12 NMAC - Rn, 8 NMAC 3.FSP.502.9, 05/15/2001; A, 02/14/2002; A, 01/01/2004; A, 09/01/2017]

**HISTORY OF 8.139.500 NMAC:**

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

ISD 421.0000, Application Processing, 7/31/80.

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 10/13/83.

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 4/24/84.

ISD-Rule 439.0000, Monthly Reporting/Retrospective Budgeting (MRRB), 8/3/84.

ISD-Rule 441.0000, Food Assistance - Actions Subsequent to Determine Eligibility, 11/5/82.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 2/9/83.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 9/8/83.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 10/13/83.

ISD-Rule 440.0000, Actions Subsequent to Determine Eligibility, 4/24/84.

ISD-Rule 442.0000, Food Assistance - Transfer of Households, 11/4/82.

ISD-Rule 442.0000, Food Assistance - Transfer of Households, 9/8/83.

ISD 424.0000, Recertification, 7/28/80.

ISD-443.0000, Food Assistance - Recertification, 11/4/82.

ISD-443.0000, Food Assistance - Recertification, 9/8/83.

ISD-443.0000, Food Assistance - Recertification, 10/13/83.

ISD-443.0000, Food Assistance - Recertification, 1/12/84.

ISD FS 510, Food Stamp Reporting and Recertification, 3/2/88.

**History of Repealed Material: [RESERVED]**