

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 214

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO PUBLIC ASSISTANCE; AMENDING SECTIONS OF THE NEW
MEXICO WORKS ACT TO DEFINE AND ESTABLISH SOME PROGRAM FUNCTIONS
OF THE STATE WORKFORCE AGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 27-2B-3 NMSA 1978 (being Laws 1998,
Chapter 8, Section 3 and Laws 1998, Chapter 9, Section 3, as
amended) is amended to read:

"27-2B-3. DEFINITIONS.--As used in the New Mexico Works
Act:

A. "applicant" means a person applying for cash
assistance on behalf of a benefit group;

B. "benefit group" means a pregnant woman or a
group of people that includes a dependent child, all of that
dependent child's full, half or adopted siblings or

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1 stepsiblings living with the dependent child's parent or
2 relative within the fifth degree of consanguinity and the
3 parent with whom the children live;

4 C. "career pathways" means a series of structured
5 and connected education or training programs coupled with
6 supportive services that enable individuals, often while
7 working, to advance over time to better jobs through the
8 acquisition of higher levels of education and training;

9 ~~[G.]~~ D. "cash assistance" means cash payments
10 funded by the temporary assistance for needy families block
11 grant pursuant to the federal act and by state funds;

12 ~~[D.]~~ E. "department" means the human services
13 department;

14 ~~[E.]~~ F. "dependent child" means a natural child,
15 adopted child, stepchild or ward who is:

- 16 (1) seventeen years of age or younger;
17 (2) eighteen years of age and is enrolled in
18 high school; or
19 (3) between eighteen and twenty-two years of
20 age and is receiving special education services regulated by
21 the public education department;

22 ~~[F.]~~ G. "director" means the director of the income
23 support division of the department;

24 ~~[G.]~~ H. "earned income" means cash or payment in
25 kind that is received as wages from employment or payment in

1 lieu of wages; and earnings from self-employment or earnings
2 acquired from the direct provision of services, goods or
3 property, production of goods, management of property or
4 supervision of services;

5 ~~[H.]~~ I. "federal act" means the federal Social
6 Security Act and rules promulgated pursuant to the Social
7 Security Act;

8 ~~[I.]~~ J. "federal poverty guidelines" means the
9 level of income defining poverty by family size published
10 annually in the federal register by the United States
11 department of health and human services;

12 ~~[J.]~~ K. "immigrant" means alien as defined in the
13 federal act;

14 L. "non-exempt participant" means a participant who
15 does not meet a criterion set forth in Subsection J of Section
16 27-2B-5 NMSA 1978 for exemption from work participation
17 requirements;

18 ~~[K.]~~ M. "parent" means natural parent, adoptive
19 parent or stepparent;

20 ~~[L.]~~ N. "participant" means a recipient of cash
21 assistance or services or a member of a benefit group who has
22 reached the age of majority;

23 ~~[M.]~~ O. "person" means an individual;

24 ~~[N.]~~ P. "secretary" means the secretary of the
25 department;

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1 [~~Q~~] Q. "services" means child care assistance;
2 payment for employment-related transportation costs; job search
3 assistance; employment counseling; employment, education and
4 job training placement; one-time payment for necessary
5 employment-related costs; case management; or other activities
6 whose purpose is to assist transition into employment;

7 R. "state workforce agency" means the workforce
8 solutions department, its designee or its successor;

9 [~~P~~] S. "unearned income" means old age, survivors
10 and disability insurance; railroad retirement benefits;
11 veterans administration compensation or pension; military
12 retirement; pensions, annuities and retirement benefits; lodge
13 or fraternal benefits; shared shelter payments; settlement
14 payments; individual Indian money; child support; unemployment
15 compensation benefits; union benefits paid in cash; gifts and
16 contributions; and real property income;

17 [~~Q~~] T. "vehicle" means a conveyance for the
18 transporting of individuals to or from employment, for the
19 activities of daily living or for the transportation of goods;
20 "vehicle" does not include any boat, trailer or mobile home
21 used as a principal place of residence; and

22 [~~R~~] U. "vocational education" means an organized
23 educational program that is directly related to the preparation
24 of a person for employment in a current or emerging occupation
25 requiring training other than a baccalaureate or advanced

1 degree. Vocational education must be provided by an
2 educational or a training organization, such as a vocational-
3 technical school, community college, post-secondary educational
4 institution or proprietary school."

5 SECTION 2. Section 27-2B-4 NMSA 1978 (being Laws 1998,
6 Chapter 8, Section 4 and Laws 1998, Chapter 9, Section 4, as
7 amended) is amended to read:

8 "27-2B-4. APPLICATION--RESOURCE PLANNING SESSION--
9 INDIVIDUAL RESPONSIBILITY PLANS--PARTICIPATION AGREEMENT--
10 REVIEW PERIODS.--

11 A. Application for cash assistance or services
12 shall be made to the department. The application shall be in
13 writing or reduced to writing in the manner and on the form
14 prescribed by the department. The application shall be made
15 under oath by an applicant having custody of or residing with a
16 dependent child who is a benefit group member and shall contain
17 a statement of the age of the child, residence, a complete
18 statement of the amount of property in which the applicant has
19 an interest, a statement of all income that the applicant and
20 other benefit group members have at the time of the filing of
21 the application and other information required by the
22 department.

23 B. The department shall assist an applicant in
24 completing the application for cash assistance or services and
25 shall evaluate an applicant to determine eligibility for all

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1 department programs for which the applicant is eligible. [~~The~~
2 ~~department shall process all expedited food stamp applications~~
3 ~~within two business days of submission, and the department~~
4 ~~shall deliver expedited food stamps to an eligible applicant~~
5 ~~within seven days of the application.~~]

6 C. At the time of application for cash assistance
7 and services, an applicant and the department shall identify
8 everyone who is to be counted in the benefit group. Once an
9 application is approved, the participant shall advise the
10 department if there are any changes in the membership of the
11 benefit group.

12 D. Prior to determining eligibility for cash
13 assistance or services, the department shall screen each adult
14 applicant to determine whether the adult could meet a criterion
15 for exemption pursuant to Subsection J of Section 27-2B-5 NMSA
16 1978. If the participant does not meet a criterion and is
17 therefore not exempt from work participation, the department
18 shall inform the participant in writing of work- or education-
19 related requirements and refer the participant in writing to
20 the state workforce agency to meet work- or education-related
21 requirements.

22 [~~D.~~] E. No later than thirty days after an
23 application is filed, the department shall provide to an
24 applicant a [~~resource planning session to ascertain~~] list of
25 resources and services available to meet the applicant's

1 immediate needs, [~~assess financial and nonfinancial options~~]
2 make referrals and act on the application

3 ~~[E. No later than five days after an application is~~
4 ~~approved, the department shall provide reimbursement for child~~
5 ~~care] as appropriate.~~

6 F. Whenever the department receives an application
7 for assistance, a verification and record of the applicant's
8 circumstances shall promptly be made to ascertain the facts
9 supporting the application and to obtain other information
10 required by the department. The verification may include a
11 visit to the home of the applicant, as long as the department
12 gives adequate prior notice of the visit to the applicant.

13 G. No later than fifteen days after an application
14 is approved, the [~~department~~] state workforce agency shall
15 assess the education, skills, prior work experience and
16 employability of the participant. The assessment shall include
17 the sharing of information on opportunities for obtaining
18 credentials in high-growth industries, such as career pathways.

19 H. After the initial assessment of skills, the
20 [~~department~~] state workforce agency shall work with the non-
21 exempt participant to develop an individual responsibility plan
22 that:

23 (1) sets forth an employment goal for the non-
24 exempt participant and a plan for moving the non-exempt
25 participant into employment through credential attainment,

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1 character traits and interpersonal skills that complement an
2 individual's technical and occupational skills or career
3 pathways programs;

4 (2) sets forth obligations of the non-exempt
5 participant that may include a requirement that the non-exempt
6 participant attend school, maintain certain grades and
7 attendance, keep the non-exempt participant's school-age
8 children in school, immunize the non-exempt participant's
9 children or engage in other activities that will help the non-
10 exempt participant become and remain employed;

11 (3) is designed to the greatest extent
12 possible to move the non-exempt participant into whatever
13 employment the non-exempt participant is capable of handling
14 and to provide additional services as necessary to increase the
15 responsibility and amount of work the non-exempt participant
16 will handle over time;

17 (4) describes the services the [~~department~~]
18 state workforce agency may provide so that the non-exempt
19 participant may obtain and keep employment; and

20 (5) may require the non-exempt participant to
21 participate in appropriate services, such as substance abuse,
22 domestic violence or mental health services.

23 I. The non-exempt participant and the [~~department~~]
24 state workforce agency shall sign the non-exempt participant's
25 individual responsibility plan. The department shall not allow

1 a non-exempt participant to decline to participate in
2 developing an individual responsibility plan. The [~~department~~]
3 state workforce agency shall not waive the requirement that a
4 non-exempt participant develop an individual responsibility
5 plan. The [~~department~~] state workforce agency shall emphasize
6 the importance of the individual responsibility plan to the
7 non-exempt participant.

8 J. If a non-exempt participant does not develop an
9 individual responsibility plan, refuses to sign an individual
10 responsibility plan or refuses to attend semiannual reviews of
11 an individual responsibility plan, the non-exempt participant
12 shall be required to enter into a conciliation process pursuant
13 to Subsection C of Section 27-2B-14 NMSA 1978. If the non-
14 exempt participant persists in noncompliance with the
15 individual responsibility plan process after the conciliation
16 process, the non-exempt participant shall be subject to
17 sanctions pursuant to Section 27-2B-14 NMSA 1978.

18 K. The non-exempt participant shall also sign a
19 participation agreement that designates the number of hours
20 that the non-exempt participant must participate in work
21 activities to meet participation standards.

22 L. The department shall review the current
23 financial eligibility of a benefit group when the department
24 reviews [~~food-stamp~~] eligibility for supplemental nutrition
25 assistance program participation.

1 M. The [~~department~~] state workforce agency shall
2 meet semiannually with a non-exempt participant to review and
3 revise the non-exempt participant's individual responsibility
4 plan.

5 N. The [~~department~~] state workforce agency shall
6 develop a complaint procedure to address issues pertinent to
7 the delivery of services and other issues relating to a non-
8 exempt participant's individual responsibility plan."

9 SECTION 3. Section 27-2B-5 NMSA 1978 (being Laws 1998,
10 Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5, as
11 amended) is amended to read:

12 "27-2B-5. WORK REQUIREMENTS--WORK PARTICIPATION RATES.--

13 A. The following qualify as work activities:

14 (1) unsubsidized employment, including self-
15 employment;

16 (2) subsidized private sector employment,
17 including self-employment;

18 (3) subsidized public sector employment;

19 (4) work experience;

20 (5) on-the-job training;

21 (6) job search and job readiness;

22 (7) community service programs;

23 (8) vocational education;

24 (9) job skills training activities directly
25 related to employment;

1 (10) education directly related to employment
 2 in programs that lead to credentials in high-growth industries,
 3 such as career pathways;

4 (11) satisfactory attendance at a secondary
 5 school or course of study leading to a high school equivalency
 6 credential in the case of a participant who has not completed
 7 secondary school or received such a certificate; and

8 (12) the provision of child care services to a
 9 participant who is participating in a community service
 10 program.

11 B. The state workforce agency shall prioritize
 12 participants for federal funds when providing career and
 13 training services in accordance with priority of service
 14 guidelines established pursuant to its administration of all
 15 other employment and training programs in the state.

16 [~~B.~~] C. The [~~department~~] state workforce agency
 17 shall recognize community service programs and job training
 18 programs that are operated by an Indian nation, tribe or
 19 pueblo.

20 [~~G.~~] D. The department may not require a
 21 participant to work more than four hours per week over the work
 22 requirement rate set pursuant to the federal act.

23 [~~D.~~] E. The department shall require a parent,
 24 caretaker or other adult who is a member of a benefit group and
 25 who does not meet criteria for an exemption to engage in a work

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1 activity.

2 [E-] F. Where best suited for the non-exempt
3 participant to address barriers, the department may require the
4 following work activities:

5 (1) participating in parenting classes, money
6 management classes or life skills training;

7 (2) participating in a certified alcohol or
8 drug addiction program;

9 (3) in the case of a homeless benefit group,
10 finding a home;

11 (4) in the case of a non-exempt participant
12 who is a victim of domestic violence, residing in a domestic
13 violence shelter or receiving counseling or treatment or
14 participating in criminal justice activities directed at
15 prosecuting the domestic violence perpetrator for no longer
16 than twenty-four weeks; and

17 (5) in the case of a non-exempt participant
18 who does not speak English, participating in a course in
19 English as a second language.

20 [F-] G. Subject to the availability of funds, the
21 [~~department~~] state workforce agency in cooperation with [~~the~~
22 ~~workforce solutions department, Indian affairs department and~~]
23 other appropriate state agencies may develop projects to
24 provide for the placement of non-exempt participants in work
25 activities, including the following:

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1 (1) participating in unpaid internships with
2 private and government entities;

3 (2) refurbishing publicly assisted housing;

4 (3) volunteering at a head start program or a
5 school;

6 (4) weatherizing low-income housing; and

7 (5) restoring public sites and buildings,
8 including monuments, parks, fire stations, police buildings,
9 jails, libraries, museums, auditoriums, convention halls,
10 hospitals, buildings for administrative offices and city halls.

11 ~~[G.]~~ H. If a non-exempt participant is engaged in
12 full-time vocational education studies or an activity set out
13 in Paragraphs (9) through (11) of Subsection A of this section,
14 the non-exempt participant shall engage in another work
15 activity at the same time. Additionally, for two-parent
16 families that receive federally funded ~~[child-care]~~ child care
17 assistance, the non-exempt participant's spouse shall engage in
18 a work activity set out in Paragraphs (1) through (5) or (7) of
19 Subsection A of this section unless the participant ~~[suffers~~
20 ~~from a temporary or complete disability that bars the~~
21 ~~participant from engaging in a work activity or the participant~~
22 ~~is barred from engaging in a work activity because the~~
23 ~~participant provides sole care for a person with a disability]~~
24 meets criteria for an exemption pursuant to Subsection J of
25 this section.

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1 ~~[H.]~~ I. A non-exempt participant engaged in
2 vocational education studies shall make reasonable efforts to
3 obtain a loan, scholarship, grant or other assistance to pay
4 for costs and tuition, and the department shall disregard those
5 amounts in the eligibility determination.

6 ~~[F.]~~ J. For as long as the described conditions
7 exist, the following are exempt from the work requirement:

8 (1) a participant barred from engaging in a
9 work activity because the participant has a temporary or
10 permanent disability;

11 (2) a participant over age sixty;

12 (3) a participant barred from engaging in a
13 work activity because the participant provides the sole care
14 for a person with a disability;

15 (4) a single custodial parent caring for a
16 child less than twelve months old for a lifetime total of
17 twelve months;

18 (5) a single custodial parent caring for a
19 child under six years of age if the parent is unable to obtain
20 child care for one or more of the following reasons:

21 (a) unavailability of appropriate child
22 care within a reasonable distance from the parent's home or
23 work as defined by the children, youth and families department;

24 (b) unavailability or unsuitability of
25 informal child care by a relative under other arrangements as

1 defined by the children, youth and families department; or

2 (c) unavailability of appropriate and
3 affordable formal [~~child-care~~] child care arrangements as
4 defined by the children, youth and families department;

5 (6) a pregnant woman during her last trimester
6 of pregnancy;

7 (7) a participant prevented from working by a
8 temporary emergency or a situation that precludes work
9 participation for thirty days or less;

10 (8) a participant who demonstrates by reliable
11 medical, psychological or mental reports, court orders or
12 police reports that family violence or threat of family
13 violence effectively bars the participant from employment; and

14 (9) a participant who demonstrates good cause
15 of the need for the exemption.

16 [~~J.~~] K. As a condition of the exemptions identified
17 in Subsection [~~I~~] J of this section, the department may
18 establish participation requirements; provided that these
19 requirements are specific to the participant's condition or
20 circumstances; [~~such as~~] and provided further that these
21 participation requirements are individualized and limited to
22 those specific to housing needs, substance abuse services,
23 mental health services, domestic violence services, pursuit of
24 disability benefits, job readiness or education directly
25 related to employment. The activities are established to

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1 improve the participant's capacity to improve income and
2 strengthen family support."

3 SECTION 4. Section 27-2B-5.2 NMSA 1978 (being Laws 1999,
4 Chapter 27, Section 1) is amended to read:

5 "27-2B-5.2. WORK PROGRAM--STATE WORKFORCE AGENCY--PUBLIC
6 SCHOOLS.--The [~~department~~] state workforce agency and the
7 [~~state department of~~] public education department may establish
8 a work program for non-exempt participants to engage in a work
9 activity pursuant to Subsection A of Section 27-2B-5 NMSA 1978
10 at public schools."

11 SECTION 5. Section 27-2B-14 NMSA 1978 (being Laws 1998,
12 Chapter 8, Section 14 and Laws 1998, Chapter 9, Section 14, as
13 amended by Laws 2003, Chapter 311, Section 5 and Laws 2003,
14 Chapter 432, Section 5) is amended to read:

15 "27-2B-14. SANCTIONS.--

16 A. The department shall sanction a member of a
17 benefit group for noncompliance with work requirements or child
18 support requirements.

19 B. The sanction shall be applied at the following
20 levels:

21 (1) twenty-five percent reduction of cash
22 assistance for the first occurrence of noncompliance;

23 (2) fifty percent reduction of cash assistance
24 for the second occurrence of noncompliance; and

25 (3) termination of cash assistance and

1 ineligibility to reapply for six months for the third
2 occurrence of noncompliance.

3 C. Prior to imposing the first sanction, if [~~the~~
4 ~~department determines that~~] a participant is not complying with
5 the work participation requirement or child support enforcement
6 requirements, the participant shall be required to enter into a
7 conciliation process established by the department or the state
8 workforce agency to address the noncompliance and to identify
9 good cause for noncompliance or barriers to compliance. The
10 conciliation process shall occur only once prior to the
11 imposition of the sanction. The non-exempt participant shall
12 have ten working days from the date a conciliation notice is
13 mailed to contact the department for complying with child
14 support enforcement requirements or the state workforce agency
15 for complying with the work participation requirement to
16 initiate the conciliation process. A participant who fails to
17 initiate the conciliation process shall have a notice of
18 adverse action mailed to [~~him~~] the participant after the tenth
19 working day following the date on which the conciliation notice
20 is mailed. Participants who begin but do not complete the
21 conciliation process shall be mailed a notice of adverse action
22 thirty days from the date the original conciliation notice was
23 mailed.

24 D. Reestablishing compliance shall allow full
25 payment to resume.

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1 E. Noncompliance with reporting requirements may
2 subject a non-exempt participant to other sanctions, except
3 that an adult member of the benefit group shall not be
4 sanctioned for the failure of a dependent child to attend
5 school.

6 F. Effective October 1, 2001, the department shall
7 not terminate the medicaid benefits of any member of a benefit
8 group due to imposition of a sanction pursuant to the
9 provisions of this section."

10 **SECTION 6.** Section 27-2B-19 NMSA 1978 (being Laws 1998,
11 Chapter 8, Section 19 and Laws 1998, Chapter 9, Section 19, as
12 amended) is amended to read:

13 "27-2B-19. SUBSIDIZED EMPLOYMENT.--

14 A. The [~~department~~] state workforce agency may
15 administer a wage subsidy program based on availability of
16 federal and state funds.

17 B. The wage subsidy program shall include the
18 following requirements:

19 (1) participating employers shall hire
20 participants who receive cash assistance for subsidized job
21 slots that are full time and that offer a reasonable
22 possibility of unsubsidized employment after the subsidy
23 period;

24 (2) participating employers shall receive a
25 subsidy for up to twelve months;

1 (3) subsidized employees shall not be required
2 to work in excess of forty hours per week;

3 (4) subsidized employees shall be paid a wage
4 that is substantially like the wage paid for similar jobs with
5 the employer with appropriate adjustments for experience and
6 training but not less than the federal minimum hourly wage;

7 (5) subsidized employment does not impair an
8 existing contract or collective bargaining agreement;

9 (6) subsidized employment does not displace
10 currently employed workers or fill positions that are vacant
11 due to a layoff;

12 (7) wage subsidy employers shall:

13 (a) maintain health, safety and working
14 conditions at or above levels generally acceptable in the
15 industry and not less than those of comparable jobs offered by
16 the employer;

17 (b) provide on-the-job training
18 necessary for subsidized employees to perform their duties;

19 (c) sign an agreement for each placement
20 outlining the specific job offered to a subsidized employee and
21 agree to abide by all of the requirements of the program;

22 (d) provide workers' compensation
23 coverage for each subsidized employee; and

24 (e) provide the subsidized employee with
25 benefits equal to those for new employees or as required by

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1 state and federal law, whichever is greater;

2 (8) the ~~[department]~~ state workforce agency
3 shall determine whether a participant is eligible to be a
4 subsidized employee by establishing:

5 (a) that the participant has sufficient
6 work experience to obtain unsubsidized employment;

7 (b) that the participant has completed
8 an employment preparation program; or

9 (c) that the department or participant
10 may benefit from this employment strategy;

11 (9) a disregard of income earned by the
12 subsidized employee in the subsidized job shall be applied in
13 the eligibility determination for services;

14 (10) the department shall suspend regular
15 payments of cash assistance to the benefit group for the
16 calendar month in which an employer makes the first subsidized
17 wage payment to a subsidized employee who is otherwise eligible
18 for cash assistance and food stamps;

19 ~~[(11) the department shall pay employers each~~
20 ~~month from cash assistance;~~

21 ~~(12)]~~ (11) a subsidized employee shall be
22 eligible for supplemental payments if the net monthly full-time
23 wage paid to the subsidized employee is less than the monthly
24 total of the cash assistance the participant is eligible to
25 receive. The department shall authorize issuance of a

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1 supplemental cash payment to compensate for the deficit. To
 2 determine if a deficit exists, the [~~department~~] state workforce
 3 agency shall adopt an equivalency scale that is adjustable to
 4 household size and other factors; and

5 [~~(13)~~] (12) the department shall determine
 6 monthly and pay in advance supplemental payments to eligible
 7 subsidized employees. In calculating the payment, the
 8 department shall assume that the subsidized employee will work
 9 forty hours per week during the month unless an employer
 10 provides information that the number of hours to be worked by
 11 the subsidized employee will be reduced.

12 C. For the purposes of this section, "benefits"
 13 includes health care coverage, paid sick leave and holiday and
 14 vacation pay.

15 D. For the purposes of this section, "subsidized
 16 employee" means a participant engaged in a subsidized
 17 employment activity.

18 E. For the purposes of this section, "net monthly
 19 full-time wage" means a subsidized employee's wages after the
 20 required payroll deductions."

21 SECTION 7. EFFECTIVE DATE.--The effective date of the
 22 provisions of this act is July 1, 2018.

