

underscored material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 313

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Linda M. Lopez

FOR THE WELFARE REFORM OVERSIGHT COMMITTEE

AN ACT

RELATING TO PUBLIC ASSISTANCE; ENACTING THE EDUCATION WORKS
ACT; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Education Works Act".

Section 2. DEFINITIONS.--As used in the Education Works
Act:

A. "benefit group" means a pregnant woman or a
group of people that includes a pregnant woman or at least
one dependent child living with a parent, legal guardian or
relative within the fifth degree of consanguinity;

B. "cash assistance" means cash payments disbursed
from the maintenance of effort funds of the state and not
from funds from the temporary assistance for needy families
block grant;

.130551.3

underscored material = new
~~[bracketed material] = delete~~

1 C. "department" means the human services
2 department;

3 D. "dependent child" means a natural or adopted
4 child or ward who is seventeen years of age or younger;

5 E. "earned income" means cash or payment in kind
6 that is received as wages from employment or payment in lieu
7 of wages; or earnings from self-employment or earnings
8 acquired from the direct provision of services, goods or
9 property, production of goods, management of property or
10 supervision of services;

11 F. "federal act" means the federal Social Security
12 Act and rules promulgated pursuant to that act;

13 G. "federal poverty guidelines" means the level of
14 income defining poverty by family size published annually in
15 the federal register by the United States department of
16 health and human services;

17 H. "household group" means a group of people that
18 consists of a benefit group and any other person who resides
19 in a household regardless of whether they are related or have
20 a legal support responsibility for a member of the benefit
21 group, but does not include:

22 (1) landlords;

23 (2) tenants; or

24 (3) members of a registered nonprofit
25 organization or church who provide shelter to a benefit group
through a program sponsored by the nonprofit organization or
church;

.130551.3

underscored material = new
~~[bracketed material] = delete~~

1 I. "landlord" means the owner of an estate in land
2 or rental property who has leased it to another person called
3 the tenant;

4 J. "parent" means natural parent, adoptive parent,
5 stepparent or legal guardian;

6 K. "person" means an individual;

7 L. "recipient" means a person who receives cash
8 assistance or services pursuant to the Education Works Act;

9 M. "secretary" means the secretary of the
10 department;

11 N. "services" means child-care assistance and cash
12 assistance for education- or employment-related
13 transportation costs and one-time payment per year for
14 education costs;

15 O. "tenant" means a person who pays rent for the
16 use and occupancy of real property owned by a landlord; and

17 P. "unearned income" means old age, survivors' and
18 disability insurance; railroad retirement benefits; veterans'
19 administration compensation or pension; military retirement;
20 pensions, annuities and retirement benefits; lodge or
21 fraternal benefits; shared shelter payments; settlement
22 payments; individual Indian money; child support;
23 unemployment compensation benefits; union benefits, either
24 cash or in-kind resulting from union membership; gifts;
25 contributions; and real property income.

Section 3. APPLICATION.--

A. Application for cash assistance or services

underscored material = new
~~[bracketed material] = delete~~

1 shall be made to the department's county office in the county
2 or district in which an applicant resides. The application
3 shall be in writing or reduced to writing in the manner and
4 on the form prescribed by the department. The application
5 shall be made under oath by an applicant having custody of or
6 residing with a dependent child who is a household group
7 member and shall contain a statement of the age of the child,
8 the child's residence, a complete statement of the amount of
9 property in which the applicant has an interest, a statement
10 of all income that he and other household group members have
11 at the time of the filing of the application and other
12 information required by the department.

13 B. At the time of application for cash assistance
14 and services, an applicant shall identify household group
15 members who are to be counted in the benefit group. Once an
16 application is approved, the recipient shall advise the
17 department if there are any changes in the membership of the
18 household group or benefit group.

19 C. An applicant shall report to the department the
20 names of all of the members of the applicant's household
21 group or benefit group. A household group may contain more
22 than one benefit group.

23 D. Not later than forty-five days after an
24 application is filed, the department shall provide to an
25 applicant a resource planning session to ascertain his
immediate needs, assess financial and nonfinancial options,
make referrals and act on the application.

.130551.3

underscored material = new
~~[bracketed material] = delete~~

1 E. The applicant shall immediately be referred to
2 the children, youth and families department to apply for
3 child-care services.

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

11 G. The department shall meet semi-annually with a
12 recipient to review the current financial eligibility of a
13 benefit group and to review and revise his individual
14 responsibility plan.

15 Section 4. ELIGIBILITY--RESTRICTIONS--REQUIREMENTS.--

16 A. A recipient is eligible if he demonstrates
17 that:

18 (1) at the time of application he does not
19 have a bachelor's degree;

20 (2) he has been accepted or has been
21 determined to be eligible to enroll in a two- or four-year
22 post-secondary degree program;

23 (3) he has the ability to succeed in the
24 educational program that he has chosen; and

25 (4) the degree he will receive will increase
his ability to engage in full-time paid employment.

 B. A recipient shall not receive any cash

underscored material = new
~~[bracketed material] = delete~~

1 assistance or services funded by the temporary assistance for
2 needy families block grant.

3 C. A recipient shall apply for all financial aid
4 available.

5 D. In the two years of the program, a recipient
6 shall engage in at least twenty hours per week of class time,
7 studying, work, work-study or volunteering. The department
8 shall assume that a recipient spends one and one-half hours
9 studying for every hour of class time.

10 E. If a recipient does not attend summer school
11 full time, he shall engage in work for at least twenty hours
12 per week. A recipient may continue to attend school during
13 the summer session.

14 F. A recipient may participate in a program for no
15 more than two years unless he demonstrates good cause;
16 including a verifiable need to take care of a family member
17 with special needs, a physical or mental health problem,
18 illness, accident, death or a serious personal or family
19 problem that necessitates reduced participation or time off
20 from education, training or work.

21 G. A recipient may only earn one degree through
22 the Education Works Act program.

23 H. For the purposes of this section, "work" means
24 work-study, training-related practicums, internships, paid
25 employment, volunteering or any other activity approved by
the department.

Section 5. FINANCIAL STANDARD OF NEED.--

.130551.3

underscored material = new
~~[bracketed material] = delete~~

1 A. The secretary shall adopt a financial standard
2 of need based upon the availability of state funds.

3 B. The cash benefit level for a benefit group not
4 living in government-subsidized housing or receiving
5 government-subsidized housing payments shall be increased by
6 an amount equal to that received by participants pursuant to
7 the New Mexico Works Act.

8 C. The following income sources are exempt from
9 the gross income test, the net income test and the cash
10 payment calculation:

- 11 (1) medicaid;
- 12 (2) food stamps;
- 13 (3) government-subsidized foster care and
14 adoption payments;
- 15 (4) supplemental security income;
- 16 (5) government-subsidized housing or housing
17 payments;
- 18 (6) federally excluded income;
- 19 (7) educational payments made directly to an
20 educational institution;
- 21 (8) government-subsidized child care;
- 22 (9) earned and unearned income that belongs
23 to a person eighteen years of age or younger who is not the
24 head of household;
- 25 (10) unearned income that belongs to the
household group but not to the benefit group; and
- (11) other income sources as determined by

underscored material = new
~~[bracketed material] = delete~~

1 the department.

2 D. Earned income over one hundred thirty percent
3 of the federal poverty guidelines that belongs to the
4 household group but not to the benefit group is countable
5 income. The department shall count the entire household
6 group to determine family size when applying the federal
7 poverty guidelines.

8 E. The department shall count the entire household
9 group to determine family size when applying the financial
10 standard of need. For a benefit group to be eligible to
11 participate:

12 (1) gross countable earned income that
13 belongs to the household group but not to the benefit group
14 must not exceed one hundred eighty-five percent of the
15 financial standard of need; and

16 (2) net countable earned income that belongs
17 to the household group must not equal or exceed the financial
18 standard after applying the disregards set out in Paragraphs
19 (1) through (4) of Subsection F of this section.

20 F. Subject to the availability of state funds, the
21 department shall determine the cash payment of the benefit
22 group by applying the following disregards to the benefit
23 group's earned gross income:

24 (1) one hundred fifty dollars (\$150) of
25 monthly earned income and one-half of the remainder, or for a
two-parent family, two hundred fifty dollars (\$250) of
monthly earned income and one-half of the remainder for each

underscored material = new
~~[bracketed material] = delete~~

1 parent;

2 (2) monthly payments made for child care at
3 a maximum of two hundred dollars (\$200) for a child under two
4 years of age and at a maximum of one hundred seventy-five
5 dollars (\$175) for a child two years of age or older;

6 (3) costs of self-employment income; and

7 (4) business expenses.

8 G. The department may recover overpayments of cash
9 assistance on a monthly basis not to exceed fifteen percent
10 of the financial standard of need applicable to the benefit
11 group.

12 H. Cash assistance received pursuant to the
13 Education Works Act shall be treated in the same manner as
14 cash assistance received pursuant to the New Mexico Works Act
15 for the purposes of a federal, state, tribal or municipal
16 assistance program.

17 Section 6. RESOURCES.--

18 A. Liquid and nonliquid resources owned by the
19 household group but not the benefit group shall not be
20 counted in the eligibility determination.

21 B. A benefit group may at a maximum own the
22 following resources:

23 (1) two thousand dollars (\$2,000) in
24 nonliquid resources;

25 (2) one thousand five hundred dollars
(\$1,500) in liquid resources;

(3) the value of the principal residence of

underscored material = new
~~[bracketed material] = delete~~

1 the recipient;

2 (4) the value of burial plots and funeral
3 contracts for family members;

4 (5) the value of work-related equipment up
5 to one thousand dollars (\$1,000);

6 (6) in areas without public transportation,
7 the value of one motor vehicle for each recipient enrolled in
8 a bachelor's degree program; and

9 (7) in areas with public transportation, the
10 value of one motor vehicle.

11 Section 7. INELIGIBILITY.--The following are ineligible
12 to be members of a benefit group:

13 A. an inmate or patient of a nonmedical
14 institution;

15 B. a person who, in the two years preceding
16 application, assigned or transferred real property unless he:

17 (1) received or receives a reasonable
18 return;

19 (2) attempted to or attempts to receive a
20 reasonable return; or

21 (3) attempted to or attempts to regain title
22 to the real property;

23 C. a minor child who has been absent or is
24 expected to be absent from the home for forty-five days;

25 D. a person who does not provide a social security
number or who refuses to apply for one;

E. a person who is not a resident of New Mexico;

.130551.3

underscored material = new
~~[bracketed material] = delete~~

1 F. a person who fraudulently misrepresented
2 residency to receive assistance in two or more states
3 simultaneously except that such person shall be ineligible
4 for only ten years;

5 G. a person who is a fleeing felon or a probation
6 and parole violator;

7 H. a person concurrently receiving supplemental
8 security income, tribal temporary assistance for needy
9 families, bureau of Indian affairs general assistance or
10 adoption subsidies; and

11 I. a parent who does not assist the department in
12 establishing paternity or obtaining child support or who does
13 not assign support rights to New Mexico, unless he
14 demonstrates good cause.

15 Section 8. FAIR HEARING--REVIEW AND APPEAL.--

16 A. A recipient may request a hearing if:

17 (1) an application is not acted on within a
18 reasonable time after the filing of the application;

19 (2) an application is denied in whole or in
20 part; or

21 (3) the cash assistance or services are
22 modified, terminated or not provided.

23 B. The department shall notify the recipient of
24 his rights under this section.

25 C. The department shall by rule establish
procedures for the filing of a request for a hearing and the
time limits within which a request may be filed; provided,

1 however, that the department may grant reasonable extensions
2 of the time limits. If the request is filed in a timely
3 manner, cash assistance and services shall be provided until
4 the appeal is resolved. If the request is not filed within
5 the specified time for appeal or within whatever extension
6 the department may grant, the department action is final.
7 Upon receipt of a timely request, the department shall give
8 the recipient reasonable notice of an opportunity for a fair
9 hearing in accordance with the rules of the department.

10 D. The hearing shall be conducted by a hearing
11 officer designated by the director of the income support
12 division of the department. The powers of the hearing
13 officer shall include administering oaths or affirmations to
14 witnesses called to testify, taking testimony, examining
15 witnesses, admitting or excluding evidence and reopening a
16 hearing to receive additional evidence. The technical rules
17 of evidence and the rules of civil procedure shall not apply.
18 The hearing shall be conducted so that the contentions or
19 defenses of each party to the hearing are amply and fairly
20 presented. Each party may be represented by counsel or other
21 representative and may conduct cross-examination. Oral or
22 documentary evidence may be received, but the hearing officer
23 may exclude irrelevant, immaterial or unduly repetitious
24 evidence.

25 E. The director of the income support division
shall review the record of the proceedings and shall make his
final decision on the record. The recipient or his

underscored material = new
~~[bracketed material] = delete~~

1 representative shall be notified in writing of the director's
2 final decision and the reasons for the decision. The written
3 notice shall inform the recipient of his right to judicial
4 review pursuant to Section 39-3-1.1 NMSA 1978. The
5 department shall be responsible for ensuring that the
6 decision is enforced.

7 F. A recipient may appeal the final decision of
8 the director of the income support division to district court
9 pursuant to Section 39-3-1.1 NMSA 1978.

10 G. The department shall not authorize or allow
11 expenditures in excess of the amounts previously appropriated
12 by the legislature.

13 Section 9. SATISFACTORY PARTICIPATION.--

14 A. To maintain satisfactory participation, a
15 recipient shall meet the standards of the school that he
16 attends, including class attendance.

17 B. If a recipient falls below the standard of the
18 school in one semester, then he will be placed on
19 probationary status for one semester to improve his grades.
20 If a recipient's overall grade point average falls below 2.0,
21 the department shall place him on a maximum of two
22 probationary semesters to bring up the overall grade point
23 average.

24 C. A recipient shall:
25 (1) report to the department anything that
might affect his ability to participate in the Education
Works Act program;

underscored material = new
~~[bracketed material] = delete~~

1 (2) provide the department with a copy of
2 financial aid award letters; and

3 (3) provide the department with copies of
4 his grades as they become available.

5 D. If a recipient does not comply with Subsection
6 C of this section, the department may require the recipient
7 to apply for public assistance pursuant to the New Mexico
8 Works Act. This decision shall be made in writing and the
9 recipient shall have the opportunity to appeal it.

10 Section 10. APPROPRIATION.--Two million dollars
11 (\$2,000,000) is appropriated from the general fund to the
12 human services department for expenditure in fiscal year 2001
13 and subsequent fiscal years to carry out the purposes of the
14 Education Works Act. Any unexpended or unencumbered balance
15 remaining at the end of a fiscal year shall not revert to the
16 general fund.

underscored material = new
~~[bracketed material]~~ = delete

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25