

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

HOUSE BILL 122

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

J. Paul Taylor

FOR THE WELFARE REFORM OVERSIGHT COMMITTEE

AN ACT

**RELATING TO PUBLIC ASSISTANCE; AMENDING THE NEW MEXICO WORKS
ACT; DECLARING AN EMERGENCY.**

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 by Laws 2001, Chapter 295, Section 1 and by Laws 2001, Chapter 326, Section 1) is amended to read:

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

A. "benefit group" means a pregnant woman or a group of people that includes a dependent child, all of that dependent child's full, half, step- or adopted siblings living with the dependent child's parent or relative within the fifth degree of consanguinity and the parent with whom the children

underscored material = new
[bracketed material] = del ete

1 live;

2 B. "cash assistance" means cash payments funded by
3 the temporary assistance for needy families block grant
4 pursuant to the federal act and by state funds;

5 C. "department" means the human services
6 department;

7 D. "dependent child" means a natural, adopted or
8 step-child or ward who is:

9 (1) seventeen years of age or younger; [~~or who~~
10 ~~is~~]

11 (2) eighteen years of age and is enrolled in
12 high school; or

13 (3) between eighteen and twenty-two years of
14 age and is receiving special education services regulated by
15 the state board of education;

16 E. "director" means the director of the income
17 support division of the department;

18 F. "earned income" means cash or payment in kind
19 that is received as wages from employment or payment in lieu of
20 wages; and earnings from self-employment or earnings acquired
21 from the direct provision of services, goods or property,
22 production of goods, management of property or supervision of
23 services;

24 G. "federal act" means the federal Social Security
25 Act and rules promulgated pursuant to the Social Security Act;

underscored material = new
[bracketed material] = delete

1 H. "federal poverty guidelines" means the level of
2 income defining poverty by family size published annually in
3 the federal register by the United States department of health
4 and human services;

5 I. "immigrant" means alien as defined in the
6 federal act;

7 J. "parent" means natural parent, adoptive parent,
8 stepparent or legal guardian;

9 K. "participant" means a recipient of cash
10 assistance or services or a member of a benefit group who has
11 reached the age of majority;

12 L. "person" means an individual;

13 M. "secretary" means the secretary of the
14 department;

15 N. "services" means child-care assistance; payment
16 for employment-related transportation costs; job search
17 assistance; employment counseling; employment, education and
18 job training placement; one-time payment for necessary
19 employment-related costs; case management; or other activities
20 whose purpose is to assist transition into employment; [and]

21 O. "unearned income" means old age, survivors and
22 disability insurance; railroad retirement benefits; veterans
23 administration compensation or pension; military retirement;
24 pensions, annuities and retirement benefits; lodge or fraternal
25 benefits; shared shelter payments; settlement payments;

. 142582. 1

underscored material = new
[bracketed material] = deleted

1 individual Indian money; child support; unemployment
2 compensation benefits; union benefits paid in cash; gifts and
3 contributions; and real property income; and

4 P. "vehicle" means a conveyance for the
5 transporting of individuals to or from employment, for the
6 activities of daily living or for the transportation of goods;
7 "vehicle" does not include boats, trailers or mobile homes used
8 as a principle place of residence. "

9 Section 2. Section 27-2B-6 NMSA 1978 (being Laws 1998,
10 Chapter 8, Section 6 and Laws 1998, Chapter 9, Section 6, as
11 amended by Laws 2001, Chapter 295, Section 3 and by Laws 2001,
12 Chapter 326, Section 3) is amended to read:

13 "27-2B-6. DURATIONAL LIMITS. --

14 A. Pursuant to the federal act, on or after
15 July 1, 1997 a participant may receive federally funded cash
16 assistance and services for up to sixty months.

17 B. During a participant's fourth, sixth and eighth
18 semi-annual reviews, the department shall examine the
19 participant's progress to determine if the participant has
20 successfully completed an educational or training program or
21 increased the number of hours he is working as required by the
22 federal act. The department may refer the participant to
23 alternative work activities or provide additional services to
24 address possible barriers to employment facing the participant.

25 C. Up to twenty percent of the population of

underscored material = new
[bracketed material] = delete

1 participants may be exempted from the sixty-month durational
2 limit set out in Subsection A of this section because of
3 hardship or because those participants are battered or subject
4 to extreme cruelty.

5 D. For the purposes of this section, a participant
6 has been battered or subjected to extreme cruelty if he can
7 demonstrate by reliable medical, psychological or mental
8 reports, court orders or police reports that he has been
9 subjected to and currently is affected by:

- 10 (1) physical acts that result in physical
11 injury;
- 12 (2) sexual abuse;
- 13 (3) being forced to engage in nonconsensual
14 sexual acts or activities;
- 15 (4) threats or attempts at physical or sexual
16 abuse;
- 17 (5) mental abuse; or
- 18 (6) neglect or deprivation of medical care
19 except when the deprivation is based by mutual consent on
20 religious grounds.

21 E. For the purposes of this section, a hardship
22 exception applies to a person who demonstrates through reliable
23 medical, psychological or mental reports, social security
24 administration records, court orders, ~~[or]~~ police reports or
25 department records that he is a person:

. 142582. 1

underscored material = new
[bracketed material] = deleted

1 (1) who is barred from engaging in a work
2 activity because he is temporarily or completely disabled;

3 (2) who is the sole provider of home care to
4 an ill or disabled family member;

5 (3) whose ability to be gainfully employed is
6 affected by domestic violence; [or]

7 (4) whose application for supplemental
8 security income is pending in the application or appeals
9 process and who:

10 (a) meets the criteria of Paragraph (1)
11 of this subsection; or

12 (b) was granted a waiver from the work
13 requirement pursuant to Paragraph (1) of Subsection I of
14 Section 27-2B-5 NMSA 1978 in the last twenty-four months; or

15 (5) who otherwise qualifies for a hardship
16 exception as defined by the department.

17 F. Pursuant to the federal act, the department
18 shall not count a month of receipt of cash assistance or
19 services toward the sixty-month durational limit if during the
20 time of receipt the participant:

21 (1) was a minor and was not the head of a
22 household or married to the head of a household; or

23 (2) lived in Indian country, as defined in the
24 federal act, if the most reliable data available with respect
25 to the month indicate that at least fifty percent of the adults

1 living in Indian country or in the village were not employed."

2 Section 3. Section 27-2B-8 NMSA 1978 (being Laws 1998,
3 Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as
4 amended by Laws 2001, Chapter 295, Section 5 and by Laws 2001,
5 Chapter 326, Section 5) is amended to read:

6 "27-2B-8. RESOURCES. --

7 A. Liquid and nonliquid resources owned by the
8 benefit group shall be counted in the eligibility
9 determination.

10 B. A benefit group may at a maximum own the
11 following resources:

12 (1) two thousand dollars (\$2,000) in nonliquid
13 resources;

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

16 (3) the value of the principal residence of
17 the participant;

18 (4) the value of burial plots and funeral
19 contracts for family members;

20 (5) individual development accounts; and

21 (6) the value of work-related equipment up to
22 one thousand dollars (\$1,000).

23 ~~[(7) in areas without public transportation,~~
24 ~~the value of one motor vehicle for each participant engaged in~~
25 ~~a work activity; and~~

. 142582. 1

1 ~~(8) in areas with public transportation, the~~
2 ~~value of one motor vehicle.]~~

3 C. Vehicles owned by the benefit group shall not be
4 considered in the determination of resources attributed to the
5 benefit group. "

6 Section 4. Section 27-2B-14 NMSA 1978 (being Laws 1998,
7 Chapter 8, Section 14 and Laws 1998, Chapter 9, Section 14, as
8 amended by Laws 2001, Chapter 295, Section 7 and by Laws 2001,
9 Chapter 326, Section 7) is amended to read:

10 "27-2B-14. SANCTIONS. --

11 A. The department shall sanction a member of a
12 benefit group for noncompliance with work requirements or child
13 support requirements.

14 B. The sanction shall be applied at the following
15 levels:

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

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

20 (3) termination of cash assistance and
21 ineligibility to reapply for six months for the third
22 occurrence of noncompliance.

23 C. Prior to imposing the first sanction, if the
24 department determines that a participant is not complying with
25 the work participation requirement or child support

. 142582. 1

underscored material = new
[bracketed material] = delete

1 requirements, the participant shall be required to enter into a
2 conciliation process established by the department to address
3 the noncompliance and to identify good cause for noncompliance
4 or barriers to compliance. The conciliation process shall
5 occur only once prior to the imposition of the sanction. The
6 participant shall have ten working days from the date a
7 conciliation notice is mailed to contact the department to
8 initiate the conciliation process. A participant who fails to
9 initiate the conciliation process shall have a notice of
10 adverse action mailed to him after the tenth working day
11 following the date on which the conciliation notice is mailed.
12 Participants who begin but do not complete the conciliation
13 process shall be mailed a notice of adverse action thirty days
14 from the date the original conciliation notice was mailed.

15 D. Reestablishing compliance shall allow full
16 payment to resume.

17 E. Noncompliance with reporting requirements may
18 subject a participant to other sanctions, except that an adult
19 member of the benefit group shall not be sanctioned for the
20 failure of a dependent child to attend school.

21 F. Effective October 1, 2001, the department shall
22 not terminate the medicaid benefits of any member of a benefit
23 group due to imposition of a sanction pursuant to the
24 provisions of this section. "

25 Section 5. EMERGENCY.--It is necessary for the public

. 142582. 1

1 peace, health and safety that this act take effect immediately.

2 - 10 -

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

underscoring material = new
[bracketed material] = delete