

AN ACT
RELATING TO PUBLIC ASSISTANCE; AMENDING THE NEW MEXICO WORKS
ACT TO CLARIFY THE CHILD-CARE EXEMPTION FROM THE WORK
REQUIREMENT.

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

Section 1. Section 27-2B-5 NMSA 1978 (being Laws 1998, Chapter 8, Section 5 and Laws 1998, Chapter 9, Section 5) is amended to read:

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

A. The following qualify as work activities:

- (1) unsubsidized employment;
- (2) subsidized private sector employment;
- (3) subsidized public sector employment;
- (4) work experience, including work

associated with the refurbishing of publicly assisted housing if sufficient private sector employment is not available;

- (5) on-the-job training;
- (6) job search and job readiness

assistance, as long as the department complies with the federal act;

- (7) community service programs;
- (8) vocational education, except that

vocational education shall not qualify as a work activity for longer than is provided by the federal act;

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

- (10) education directly related to

employment for a participant who has not received a high school diploma or a certificate of high school equivalency;

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

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

B. The department shall recognize community service programs and job training programs that are operated by an Indian nation, tribe or pueblo.

C. The department may not require a participant to work more than four hours per week over the work requirement rate set pursuant to the federal act.

D. The department shall require a parent, caretaker or other adult who is a member of a benefit group to engage in a work activity once the department determines he is ready to engage in a work activity or once he has received cash assistance or services for twenty-four months or as otherwise required by the federal act, whether or not consecutive, whichever is earlier.

E. The following qualify as temporary alternative work activities that the department may establish for no longer than twelve weeks except as otherwise provided:

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

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

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

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

(5) in the case of a participant who does not speak English, participating in a course in English as a second language.

F. Subject to the availability of funds, the department in cooperation with the labor department, New Mexico office of Indian affairs and other appropriate state agencies may develop projects to provide for the placement of participants in work activities, including the following:

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

(2) refurbishing publicly assisted housing;

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

(4) weatherizing low-income housing; and

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

G. If a participant is engaged in full-time post-secondary education studies or an activity set out in Paragraphs (9) through (11) of Subsection A of this section,

the participant shall engage in another work activity at the same time. Additionally, for two-parent families that receive federally funded child-care assistance, the participant's spouse shall engage in a work activity set out in Paragraphs (1) through (5) or (7) of Subsection A of this section unless the participant suffers from a temporary or complete disability that bars him from engaging in a work activity or he is barred from engaging in a work activity because he provides sole care for a disabled person.

H. A participant engaged in post-secondary education studies shall make reasonable efforts to obtain a loan, scholarship, grant or other assistance to pay for costs and tuition and the department shall disregard those amounts in the eligibility determination.

I. For as long as the described conditions exist, the following are exempt from an approved work activity:

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

(2) a participant over age sixty;

(3) a participant barred from engaging in a work activity because he provides the sole care for a disabled person;

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

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

(a) unavailability of appropriate

child care within a reasonable distance from the parent's home or work as determined by the children, youth and families department;

(b) unavailability or unsuitability of informal child care by a relative under other arrangements as defined by the children, youth and families department;
or

(c) unavailability of appropriate and affordable formal child-care arrangements as defined by the children, youth and families department;

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

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

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

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

J. The department shall notify all applicants and participants of the available programs and services that may assist families who are subject to family violence. Written material shall generally be available in local income support division offices and during group orientations. Notifications shall include:

(1) a definition of family violence, including examples of acts and circumstances that may

constitute family violence;

(2) an explanation of the availability of exemptions from program requirements; and

(3) information about appeals.

K. The department shall notify all participants of the available programs and services that may assist the participant in selecting appropriate child-care services, including assistance available through the children, youth and families department.

L. The department shall notify a participant:

(1) that if appropriate child care is not available, he may seek the exemption to the work requirement in Paragraph (5) of Subsection I of this section;

(2) of the department's procedures to be used by the participant to seek the exemption;

(3) that if a participant receives an exemption because child care is unavailable, the exemption does not extend the time limits on benefits; and

(4) that the participant has access to a fair hearing process if a requested exemption is denied.

M. The children, youth and families department shall make reasonable determination regarding whether child care is available for a program participant. The children, youth and families department shall determine whether appropriate child care exists by considering:

(1) whether the child-care service allows the participant to engage in a work activity appropriately;

(2) the number and predictability of placements required to provide child care;

(3) whether the child care is suitable for

children with medical needs or other special needs as determined by a physician other licensed health care provider;

(4) whether the child-care service provides infant care if necessary;

(5) whether non-center-based child care, if selected by the participant, is suitable;

(6) whether a participant has reasonable transportation, either public or private, available at the hours transportation is needed to and from the participant's child care and work activity considered along with the distances the participant needs to travel with a child to child care and to the work activity; and

(7) other special or extenuating circumstances that directly affect a participant's ability to access available child-care providers.

N. For the purposes of this section, "reasonable distance" means that a participant either has:

(1) a reliable, independent mode of transportation; or

(2) available public transportation that operates at the hours of the participant's work activity or education activity." _____

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