

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

**DATE:** June 8, 2022

**FROM:** Michael A. Morrell  
Acting Administrative Rules Director

**AT (OFFICE):** Legislative Services

**SUBJECT:** Final Proposal 2021-121 Criminal Records and Central Registry Check for License-Exempt Child Care Providers

**To:** File

Attached are Kim Reeve's comments on Final Proposal 2021-121 from the Department of Health and Human Services regarding the amendments to the Criminal Records and Central Registry Check for License-exempt providers.

The agency filed a conditional approval request which address the remaining substantive comments which were primarily based on clarity.

The only remaining issue involves the agency's submission of the LBA's revised FIS. A revised FIS is not a type of FIS pursuant to RSA 541-A:5; however, with the submission of the revised FIS the potential inadequacy of the FIS has been addressed.

RSA 541-A:5 requires an amended FIS only when the initial FIS has been impacted by changes to the rules as a result of notice and hearing. In this case, the agency needed to cure a defect in the FIS because it did not identify the potential costs to childcare providers as a result of the rules' amendments. Specifically, the rules no longer allow reimbursement to childcare workers pending the results of a criminal background check, and they now require facility-based programs to have a staff member supervising the worker pending the results. The FIS did not identify the potential cost to providers for these amendments. The revised FIS identifies these potential costs as being indeterminable.

RSA 541-A:5 may need to be amended to affirmatively allow an agency to correct a defect in the FIS with a revised FIS issued by the LBA.