

APPENDIX II-G

COVER SHEET FOR FINAL PROPOSAL

Notice Number 2022-24 Rule Number He-W 841.03

<p>1. Agency Name & Address:</p> <p>Dept. of Health & Human Services Division of Medicaid Services 129 Pleasant Street, Brown Building Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 167:3-c, XII</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p><input checked="" type="checkbox"/> Adopt</p> <p><input type="checkbox"/> Amendment (only if Initial Proposal was filed before 9/27/20.)</p> <p><input type="checkbox"/> Repeal</p> <p><input type="checkbox"/> Readoption</p> <p><input type="checkbox"/> Readoption w/amendment</p>
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5. Short Title: **Medicaid for Employed Adults with Disabilities (MEAD)**

6. Contact person for copies and questions:

Name:	Allyson Zinno	Title:	Administrator-Administrative Rules Unit
Address:	Dept. of Health & Human Services Administrative Rules Unit 129 Pleasant Street, Brown Bldg. Concord, NH 03301	Phone #:	(603) 271-9604

7. The rulemaking notice appeared in the Rulemaking Register on **February 24, 2022**.

**SEE THE INSTRUCTIONS--PLEASE SUBMIT ONE COPY OF THIS COVER SHEET
AND ONE COPY OF THE FOLLOWING:
(optional to number correspondingly)**

8. The "Final Proposal-Fixed Text," including the cross-reference table required by RSA 541-A:3-a, II as an appendix.

9. Yes ☐ N/A ☒ Incorporation by Reference Statement(s) because this rule incorporates a document or Internet content by reference for which an Incorporation by Reference Statement is required pursuant to RSA 541-A:12, III.

10. Yes ☐ N/A ☒ The "Final Proposal-Annotated Text," indicating how the proposed rule was changed because the text of the rule changed from the Initial Proposal pursuant to RSA 541-A:12, II(d).

11. Yes ☐ N/A ☒ The amended fiscal impact statement because the change to the text of the Initial Proposal affects the original fiscal impact statement (FIS) pursuant to RSA 541-A:5, VI.

Notice Number 2022-24

Rule Number He-W 841.03

1. Agency Name & Address:
**Department of Health & Human Services
Division of Medicaid Services
129 Pleasant Street, Brown Building
Concord, NH 03301**

2. RSA Authority: RSA 167:3-c, XII
3. Federal Authority: _____
4. Type of Action:
Adoption X
Repeal _____
Readoption _____
Readoption w/amendment _____

5. Short Title: **Medicaid for Employed Adults with Disabilities (MEAD)**

6. (a) Summary of what the rule says and of any proposed amendments:

He-W 841.03 is entitled “Medicaid for Employed Adults with Disabilities (MEAD) and describes MEAD and it’s eligibly and employment requirements, resources not counted for within the program, and the process to obtain an extension for individuals who become unemployed while on MEAD. The requirements set forth in He-W 841.03, were previously described in He-W 641.03, entitled “Medicaid for Employed Adults with Disabilities (MEAD)”, which expired on March 5, 2018

The Department of Health and Human Services (Department) is proposing to adopt He-W 841.03. The expired requirements of He-W 641.03 are being renumbered to He-W 841.03 as rules regarding eligibility for medical assistance are being reorganized into Chapter He-W 800. Additional changes as compared to the expired requirements include updating various references throughout.

6. (b) Brief description of the groups affected:

The groups affected by this rule include individuals eligible for MEAD and individuals who are currently receiving MEAD.

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

<u>Rule</u>	<u>Specific State Statute the Rule Implements</u>
He-W 841.03	RSA 167:3-I; RSA 167:3-c,XII;RSA 167:6,IX; 42 USC 1396a(a)(10)(A)(ii)(XV) [Section 1902(a)(10)(A)(ii)(XV) of the Social Security Act]

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Allyson Zinno**

Title: **Administrator- Administrative Rules Unit**

Address: **Dept. of Health and Human Services
Administrative Rules Unit
129 Pleasant Street, 2nd Floor
Concord, NH 03301**

Phone #: **(603) 271-9604**

Fax#: **(603) 271-5590**

E-mail: Allyson.E.Zinno@dhhs.nh.gov

TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, March 29, 2022**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, March 22, 2022 at 1:00pm**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # 22:012 , dated February 9, 2022

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable, as these are new rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate, no impact on state funds.

3. Cost and benefits of the proposed rule(s):

Any costs or benefits are attributable to RSA 167:3, I, relative to the Medicaid for Employed Adults with Disabilities (MEAD) work incentive program.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

Adopt He-W 841.03, to read as follows:

Edit: Reduce spacing.
This may be done at the
time of adoption.

He-W 841.03 Medicaid for Employed Adults with Disabilities (MEAD).

(a) In accordance with RSA 167:3-i, RSA 167:3-c, XII, RSA 167:6, IX, and 42 USC 1396a(a)(10)(A)(ii)(XV) relative to medical assistance for employed adults with disabilities, medical assistance shall be provided to any applicant who:

- (1) Meets the general and technical requirements for aid to the permanently and totally disabled (APTD) or aid to the needy blind (ANB) as specified in He-W 600 and He-W 800;
 - (2) Is age 18 through 64, inclusive;
 - (3) Meets the medical criteria for MEAD pursuant to He-W 504.02;
 - (4) Is employed for pay pursuant to He-W 841.03(b), or self-employed for pay pursuant to He-W 841.03(c), on the date of application, during the time of MEAD eligibility determination, and during the retroactive period, should the individual request this medical coverage period;
 - (5) Has net income determined by applying the APTD or ANB treatment and disregards to his or her gross income, and if applicable, to the spouse's gross income pursuant to He-W 654 and He-W 854, that when combined with spousal net income does not exceed 450% of the federal poverty guidelines, as published annually in the federal register and effective no later than the first of the month following the first complete month after the federal poverty income guidelines have been published in the federal register;
 - (6) Has countable resources that do not exceed the 2002 limit of \$20,000 for an individual or \$30,000 for a married couple, the amounts of which shall be updated annually in accordance with (a)(5) above by the percentage that applies pursuant to the Consumer Price Index; and
 - (7) Pays the monthly premium, established pursuant to He-C 5003.
- (b) To be considered employed for pay, an individual shall:
- (1) Receive remuneration and contribute to the Federal Insurance Contributions Act (FICA); and
 - (2) Not be paid for participation in a program designed to enhance an individual's ability to obtain paid employment.
- (c) To be considered self-employed for pay, an individual shall:
- (1) Meet the requirements of (b)(2) above; and
 - (2) Provide documentation that he or she makes regular payments based on earnings as required pursuant to the Self-Employment Contributions Act (SECA).
- (d) The items listed below shall not be counted as a resource when determining MEAD eligibility:
- (1) Retirement plans;
 - (2) Medical savings accounts established pursuant to 26 USC 220; and
 - (3) MEAD employability accounts specifically designated and set aside by the individual for the purpose of purchasing certain goods or services that:

a. Will enhance an applicant's employability; and

b. Are not:

1. Covered by the Medicaid program;
2. Otherwise reimbursable;
3. Specifically excluded pursuant to He-W 856; or
4. Already allowed as a deduction pursuant to He-W 654 or He-W 854.

(e) Goods or services for which MEAD employability accounts may be designated and set aside pursuant to (d)(3) above shall include, but not be limited to:

- (1) Equipment, supplies, operating capital, and inventory required to establish a business;
- (2) Any cost associated with an educational or occupational training facility, including, but not limited to, tutoring, or counseling;
- (3) Work-related attendant care services to enable the individual to prepare for work, including, but not limited to, bathing and dressing, or services provided in the workplace;
- (4) Medical devices, which enable the applicant to work, including, but not limited to:
 - a. Wheelchairs;
 - b. Prosthetics;
 - c. Pacemakers; and
 - d. Respirators;
- (5) Equipment or tools either specific to an applicant's condition or designed for general use;
- (6) Uniforms, specialized clothing, and safety equipment;
- (7) Least costly transportation cost(s) to and from work, such as weekly or monthly bus passes;
- (8) Purchase of a private vehicle;
- (9) Operational or accessibility modifications to buildings or vehicles to accommodate disability;
- (10) Routine drugs or medical services to ameliorate disability that are not covered by Medicaid;
- (11) Diagnostic procedures related to evaluation, control, or treatment of a disabling condition;
- (12) Prescribed non-medical appliances and devices essential for controlling the disabling condition at home or work such as air filtering equipment;
- (13) Expendable medical supplies; and
- (14) Guide dogs, dog food, licenses, and veterinary services.

(f) If an applicant uses funds in a MEAD employability account for items other than those described in He-W 841.03(d)(3), the remaining funds in the account shall be counted as a resource.

(g) Applicants who have been determined eligible for medical assistance pursuant to He-W 841.03(a) and who subsequently become unemployed but who intend to return to work shall remain eligible for MEAD for a 6-month extension period beginning with the date the individual becomes unemployed, if:

- (1) The recipient was involuntarily terminated from employment, or seasonal work ended, and is currently seeking new employment; or
- (2) The recipient voluntarily terminated employment with good cause in accordance with (i) below.

(h) A recipient who has completed the 6-month extension may obtain one additional 6-month extension if the recipient provides either:

- (1) A doctor's written statement regarding the individual's medical condition as it relates to their inability to work; or
- (2) Written documentation of proven job search through contacts made to employers, and/or employment agencies such as One-Stops, Vocational Rehabilitation, or Employment Networks.

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(i) The division of family assistance shall determine that good cause for leaving employment exists, in accordance with RSA 167:82, III(c)(1), (2), (4), (6), (7), and (8).

(j) A recipient shall be terminated from MEAD when 3 consecutive occurrences of employment by a recipient indicate that the date of hire occurred during the last month of each of the 6-month periods.

APPENDIX

<u>Rule</u>	<u>Specific State Statute the Rule Implements</u>
He-W 841.03	RSA 167:3-I; RSA 167:3-c,XII;RSA 167:6,IX; 42 USC 1396a(a)(10)(A)(ii)(XV) [Section 1902(a)(10)(A)(ii)(XV) of the Social Security Act]