



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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VOLUME XL, Number 3, January 16, 2020

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NOTE: POSSIBLE RULE EXTENSION

If the proposed rules contain existing, regular rules being readopted or readopted with amendments, and are not adopted and effective until after the expiration date(s) of the existing rules(s), then the existing rules will nevertheless continue in effect pursuant to RSA 541-A:14-a until the proposed rules are adopted and effective.

2. COMMITTEE (JLCAR)

REGULAR MEETING: **Friday, January 17, 2020 9:00 a.m.**
Rooms 306/308, Legislative Office Building

CONTINUED MEETING: **Friday, February 7, 2020 9:00 a.m.**
Rooms 306/308, Legislative Office Building

See 2020 JLCAR Meeting dates and deadlines on page i.

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JANUARY-JUNE, 2020**

The JLCAR has voted to hold its regularly scheduled meetings for January through June, 2020 on the third Friday of the month as listed below, except as noted. The minimum 14-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules* for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Fridays to address items postponed from the prior regular meetings.

Regular Meeting Filing Deadline*	Regular Meeting Date	Continued Meeting Date
	January 17	February 7
February 7	February 21	March 6
March 6	March 20	April 3
April 3	April 17	May 1
May 1	May 15	June 5
June 5	June 19	June 26

***NOTE:** The filing deadlines relate to JLCAR meetings pursuant to RSA 541-A. However, if a proposed interim rule is filed with a rulemaking notice for publication in the *Rulemaking Register*, be aware that Thursdays—not Fridays—remain the filing deadline under the *Drafting and Procedure Manual for Administrative Rules* to have the rulemaking notice published the following week. Therefore, filing the notice together with the proposed interim rule no later than the Thursday before the 14-day statutory deadline would assure that both the 14-day deadline for filing the rule and the deadline for publication in the *Rulemaking Register* would be met. See description in §3.3 of Chapter 3 of the *Drafting and Procedure Manual for Administrative Rules*.

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JULY-DECEMBER, 2020**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2020 on the third Thursday of the month as listed below. The minimum 14-day “deadline” prior to the regular JLCAR meeting is listed for agencies to file final proposals or proposed interim rules for placement on the JLCAR agenda pursuant to RSA 541-A:12, I and RSA 541-A:19, V. The JLCAR has also scheduled continued meetings as listed below on select Thursdays to address any items postponed from the prior regular meetings.

Regular Meeting Filing Deadline	Regular Meeting Date	Continued Meeting Date
July 2	July 16	August 6
August 6	August 20	September 3
September 3	September 17	October 1
October 1	October 15	November 5
November 5	November 19	December 3
December 3	December 17	None

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
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2020-3	Env-Or 603.03(c), Table 600-1	Department of Environmental Services Oil and Remediation Programs Arsenic Ambient Groundwater Quality Standard.	3
2020-4	He-M 1201	Department of Health and Human Services Former Div. of Mental Health & Developmental Services Healthcare Coordination and Medication Administration.	5
2020-5	He-C 6347	Department of Health and Human Services, Commissioner Certification for Payment Standards for Foster Family Care Service Credentials.	8
2020-6	He-C 6446	Department of Health and Human Services, Commissioner Foster Family Care Licensing Requirements.	11
2020-7	Cub 305.03, 305.04, 305.05, 305.06	Current Use Board Assessment Ranges for Forest Land Categories, With and Without Stewardship, Unproductive Land and Wetland Categories.	16
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Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2020-14	Rev 200 various	Department of Revenue Administration Hearing Procedures Relating to Meals and Rooms (Rentals) Licenses, and Tobacco Tax Licenses and Seizures.	38
2020-15	Rev 700 various	Department of Revenue Administration Meals and Rooms (Rentals) Tax with Regard to Meals.	41

Notice Number	2020-2	Rule Number	Env-Dw 704.02
1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095		2. RSA Authority:	RSA 485:2,V; RSA 485:3, I(b); Laws of 2019, 208:1, II
		3. Federal Authority:	
		4. Type of Action:	
		Adoption	_____
		Amendment	_____
		Repeal	_____
		Readoption	_____
		Readoption w/amendment	X

5. Short Title: **MCLs and MCLGs for Arsenic**

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

The existing rules in Env-Dw 704 establish maximum contaminant levels (MCLs) and maximum contaminant level goals (MCLGs) for regulated inorganic contaminants. Env-Dw 704.02 is proposed to be amended to reduce the MCL for Arsenic from 0.010 mg/L to 0.0050 mg/L effective July 1, 2021, as directed by Laws of 2019, 208:1, II. The MCLG for Arsenic is already 0 mg/L and is not proposed to be changed.

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

The rules affect owners and operators of community and non-transient/non-community public water systems.

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

Rule Section(s)	State Statute(s) Implemented	Federal Regulation(s) Implemented
Env-Dw 704.02	RSA 485:3, I; Laws of 2019, 208:1, II	40 CFR 141.51; 40 CFR 141.62

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

Name: **Holly Green** Title: **Environmentalist III**
 Address: **Dept. of Environmental Services** Phone #: **(603) 271-3114**
29 Hazen Drive; P.O. Box 95 Fax#: **(603) 271-0656**
Concord, NH 03302-0095 E-mail: **Holly.Green@des.nh.gov**

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

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

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Friday, February 21, 2020**

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, February 12, 2020 at 10:00 AM**

Place: **Room 110, DES Offices, 29 Hazen Drive, Concord NH**

NN 2020-2 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:231, dated 12/31/2019:

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

There is no difference in cost when comparing the proposed rules to the existing 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 associated with the proposed rules are attributable to Chapter 208, Laws of 2019 and not the rules.

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:

All costs are attributable to Laws of 2019, 208:1, II. The rules thus do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision, and so do not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number	2020-3	Rule Number	Env-Or 603.03(c), Table 600-1
1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095		2. RSA Authority:	RSA 485-C:4, III; Laws of 2019, 208:1, I
		3. Federal Authority:	
		4. Type of Action:	
		Adoption	
		Amendment	X
		Repeal	
		Readoption	X
		Readoption w/amendment	

5. Short Title: **Arsenic Ambient Groundwater Quality Standard**

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

The existing rules in Env-Or 603.03, specifically Table 600-1 in paragraph (c), establish ambient groundwater quality standards (AGQS) for regulated contaminants. Env-Or 603.03(c), Table 600-1 is proposed to be amended to reduce the AGQS for Arsenic from 10 µg/L to 5 µg/L effective July 1, 2021, as directed by Laws of 2019, 208:1, I.

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

The rules affect owners of properties that are or may be contaminated with Arsenic.

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

Rule	State Statutes Implemented
Env-Or 603.03(c) intro & Table 600-1	RSA 485-C:6, I

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

Name: **Holly Green** Title: **Environmentalist III**
 Address: **Dept. of Environmental Services** Phone #: **(603) 271-3114**
29 Hazen Drive; P.O. Box 95 Fax#: **(603) 271-0656**
Concord, NH 03302-0095 E-mail: **Holly.Green@des.nh.gov**

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

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

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Friday, February 21, 2020**

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Wednesday, February 12, 2020 at 10:00 AM**

Place: **Room 110, DES Offices, 29 Hazen Drive, Concord NH**

NN 2020-3 Continued

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 19:232, dated 12/31/2019:

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

There is no difference in cost when comparing the proposed rules to the existing 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 associated with the proposed rules are attributable to Chapter 208, Laws of 2019 and not the rules.

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:

All costs are attributable to Laws of 2019, 208:1, I. The rules thus do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision, and so do not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2020-4

Rule Number He-M 1201

1. Agency Name & Address:
 Dept. of Health & Human Services
 Bureau of Developmental Services
 105 Pleasant St., Main Bldg
 Concord, NH 03301

2. RSA Authority: RSA 171-A:3, A:18, IV;
 RSA 126-A:19, 20, I
 3. Federal Authority: _____
 4. Type of Action:
 Adoption _____
 Amendment _____
 Repeal _____
 Readoption _____
 Readoption w/amendment X

5. Short Title: **Healthcare Coordination and Medication Administration**

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

He-M 1201 describes the minimum standards for individuals' health coordination and for ensuring the safe administration of medications by providers to individuals who receive services pursuant to He-M 1001, He-M 507, He-M 518, He-M 521, He-M 524, or He-M 525, as applicable. The Department is proposing to enter into regular rulemaking because the interim rule effective 9-25-19 (Document # 12876) expires on 3-23-20. This proposal would readopt with amendment the rule.

The proposed rule changes are summarized as follows:

- Updating the rule for better clarity, program integrity, and programmatic changes including documentation requirements, and to be consistent with other Departmental rules and the Board of Nursing rule Nur 404;
- Adding a definition for Health Risk Screening Tool (HRST) to align the rule with current practice;
- Amending He-M 1201.04(n) and renumbering as (p), to bring consistency to medication administration by removing the choice of whether to comply with, He-M 1201 or Nur 404, and adding that Nur 404 may be utilized in an emergency, but the provider must become certified pursuant to He-M 1201.06 within 30 days of being authorized under Nur 404;
- Amending the rule to increase the minimum time of training for providers from 8 hours to 10 hours and to specify the training curriculum to be used;
- Inserting language to include intramuscular epinephrine as a method of administration;
- Amending the rule to require observation of medication administration for any new individual, and clarifying that medication authorization must be done for each individual for whom the authorized provider will administer medication;
- Deleting He-M 1201.07(c), as this paragraph removed the authority of the Department to enforce the rule by making the nurse trainer the single authority over compliance with certain parts of the rule, and inserting the specific information that must be documented;

NN 2020-4 Continued

- Amending He-M 1201.09(a) on nurse training and quality review to enable the Department to provide more thorough oversight over compliance with elements of the rule, rather than the nurse trainer having this oversight. Having the nurse trainer be the single authority over compliance essentially created a Departmental rule that the Department had no authority to enforce; and
- Adding language to clarify that if a nurse cites a deficiency pursuant to the rules during a review that the nurse is required to conduct, the Department will not also cite a deficiency. Rather the Department will only cite a deficiency if the nurse has not documented a deficiency during their required review.

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

This rule affects individuals with developmental disabilities or acquired brain disorder and their legal representatives, area agencies and their subcontractors, and other persons who contract with consumers to provide services. More specifically, persons most affected include consumers whose medications are administered to them by providers, such as nurses who provide training and oversight.

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

Rule	Specific State or Federal Statutes or Regulations which the Rule Implements
He-M 1201.01-1201.02	RSA 171-A:4; 126-A:19; 20; RSA 326-B:28
He-M 1201.03	RSA 171-A:4; 126-A:19; 20
He-M 1201.04	RSA 171-A:4; 126-A:19; 20, RSA 326-B:28
He-M 1201.05-1201.14	RSA 171-A:4; 126-A:19; 20; RSA 326-B:28
He-M 1201.01-1201.13	RSA 126-A:19; RSA 135-C:3

Name: **Kim Reeve, Esq.** Title: **Legal Counsel – Admin Rules**
 Address: **NH Dept. of Health & Human Services** Phone #: **271-9640**
Administrative Rules Unit Fax#: **271-5590**
129 Pleasant St. E-mail: **Kimberly.reeve@dhhs.nh.gov**
Concord, NH 03301
 The proposed rules may be viewed and TTY/TDD Access: Relay NH
 downloaded at: 1-800-735-2964 or dial 711 (in NH)
<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: **February 25, 2020**

- Fax E-mail Other format (specify):

9. Public hearings scheduled for:

Date and Time: **February 18, 2020 3:00 PM**
 Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH 03301**

NN 2020-4 Continued

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

FIS # 19:235, dated 01/03/2020**1. Comparison of the costs of the proposed rule(s) to the existing rule(s):**

When compared to the existing rules, the proposed rules may increase costs to independently-owned businesses by an indeterminable amount.

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):**A. To State general or State special funds:**

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

The proposed rule includes programmatic and documentation requirements which will have an indeterminable administrative impact on providers. Specifically, the increase in the minimum training requirements from eight hours to ten hours may result in additional costs for some providers. Despite this, many training programs are already at least 10 hours, so the Department of Health and Human Services expects any increase in costs to be minimal.

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

The proposal 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.

Notice Number 2020-5

Rule Number He-C 6347

1. Agency Name & Address:

**Dept. of Health & Human Services
 Division for Children, Youth and Families
 Thayer Building, 1st Floor
 129 Pleasant Street
 Concord, NH 03301**

2. RSA Authority: RSA 170-G:4, XVIII & RSA 170-G:5
 3. Federal Authority: _____
 4. Type of Action:
 Adoption _____
 Amendment _____
 Repeal _____
 Readoption _____
 Readoption w/amendment X

5. Short Title: **Certification for Payment Standards for Foster Family Care Service Credentials**

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

He-C 6347 sets forth the qualifications and procedures to obtain a credential from the Division for Children, Youth and Families (DCYF) to provide specific foster family care services. Credentials specifically describe the types of foster family care credentials foster parents may receive when qualified to provide services in addition to general license care.

The Department of Health and Human Services (Department) proposes to readopt with amendment He-C 6347.

A summary of the proposed rule changes are as follows:

- **Updating the rule for better clarity, program integrity, and programmatic changes, and to be consistent with other Departmental rules;**
- **Inserting throughout He-C 6347 administrative rule paragraphs and subparagraphs on credentials for assessment care, crisis care, emergency care, and specialized care formerly effective in He-C 6446.06, He-C 6446.21, and He-C 6446.25, but with editorial modifications, in order to consolidate all credential requirements into one governing administrative rule;**
- **Inserting definitions for “assessment care”, “crisis care”, “emergency care”, “general care”, and “specialized care” and removing definitions for “director”, “individualized education program”, and “NH bridges”;**
- **Amending definitions for “case plan”, “child”, “credential”, and “Division for Children, Youth and Families” to match the revised content of the amended He-C 6347 and align with terms as defined in He-C 6446;**
- **Implementing the requirements of RSA 170-E:53, adopted by HB 550 (2019, 175:1) to make available extended foster care services for youth beyond the age of 18 to the age of 21;**
- **Removing the incorporation by reference of Form 1715 “Foster Care / Adoption Application” and Form 1850 “Foster Adoptive Kinship Provider Enrollment Change” because these forms are not used for the certification of credentials;**
- **Maintaining Forms 1695 “Adult Living Preparation Plan”, 1960 “Bill of Rights for New Hampshire Youth in Care”, 1690 “Needs Assessment for Adult Living”, 2110 “Service Authorization” and the “Alternate W-4” form without changes and with the noted edition dates because those forms are used in other DCYF rules and require no changes at this time; and**

NN 2020-5 Continued

(Item 6. (a) continued)

- Amending the following forms which are incorporated by reference:
 - Form 1969 “Monthly National Youth in Transition Database (NYTD) Checklist” by spelling out the acronym in the title, clarifying the information requested, and changing the question asked under “Mentoring”; and
 - Form 1984 “Post Care Plan” by updating the form to include a date, clarifying instructional text and topic headers, requesting the identification of a primary caring adult, and requesting whether the form was completed with another person.

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

These rules affect individuals who seek to be certified for payment and credentialed for foster care services.

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

Rule Section	Specific State or Federal Statute the Rule Implements
He-C 6347.01	RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6347.02	RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6347.03	RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6347.04	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:27; RSA 169-C:29-30
He-C 6347.05	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:25
He-C 6347.06	RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6347.07	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34
He-C 6347.08	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34
He-C 6347.09	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34
He-C 6347.10	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34
He-C 6347.11	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34; RSA 170-E:53
He-C 6347.12	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34
He-C 6347.13	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34
He-C 6347.14	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:31
He-C 6347.15	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:32
He-C 6347.16	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34
He-C 6347.17	RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6347.18	RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6347.19	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 126-A:3
He-C 6347.20	RSA 170-G:4, XVIII; RSA 170-G:5
He-C 6347.21	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:42
He-C 6347.22	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 541-A:22,IV
He-C 6347.23	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:35
He-C 6347.24	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:36
He-C 6347.25	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E: 36;
He-C 6347.26	RSA 170-G:4, XVIII; RSA 170-G:5; RSA 170-E:34,I(e); RSA 170-E:35-37

NN 2020-5 Continued

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

Name: **Kim Reeve, Esq.** Title: **Legal Counsel – Admin Rules**
Address: **NH Dept. of Health & Human Services** Phone #: **271-9640**
Administrative Rules Unit Fax#: **271-5590**
129 Pleasant St. E-mail: **Kimberly.reeve@dhhs.nh.gov**
Concord, NH 03301
The proposed rules may be viewed and downloaded at: **TTY/TDD Access: Relay NH 1-800-735-2964**
http://www.dhhs.nh.gov/oos/aru/comment.htm or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **February 21, 2020**

Fax E-mail Other format (specify):

9. Public hearings scheduled for:

Date and Time: **February 13, 2020 2:00-3:00 PM**
Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH 03301**

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

FIS # 19:233, dated 01/03/2020

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

There is no difference in cost between the proposed rules and the existing 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 difference in cost is attributable to RSA 170-E:34, I(f), which requires the Department of Health and Human Services provide compensation to foster parents, and RSA 170-E:53 (established by HB 550 from 2019), which establishes the policy of extending foster care beyond age 18. The FY 2020/21 operating budget contains funding for this extension of services.

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 proposal 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.

Notice Number 2020-6Rule Number He-C 6446

1. Agency Name & Address:

Dept. of Health & Human Services
 Division for Children, Youth and Families
 Thayer Building, 1st Floor
 129 Pleasant Street
 Concord, NH 03301

2. RSA Authority: RSA 170-E:34, I3. Federal Authority: 42 USC 671-679b

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment X5. Short Title: **Foster Family Care Licensing Requirements**

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

He-C 6446 describes the requirements individuals must meet when applying for an initial or renewal of a foster family care license in New Hampshire pursuant to RSA 170-E:34 administered by the Division of Children, Youth, and Families (DCYF). Foster family care is provided to children requiring out-of-home placement. The rule sets forth the requirements for issuance of a foster family care license or permit, including categories of foster family care, the application process for initial and renewal licenses, requirements to maintain licensure, cause for revocation or denial of a license, the appeals process, and required actions to meet the needs of a child in care.

The Department of Health and Human Services (Department) proposes to readopt with amendment He-C 6446.

The proposed changes to the rule are summarized as follows:

- Updating the rule for better clarity, program integrity, programmatic changes, and statutory changes, and to be consistent with other Departmental rules;
- Deleting paragraphs and subparagraphs on credentials for assessment care, crisis care, emergency care, and specialized care in He-C 6446.03-6446.04, He-C 6446.06, He-C 6446.21, and He-C 6446.25 and moving them to administrative rule He-C 6347;
- Adding, deleting, and amending definitions to address programmatic and statutory changes and to align with He-C 6347;
- Amending or adding licensure requirements regarding income, communication and literacy abilities, required sleeping arrangements, vaccinations, necessary first aid supplies, needed training, swimming pool safety, and emergency documentation to comply with the National Model Foster Family Home Licensing Standards promulgated by the United States Department of Health and Human Services;
- Changing the required age for background checks from 17 to 18 to reflect the age of majority;
- Adding a requirement that child placing agencies check the New Hampshire Department of Safety's Division of State Police "Registration of Criminal Offenders" for each household member, regardless of age, at application for a permit, initial license, or renewal;
- Amending the required pre-service training hours and topics to comply with federal requirements specific to first aid and cardiopulmonary resuscitation (CPR), medication administration, and the reasonable and prudent parent standard;
- Adding language regarding the statutory obligation of foster family licensees to report serious injury or death to a child subject to restraint or seclusion under RSA 126-U:10;

NN 2020-6 Continued*(Item 6. (a) continued)*

- Amending language requested through collaboration with stakeholders to support the use of reasonable modification for foster parent applicants with qualified disabilities by removing requirements to communicate in English and adding the qualifier of “substantial” when considering an impairment of a foster parent applicant;
- Implementing the requirements of SB 385 (2018, 220:2) regarding the Foster Care Children’s Bill of Rights in RSA 170-G:21 , and inclusive of the Reasonable and Prudent Parent Standards pursuant to RSA 170-G:20;
- Deleting the following forms which are incorporated by reference:
 - Form 2352 “Application Information for Child 11 Years Old or Younger” and Form 2353 “Application Information for Child 12 Years Old or Older” because the required information will be captured in Form 1715;
 - Form 2281 “DCYF Youth Information Sheet” used for RSA 169-C cases only because the required information will be captured in Form 1552; and
 - Form 2281(J) “Youth Information Sheet” used for RSA 169-B and RSA 169-D cases only because the required information will be captured in Form 1552;
- Incorporating by reference the following new forms:
 - Form 1717 “Local Law Enforcement Check” to implement a release for the local law enforcement history inquiries;
 - Form 1723 “Insurance and Safety Verification” to document home and vehicular insurance policy information and safety information regarding firearms and weapons, driver’s licenses, vehicle inspections, and home heating system maintenance;
 - Form 1643A “Getting to Know Me 0-3”, Form 1643B “Getting to Know Me 4-10”, and Form 1643C “Getting to Know Me 11-18” to be completed as age appropriate when a child’s placement ends. The information collected was formerly completed every 6 months through the former forms 2281, 2281(J), and 2267; however, DCYF has identified that this information is for helping children/youth transition between caregivers and does not need to be completed unless there is a change in the child/youth’s placement;
 - Forms 1720 and 1720A. Form 2361 “Fire Department Inspection” was edited and split into two forms (1720 and 1720A). The changes align with statutory changes to the State Fire Code made pursuant to HB 710, (2019). Form 1720 is specific to the application of fire department inspections of one and two family dwellings, and Form 1720A is specific to fire department inspections of buildings containing three or more apartments; and
 - Form 1728 “Pre-Adoptive/Foster Family Care Financial Statement”. Form 1728 is currently incorporated into He-C 6340 but is new to this rule, and it has been amended to include identification of who the applicants are, breakdowns of types of income and expenses, identification of assets, and a certification that the content is true;
- Amending the following forms:
 - Form 1715 “Foster Care/Adoption Application” is retitled “Application for Foster Family Care License”, amended to clarify what constitutes a completed application, and edited to more efficiently document information by merging in information formerly captured in the Forms 2352 and 2353;
 - Form 2360 “Foster and Adoptive Family Home Health Inspection Report” is renumbered as 1721, retitled “Home Health Inspection”, and edited to delineate corrective actions when necessary and document re-inspections;

NN 2020-6 Continued

(Item 6. (a) continued)

- Form 1722 “Medical Information Statement” is edited to have additional language for authorizing the release of protected health information and to require specific information to be used in licensing for specific populations of children in care, in compliance with the National Model Foster Family Home Licensing Standards promulgated by the United States Department of Health and Human Services;
- Form 2267 is retitled as 1552 “Child/Youth Information Sheet” and will be for use with all ages and cases under RSA 169-B, RSA 169-C, and RSA 169-D. Information requested through former Forms 2281 and 2281J was merged into Form 1552 and condensed to require the information that must be updated every 6 months. This form fulfills case plan requirements in 42 U.S.C. 675(1)(c); and
- Form 2501 “DCYF Central Registry Name Search Authorization Release of Information to Third Party” is edited to include a purpose for the check such as for child agency placing or adoptions for increased efficiency in processing the form.

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

This rule affects any individual who is a licensed foster care provider, or any individual who intends to apply to become a licensed foster care provider, for the State of New Hampshire or any licensed child placing agency.

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

Rule Section	State or Federal Statute the Rule Implements
He-C 6446.01	RSA 170-E:24
He-C 6446.02	RSA 170-E:24
He-C 6446.03	RSA 170-E:24 and 170-E:25
He-C 6446.04	170-E:25, XI; RSA 170-E:27; RSA 170-E:28; RSA 170-E:29; RSA 170-E:34; RSA 170-G:20; RSA 170-G:21
He-C 6446.05	170-E:25, XII; RSA 170-E:27; RSA 170-E:28; RSA 170-E:29; RSA 170-E:31, V; RSA 170-E:34
He-C 6446.06	RSA 170-E:31; RSA 170-E:34, I
He-C 6446.07 - 6446.08	RSA 170-E:29; RSA 170-E:34, I
He-C 6446.09	RSA 170-E:28; RSA 170-E:34, I(a)(1)
He-C 6446.10 - 6446.11	RSA 170-E:31, IV
He-C 6446.12	RSA 170-E:34, I(a)(2) and RSA 170-E:34, II
He-C 6446.13 - 6446.14	RSA 170-E:25, XI and XII; RSA 170-E:34
He-C 6446.15	RSA 170-E:32; RSA 170-G:20; RSA 170-G:21
He-C 6446.16	RSA 170-E:34, I(a)(5); RSA 170-G:20
He-C 6446.17	RSA 170-E:34, I
He-C 6446.18 - 6446.19	RSA 170-E:34, I(a)(5); RSA 170-G:20
He-C 6446.20	RSA 170-E:34, I(a)
He-C 6446.21	RSA 170-E:34, I(a)(10)
He-C 6446.22	RSA 170-E:34, I(a)(9)
He-C 6446.23	RSA 126-U; 170-E:34, I; RSA 170-G:20; RSA 170-G:21
He-C 6446.24	RSA 170-E:34, I(a)(7)-(7-a) and (a)(13); RSA 170-E:42
He-C 6446.25	RSA 170-E:34, I(a); RSA 126-U:10
He-C 6446.26	RSA 170-E:34, I(e); RSA 170-E:35
He-C 6446.27	RSA 170-E:31; RSA 170-E:34; RSA 541-A:22, IV
He-C 6446.28	RSA 170-E:35; RSA 170-E:36; RSA 170-G:20; RSA 170-G:21
He-C 6446.29	RSA 170-E:34, I(d); RSA 170-E:36; RSA 170-E:37

NN 2020-6 Continued

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

Name: **Kim Reeve, Esq.** Title: **Legal Counsel – Admin Rules**
 Address: **NH Dept. of Health & Human Services** Phone #: **271-9640**
Administrative Rules Unit Fax#: **271-5590**
129 Pleasant St. E-mail: **Kimberly.reeve@dhhs.nh.gov**
Concord, NH 03301

The proposed rules may be viewed and downloaded at:

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

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

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **February 21, 2020**

Fax

E-mail

Other format (specify):

9. Public hearings scheduled for:

Date and Time: **February 13, 2020 2:00-3:00 PM**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH 03301**

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

FIS # 19:234, dated 01/03/2020

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

When compared to the existing rules, the proposed rules will have an indeterminable impact on state citizens and independently-owned businesses.

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

The Department of Health and Human Services states that National Model Foster Family Home Licensing Standards were promulgated by the US Department of Health and Human Services' Administration for Children and Families' Children's Bureau and released through ACYF-CB-IM-19-01. (The Department notes that as of January 2020, a regulatory citation is not available.) Compliance with these standards, or a waiver request describing why the state has determined it appropriate to not be in reasonable accord with the standards, is required for Title IV-E state plan approval. Failure to adhere to the Title IV-E program could result in the loss of federal reimbursement for foster care maintenance payments made by the state.

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

Any costs related to home health or fire safety inspections are attributable to RSA 170-E:28, while any costs related to criminal record checks are attributable to RSA 170-E:29. Costs attributable to the rule itself are described below.

A. To State general or State special funds:

None. This program is paid for with federal Title IV-E foster care funds.

B. To State citizens and political subdivisions:

The proposed rule will have indeterminable costs and benefits to citizens who choose to pursue licensure to provide foster family care. The Department notes that the implementation of standards in alignment with the National Model Foster Family Home Licensing Standards may have minimal costs for individuals who have not previously followed the common practices identified as model standards. These potential costs include maintaining first aid supplies, accessing first aid and CPR training, and certain environmental impacts such as personal floatation devices for foster parents with swimming pools. In addition, the standards will require foster parents, household members, and children to have specific vaccinations as a condition to be a foster parent for certain populations of children. Certain foster parent applicants will benefit in that they will no longer be required to pay for criminal background checks for minor household members.

NN 2020-6 Continued*(Item 10. (c) continued)***C. To independently owned businesses:**

The proposed rules may increase costs to child-placing agencies operating foster care programs if the programs choose to implement the new training requirements through their training budget. The Department notes that the agencies may benefit from having better-trained foster parents, potentially mitigating the costs of some health-related referrals outside of the programs.

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

The proposal 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.

Notice Number

2020-7

Rule Number

Cub 305.03, 305.04, 305.05,
305.06

1. Agency Name & Address:

Current Use Board
c/o New Hampshire Department of Revenue
Administration
109 Pleasant Street
PO Box 487
Concord, NH 03302-0487

2. RSA Authority:

RSA 79-A:4, IV

3. Federal Authority:

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment 5. Short Title: **Assessment Ranges for Forest Land Categories, With and Without Stewardship, Unproductive Land and Wetland Categories**

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

The administrative rules Cub 305.03, Cub 305.04, Cub 305.05, and Cub 305.06 on assessment ranges, respectively, for forest land categories, with and without stewardship, the unproductive land category, and the wetland category are being readopted with amendment as follows:

1. The assessment ranges for the forest land categories without documented stewardship have increased as follows:

- a. White Pine from ~~\$118 to \$176~~ to \$122 to \$183 per acre;
- b. Hardwood from ~~\$57 to \$86~~ to \$61 to \$91 per acre;
- c. All other from ~~\$38 to \$57~~ to \$39 to \$59 per acre;

2. The assessment ranges for the forest land categories with documented stewardship have increased as follows:

- a. White Pine from ~~\$71 to \$106~~ to \$73 to \$110 per acre;
- b. Hardwood from ~~\$34 to \$52~~ to \$36 to \$55 per acre;
- c. All Other from ~~\$23 to \$34~~ to \$24 to \$35 per acre;

3. The assessment range for the unproductive land category has increased from \$23 to \$24 per acre; and4. The assessment range for the wetland category has increased from \$23 to \$24 per acre.

As a result of these rule changes, property owners may see an increase in their taxes.

Municipalities and unincorporated places may see an increase in revenue from current use taxes.

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

Property owners with current use land in the forest land categories, and municipalities and unincorporated places with current use land will be affected.

NN 2020-7 Continued

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

RULE	STATUTE
Cub 305.03	RSA 79-A:4
Cub 305.04	RSA 79-A:4
Cub 305.05	RSA 79-A:4
Cub 305.06	RSA 79-A:4

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

Name: **Stephanie Derosier** Title: **Clerk, Current Use Board**
Address: **NH Department of Revenue Admin** Phone #: **603.230.5096**
109 Pleasant Street Fax#: **603.230.5947**
PO Box 487 E-mail: **stephanie.derosier@dra.nh.gov**
Concord, NH 03302-0487 TTY/TDD Access: Relay NH 1-800-735-2964 or
dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Friday, February 21, 2020**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, February 10, 2020 at 1:00 p.m.**
Place: **New Hampshire Department of Revenue Administration**
109 Pleasant Street, Training Room
Concord, NH 03301

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

FIS # 19:220, dated 1/7/2020

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

When compared to the existing rules, the proposed rules may increase costs by an indeterminable amount to state citizens and independently owned businesses.

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

None.

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

The Department of Revenue Administration states approximately 50 percent of taxable land in the state is subject to this alternative use (Current Use) valuation model. The proposed rates for Cub 305.03, Cub 305.04, Cub 305.05 and Cub 305.06 reflect minor changes in the valuation of the income-producing capacity of forest land and agricultural land in the state and are being readopted with amendments in order to implement the assessment ranges recommended by the Current Use Board for open space land assessed on or after April 1, 2020.

The proposed rules make the following changes to the range of assessed values for land in current use:

NN 2020-7 Continued

(Item 10. continued)

Assessment Ranges for Forest Land Categories				
	Existing Rules		Proposed Rules	
	Minimum	Maximum	Minimum	Maximum
White Pine	\$118	\$176	\$122	\$183
Hardwood	\$57	\$86	\$61	\$91
Other	\$38	\$57	\$39	\$59

Assessment Ranges for Forest Land Categories with Documented Stewardship				
	Existing Rules		Proposed Rules	
	Minimum	Maximum	Minimum	Maximum
White Pine	\$71	\$106	\$73	\$110
Hardwood	\$34	\$52	\$36	\$55
Other	\$23	\$34	\$24	\$35

	Existing Rules	Proposed Rules
Unproductive Land (per acre)	\$23	\$24
Wetland (per acre)	\$23	\$24

A. **To State general or State special funds:**
None.

B. **To State citizens and political subdivisions:**
To the extent state citizens own land falling within the affected categories, their costs may increase slightly based on the assessment changes. The proposed rules will result in a minor reapportionment of local tax burdens due to the changes in distribution of value and minimal impact to local tax rates.

C. **To independently owned businesses:**
To the extent independently owned businesses own land falling within the affected categories, their costs may increase slightly based on the assessment changes.

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

Re-adoption with amendments of Cub 305.03, Cub 305.04, Cub 305.05 and Cub 305.06 does not create a new program or responsibility, although it does modify the existing tax by increasing the assessment ranges for unproductive and wetland categories. The proposal applies to any political subdivision with unproductive land and wetland, but there is no mandate which increases costs to a political subdivision. The rule does not violate Part I, Article 28-a, of the New Hampshire Constitution.

Notice Number 2020-8

Rule Number Ins 2704

1. Agency Name & Address:
NH Insurance Department
21 S. Fruit Street, Suite 14
Concord, NH 03103

2. RSA Authority: **RSA 400-A:15, I;**
RSA 415:26, III;
RSA 402-N:2, II;
RSA 420-J:7-b, X(c);
RSA 420-J:12

3. Federal Authority: _____

4. Type of Action:
 Adoption _____
 Amendment _____
 Repeal _____
 Readoption _____
 Readoption w/amendment **X**

5. Short Title: **Pharmacy Benefit Managers**

6. (a) Summary of what the rule says and of any proposed amendments:
This proceeding proposes to re-adopt with amendment Ins 2704, whose heading is currently “Prescription Prices for Pharmacists and Pharmacies”. The new heading will be “Pharmacy Benefits Managers” (PBMs). The amendments describe elements for the regulation and registration of PBMs as mandated by RSA 402-N, which was effective 1-1-20, pursuant to Chapter 320 of the Laws of 2019.

6. (b) Brief description of the groups affected:
Any third party administrators (TPAs) that perform the functions of a PBM and any PBMs that are not already licensed as a TPA.

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

Ins 2704.01	RSA 400-A:15, I; RSA 415:26; RSA 402-N:2; RSA 420-J:7-b, X; RSA 420-J:12
Ins 2704.02	RSA 318:1, XI; RSA 318:2; RSA 400-A:15, I; RSA 402-N:1; RSA 415:26; RSA 420-G:2, IX; RSA 420-J:3, XIX; RSA 420-J:7-b, X; RSA 420-J:12
Ins 2704.03	RSA 400-A:15, I; RSA 402-N:2
Ins 2704.04	RSA 400-A:15, I; RSA 402-N:2; RSA 402-N:6
Ins 2704.05	RSA 400-A:15, I; RSA 402-N:4; RSA 415:26; RSA 420-J:7-b, X; RSA 420-J:8-a, IV; RSA 420-J:12
Ins 2704.06	RSA 400-A:15, I; RSA 400-A:16; RSA 402-N:5; RSA 415:26; RSA 420-J:7-b, X; RSA 420-J:12
Ins 2704.07	RSA 400-A:15, I; RSA 400-A:16; RSA 400-A:17-24; RSA 402-N:2; RSA 415:26; RSA 417; RSA 420-J:7-b, X; RSA 420-J:12; RSA 420-J:14
Ins 2704.08	RSA 400-A:15, I; RSA 402-N:5, II; RSA 415:26; RSA 420-J:7-b, X; RSA 420-J:12
Ins 2704.09	RSA 400-A:15, I; RSA 400-A:16, III; RSA 402-N:6, II; RSA 420-J:10-12
Ins 2704.10	RSA 400-A:15, I; RSA 400-A:37; RSA 402-N:2; RSA 402-N:7
Ins 2704.11	RSA 400-A:15, I; RSA 400-A:16, II; RSA 402-N:2
Ins 2704.12	RSA 400-A:15, I; RSA 541-A:22, IV

NN 2020-8 Continued

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

Name: **Michelle Heaton** Title: **Hearing Officer**
Address: **NH Insurance Department** Phone #: **271-2399**
21 S. Fruit Street, Suite 14 Fax#: **271-1406**
Concord, NH 03103 E-mail: **Michelle.heaton@ins.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964 or
dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **February 21, 2020**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 13, 2020, at 10:30 am**
Place: **NH Insurance Department, 21 S. Fruit Street, Room 158, Concord, NH**

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

FIS # 19:236, dated January 3, 2020

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

There is no difference in cost when comparing the proposed rules to the existing 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 associated with the proposed rules are attributable to RSA 402-N, as established by Chapter 320:2, Laws of 2019, and not the rules.

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:

These rules do not mandate any new, expanded, or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivisions, and therefore do not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number 2020-9 Rule Number Env-Wt 306.05(a)(1), Env-Wt 406.03(a)

<p>1. Agency Name & Address: Department of Environmental Services 29 Hazen Drive P.O. Box 95 Concord, NH 03302-0095</p>	<p>2. RSA Authority: <u>RSA 482-A:11, I</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment <u>X</u></p> <p>Repeal _____</p> <p>Readoption <u>X</u></p> <p>Readoption w/amendment _____</p>
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5. Short Title: **Delineation for Shoreline Structure Projects**

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

The wetlands rules that became effective December 15, 2019 contained language that had been interpreted as requiring a wetlands delineation by a certified wetlands scientist (CWS) for all projects, including shoreline structure projects where no vegetated wetlands existed. This was not the Department’s intent. Because of the substantial fiscal impact of that interpretation, the Department adopted emergency rules to clarify that such delineations are not required for shoreline structure projects where no vegetated wetlands exist. This rulemaking is to adopt the emergency rules as regular rules, with a clarification of Env-Wt 406.03(a)(5).

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

The rules affect anyone who applies for a permit under RSA 482-A for a shoreline structure where no vegetated wetlands exist.

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

Rule Section	State Statutes Implemented	Federal Statutes, Regulations Implemented
Env-Wt 306.05(a)(1)	RSA 482-A:1 - 4, 6, 8 - 34; RSA 483-B; RSA 487	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415
Env-Wt 406.03(a)	RSA 482-A:1 - 4, 6, 8 - 34; RSA 483-B; RSA 487	Clean Water Act, 33 U.S.C. Ch. 26, Subchapter IV, § 1344 (Permits for Dredged or Fill Material); 33 CFR Parts 322 & 323; USACE Gen. Permit No. NAE-2016-02415

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

Name: **Mary Ann Tilton** Title: **Assistant Administrator, Wetlands Bureau**
 Address: **Dept. of Environmental Services** Phone #: **(603) 271-2929**
29 Hazen Drive; P.O. Box 95 Fax#: **(603) 271-6588**
Concord, NH 03302-0095 E-mail: **MaryAnn.Tilton@des.nh.gov**

The rules also can be viewed in PDF at <http://des.nh.gov/organization/commissioner/legal/rulemaking/index.htm>

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

NN 2020-9 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **4:00 p.m. on Friday, February 21, 2020**

YOU MAY SUBMIT WRITTEN COMMENTS WITHOUT ATTENDING THE PUBLIC HEARING

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 13, 2020 at 9:00 AM**

Place: **Room 114, DES Offices, 29 Hazen Drive, Concord NH**

10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant): FIS # 20:002, dated 01/09/2020:

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

Not applicable. The proposed rule readopts the emergency rules as regular rules, with a clarification of Env-Wt 406.03(a)(5).

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):

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:

There are no costs associated with the proposed rules. The rules thus do not mandate or assign any new, expanded or modified programs or responsibilities to any political subdivision in such a way as to necessitate additional local expenditures by the political subdivision and so do not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2020-10

Rule Number He-C 6910

1. Agency Name & Address:
**Department of Health and Human Services
 Division of Economic and Housing Stability
 129 Pleasant Street
 Concord, NH 03301**

2. RSA Authority: RSA 167:83, I(b);
 RSA 167:83, II

3. Federal Authority: _____

4. Type of Action:
 Adoption _____
 Amendment _____
 Repeal _____
 Readoption _____
 Readoption w/amendment X

5. Short Title: **Employment Related NH Child Care Scholarship Program Eligibility**

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

He-C 6910 establishes the criteria for the 12-month employment related child care scholarship program which enables families to prepare for, secure, or maintain employment, and to support healthy child development for those families who meet and continue to meet the program requirements of He-C 6910. He-C 6910 also establishes the payment amounts for an employment related child care scholarship.

In accordance with 45 CFR 98 the Department must certify that the New Hampshire child care scholarship payment rates are sufficient to ensure equal access for families utilizing child care services comparable to those provided by families not receiving assistance. Per the preamble 81 FR 67512, the payment rates must be established based on the most recent Market Rate Survey (MRS). The Department conducts the federally mandated MRS every 2 years of rates charged by licensed child care centers and licensed child care homes in New Hampshire. The Department’s maximum payment rates for child care services are based on the rates from this survey. This survey was conducted in March 2018.

The Department of Health and Human Services (Department) is proposing to readopt with amendment He-C 6910.

As a result of the MRS, the proposal:

- **Increases the supplemental payment rate for a child experiencing a disability or significant special need(s) to \$100 per week for a full time service level, \$75 per week for a half time service level, and to \$50 per week for a part time service level; and**
- **Increases rates for licensed child care centers and licensed child care homes to the 55th percentile of the most recent MRS age group. The payment rates for license-exempt family child care providers are set at 70% of the licensed family child care home standard rate for each age group. The payment rates for license-exempt centers are set at 50% of the licensed child care center standard rate. The Department proposes to increase rates for infant and toddler age groups to the 60th percentile of the most recent MRS.**

Additional amendments to He-C 6910 include:

- **Updating the rule for better clarity, program integrity, and making minor, substantive and editorial changes throughout;**

NN 2020-10 Continued*(Item 6 (a). continued)*

- Changing the term “family income” to “group assistance income” and “financial assistance to needy families (FANF)” to “temporary assistance to needy families (TANF)” throughout;
- Adding the definitions of “continued assistance”, “family assistance program recipient”, and “family cap amount”;
- Updating the definitions of “authorized service level”, “child care”, “child experiencing significant special needs”, “cost share”, “financial assistance to needy families”, “job search”, and “medical leave”;
- Updating various forms previously incorporated by reference and incorporating by reference additional forms;
- Updating the non-financial eligibility requirements, to include:
 - An exception of residency for a migratory worker’s child who qualifies as homeless because a child is living in circumstances described in the McKinney Vento definition;
 - That a child turning 13 years of age within 30 calendar days of the application shall not be eligible;
 - Allowing participation in a mental health treatment program or substance misuse treatment program as an approved activity for recipients of the New Hampshire Employment Program (NHEP) or recipients of the Family Assistance Program (FAP);
 - Allowing continued assistance for up to 92 calendar days to allow a parent to re-engage when an approved activity terminates;
 - That two adults residing in the same household regardless of marital status who share a common child shall be counted as one assistance group;
 - That a legal guardian and the legal guardian spouse shall be required to engage in at least one employment related approved activity; and
 - An individual registered with a temporary employment agency shall be considered employed as long as the individual earns one payment within 10 calendar days of employment assignment.
- Updating verification requirements to include self-attestation for children of migrant workers who qualify as homeless and adding verification requirements for individuals participating in a mental health or substance misuse treatment program;
- Adding additional reporting requirements;
- Removing He-C 6910.20 on recoupment of payments as it already exists in He-C 6918, “Child Care Billing and Payment Requirements”; and
- Adding new section He-C 6910.20 on waiver of rules.

NN 2020-10 Continued

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

Groups affected by this rule include families who require child care scholarship and who are either receiving financial assistance from DHHS under the financial assistance to needy families (TANF) program as described in He-W 602.02(a), or whose income is at or below 220% of the federal poverty guidelines, Tier 1, and greater than 220% and less than or equal to 250% of the federal poverty guidelines, Tier 2, as long as a family meets the requirement described in He-C 6910.06(b).

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

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-C 6910.01	RSA 161:2, XII; RSA 167:83, I(b); RSA 167:83, II(o)
He-C 6910.02	RSA 167:77, V(e)
He-C 6910.03	RSA 161:2, XII; RSA 167:58, IV; RSA 167:83, I(b); RSA 167:83, II(o)
He-C 6910.04	RSA 167:79, III(d)-(g); RSA 167:83, II(o)
He-C 6910.05	RSA 161:2, XII; RSA 167:80, IV(b) and (i); RSA 167:82, VI; RSA 167:83, II(o)
He-C 6910.06	RSA 167:83, II(c) and (o)
He-C 6910.07	RSA 161:2, XII; RSA 167:80, IV(b) and (i); RSA 167:82, VI; RSA 167:83, II(o),(q)
He-C 6910.08	RSA 167:85; RSA 167:88; RSA 167:90; RSA 167:91
He-C 6910.09	RSA 167:83, II(c) and (o)
He-C 6910.10	RSA 167:79, V(b); RSA 167:82, VI; RSA 167:83, II, (c),(e),(m)
He-C 6910.11	RSA 167:83, II(b); RSA 167:83, III(h)
He-C 6910.12	RSA 161:2, XII; RSA 167:83, II
He-C 6910.13	RSA 167:83, II(o)
He-C 6910.14	RSA 167:83, II(c) and (o)
He-C 6910.15	RSA 161:2, XII; RSA 167:83, II
He-C 6910.16	RSA 161:2, XII; RSA 167:83, II
He-C 6910.17	RSA 167:83, II(o)
He-C 6910.18	RSA 161:2, XII; RSA 167:83, II(o); RSA 167:83, III(g); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:12
He-C 6910.19	RSA 167:83, II(a); RSA 541-A:31, I and II
He-C 6910.20	RSA 170 – E11, I (m)

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

Name: **Allyson Zinno** Title: **Administrative Rules Coordinator**
Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: **allyson.zinno@dhhs.nh.gov**
Concord, NH 03301
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>

NN 2020-10 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, February 13, 2020**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 6, 2020 at 5:00pm.**

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

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

FIS # 19:226, dated January 2, 2020

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

When compared to the existing rule, the proposed rule will increase state expenditures, benefit state citizens, and have an indeterminable impact on independently-owned businesses.

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

Per 45 CFR 98, the Department of Health and Human Services must certify that the NH Child Care Scholarship payments rates are sufficient to ensure equal access for families utilizing child care services comparable to those provided by families not receiving assistance. Per the preamble 81 FR 67512, the payment rates must be established based on the most recent Market Rate Survey (MRS) completed by the Department. Further, the regulation requires the Department to develop and implement strategies to increase the supply of and to improve the quality of child care services for children with disabilities. Finally, the federal regulation requires the Department to prioritize services for children experiencing homelessness.

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

Among other things, the proposed rule:

1. Increases the supplemental payment rate for a child experiencing significant disability or special need to \$100 per week for a full-time service level, \$75 per week for a half-time service level, and \$50 per week for a part-time service level (at a projected cost of \$235,110 annually in FY 2020/21).

2. Increases the rates for child care centers and licensed child care homes to the 55th percentile of the most recent Market Rate Survey (MRS) age group (projected cost: \$2,161,362 annually in FY 2020/21); sets rates for the license-exempt family child care providers at 70% of the licensed family child care home standard rate for each age group; sets rates for license-exempt centers at 50% of the licensed child care center standard rate; and-increases rates for infant and toddler age groups to the 60th percentile of the most recent MRS (at a projected cost of \$58,447 annually in FY 2020/21).

Further, RSA 167:83, II(q) requires the Department to provide assistance to parents and caretaker relatives of children in such families that are recipients of the NH Employment Program or Family Assistance Program participating in a mental health program or substance misuse treatment program. This requirement, attributable to statute, is projected to cost \$2,172,000 annually in FY 2020/21.

NN 2020-10 Continued

(Item 10. continued)

A. To State general or State special funds:

The Department projects that the \$2,172,000 per year needed to implement RSA 167:83, II(q) will be an additional cost to the state general funds. Funding for other requirements is contained in the Department's operating budget, and will consist of a combination of federal Title IV-E, federal Temporary Assistance to Needy Families (TANF), and state general funds.

B. To State citizens and political subdivisions:

Eligible families may benefit from increased payment rates that may reduce out-of-pocket expenses for child care. The proposed rules will also allow for additional supports for children in care, as well as for participation in a mental health and/or substance misuse treatment program for recipients.

C. To independently owned businesses:

Independently-owned businesses may benefit from the increase in payment rates, supporting operational costs for child care programs and potentially attracting new providers. There is a potential cost to providers if parents do not reengage after 92 days of continued assistance and the Department terminates child care eligibility.

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

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

Notice Number 2020-11

-Rule Number He-C 6912

1. Agency Name & Address:

**Department of Health and Human Services
Division of Economic and Housing Stability
129 Pleasant Street
Concord, NH 03301**

2. RSA Authority: RSA 167:83, I(b);
RSA 167:83, II

3. Federal Authority: _____

4. Type of Action:

- Adoption _____
- Amendment _____
- Repeal _____
- Readoption _____
- Readoption w/amendment X

5. Short Title: Preventive and Protective Child Care Eligibility and Provider Enrollment

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

He-C 6912 establishes the eligibility criteria for the preventive and protective child care scholarship, which supports healthy child development and the service or case plan. These types of child care scholarships enable families to prepare for, secure, or maintain employment, participate in other approved activities, or maintain stability of the child while in and out of home placement. He-C 6912 also establishes the payment amounts for the preventive and protective childcare scholarship.

The Department of Health and Human Services (Department) is proposing to readopt with amendment He-C 6912. The proposal:

- Amends He-C 6912 by adding the preventive and protective child care provider enrollment requirements previously outlined in He-C 6914; and
- Based on the Market Rate Survey (MRS) conducted by the Department every 2 years, increases:
 - The supplemental payment rate for a child experiencing significant disability or special need to \$100 per week for a full time service level, \$75 per week for a half time service level, and to \$50 per week for a part time service level; and
 - The rates for licensed child care centers and licensed child care homes to the 55th percentile of the most recent MRS age group. The payment rates for license-exempt family child care providers are set at 70% of the licensed family child care home standard rate for each age group. The payment rates for license-exempt centers are set at 50% of the licensed child care center standard rate. The Department proposes to increase rates for infant and toddler age groups to the 60th percentile of the most recent MRS.

Additionally, the proposal:

- Updates the rule for better clarity, program integrity, and makes minor, substantive and editorial changes throughout;
- Adds the definitions of “child care provider”, “conflict of interest”, “employee”, “fraud”, “good standing”, “license-exempt facility based program”, “license-exempt in home provider”, “NH Bridges”, and “serious injury”;
- Updates the definitions of “authorized representative”, “authorized service level”, “caretaker relative”, “child care”, “childcare scholarship”, “enrolled child care provider”, and “recipient”;
- Removes the definitions of “provider” and “specific crisis or episode of need”;

NN 2020-11 Continued

(Item 6 (a). continued)

- Updates various forms previously incorporated by reference and incorporates by reference additional forms;
- Updates the enrollment requirements to include:
 - That child care providers review and comply with the child abuse and neglect reporting requirements of RSA 169-C:29-31;
 - That child care providers maintain liability insurance or provide a disclosure to parents that the program is uninsured pursuant to RSA 170-E:6-b; and
 - That child care providers or authorized representatives provide proof that the child care provider or authorized representative has taken and retaken, when necessary, the Department's New Hampshire child care scholarship program training;
- Updates the rule to only allow a licensed center or a licensed family home to enroll as preventive child care provider;
- Identifies a licensed foster parent pursuant to He-C 6446 as meeting the enrollment requirements to be a license-exempt child care provider; and
- Updates the rule by adding sections on appeals, confidentiality and waiver of rule requirements.

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

Groups affected by this rule include families authorized to receive preventive child care scholarship as determined by the comprehensive family support agency and children authorized by DCYF to receive protective child care scholarship pursuant to a court order or non-court ordered agreement between DCYF and the family.

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

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-C 6912.01	RSA 161:2, RSA 167:83, I(b); and RSA 170-G:4, II, III
He-C 6912.02	RSA 161:2, RSA 167:83, I(b); and RSA 170-G:4, II, III
He-C 6912.03	RSA 161:2, RSA 167:83, I(b); and RSA 170-G:4, II, III
He-C 6912.04	RSA 161:2, RSA 167:83, I(b); and RSA 170-G:4, II, III
He-C 6912.05	RSA 161:2, RSA 167:83, I(c); and RSA 170-G:4, III, VI
He-C 6912.06	RSA 161:2, XII ; RSA 167:83, II(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6912.07	RSA 161:2, XII ; RSA 167:83, II(a), (o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, VIII, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6912.08	RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6912.09	RSA 161:2, RSA 167:83, I(b); and RSA 170-G:4, II, III
He-C 6912.10	RSA 161:2, RSA 167:83, I(c); and RSA 170-G:4, III, VI
He-C 6912.11	RSA 161:2, XII ; RSA 167:83, II(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6912.12	RSA 161:2, XII ; RSA 167:83, II(a), (o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, VIII, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II;
He-C 6912.13	RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5

NN 2020-11 Continued

(Item 6 (c). continued)

He-C 6912.14	RSA 161:2, XV; RSA 167:17-b, I(a); RSA 167:17-c; RSA 167:58, IV; RSA 167:61-a, I(a)-(c) and (e); RSA 167:83, II(k); RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6912.15	RSA 161:2, XII; and RSA 170-G:4, II, III
He-C 6912.16	RSA 161:2, XII; and RSA 170-G:4, XVII
He-C 6912.17	RSA 167:83, II(a); RSA 170-E:11; RSA 170-G:4, VIII; RSA 170-G:4, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6912.18	RSA 167:83, II(a)
He-C 6912.19	RSA 170-E:11, II; RSA 170-G:8-a
He-C 6912.20	RSA 170-E:11, I(m)

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

Name: **Allyson Zinno** Title: **Administrative Rules Coordinator**
Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: **allyson.zinno@dhhs.nh.gov**
Concord, NH 03301

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: **Thursday, February 13, 2020**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 6, 2020 at 5:00pm.**

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

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

FIS # **19:227**, dated **January 2, 2020**

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

When compared to the existing rule, the proposed rule will increase state expenditures, and benefit state citizens and independently-owned businesses by indeterminable amounts.

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):

NN 2020-11 Continued*(Item 10. continued)*

Among other things, the proposed rule:

1. Increases the supplemental payment rate for a child experiencing significant disability or special need to \$100 per week for a full-time service level, \$75 per week for a half-time service level, and \$50 per week for a part-time service level.
2. Increases the rates for child care centers and licensed child care homes to the 55th percentile of the most recent Market Rate Survey (MRS) age group; sets rates for the license-exempt family child care providers at 70% of the licensed family child care home standard rate for each age group; sets rates for license-exempt centers at 50% of the licensed child care center standard rate; and increases rates for infant and toddler age groups to the 60th percentile of the most recent MRS.

A. To State general or State special funds:

The Department of Health and Human Services notes that its budget includes \$2 million annually in FY 2020/21 for preventive and protective child care, and that the proposed rule will be paid for with a combination of federal Title IV-E, federal Temporary Assistance to Needy Families (TANF), and state general funds.

B. To State citizens and political subdivisions:

Eligible families may benefit from increased payment rates that may reduce out-of-pocket expenses for child care.

C. To independently owned businesses:

Independently-owned businesses may benefit from the increase in payments rates, supporting operational costs for child care programs and potentially attracting new providers.

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

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

Notice Number 2020-12

Rule Number He-C 6914

1. Agency Name & Address:

Department of Health and Human Services
Division of Economic and Housing Stability
129 Pleasant Street
Concord, NH 03301

2. RSA Authority: RSA 167:83, I(b);
RSA 167:83, II

3. Federal Authority: _____

4. Type of Action:

- Adoption X
- Amendment _____
- Repeal _____
- Readoption X
- Readoption w/amendment X

5. Short Title: **Child Care Provider Enrollment Requirements**

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

He-C 6914 identifies the requirements to become a child care provider of licensed and license-exempt child care services for employment related child care within the New Hampshire child care scholarship program for the Department of Health and Human Services (Department).

The Department is proposing to readopt with amendment the existing sections of He-C 6914 and adopt new sections, He-C 6914.10 and He-C 6914.11.

The proposal includes:

- **Updating the rule for better clarity, program integrity, and making minor, substantive and editorial changes throughout;**
- **Removing preventive and protective child care enrollment requirements as they will be added into the current He-C 6912;**
- **Adding the definitions of “child care provider”, “conflict of interest”, “employee”, “good standing”, and “license-exempt in home provider”;**
- **Updating the definitions of “caretaker relative”, “child care”, and “license exempt”;**
- **Removing the definitions of “Division for Children, Youth, and Families (DCYF)”, “founded”, “N-form”, “preventative child care”, “protective child care”, and “provider”;**
- **Adding the requirement that child care providers must maintain liability insurance or provide a disclosure to parents that the program is uninsured pursuant to RSA 170-E:6-b;**
- **Adding the requirement that each licensed child care provider and its employees must create an account in the NH Professional Registry;**
- **Adding that the child care providers caring for related children or children in the child’s own home must submit to the Department a health and safety certification form, in lieu of an annual monitoring visit;**
- **Updating the enrollment process, by making substantive and editorial changes;**
- **Adding that the child care provider or authorized representative shall provide proof that the child care provider or authorized representative has taken and retaken, when necessary, the Department’s New Hampshire child care scholarship training;**
- **Updating the requirements for providers to maintain enrollment;**
- **Updating the employment related child care renewal of enrollment requirements by making substantive and editorial changes; and**

NN 2020-12 Continued

(Item 6.(a) continued)

- Updating the rule by adding sections on confidentiality and waiver of rule requirements.

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

Groups affected by this rule include licensed and license-exempt child care providers who receive financial reimbursement from the department of health and human services (DHHS) for those families utilizing employment related, preventive or protective child care services.

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

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-C 6914.01	RSA 161:2, XII; RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.02	RSA 161:2, XII; RSA 167:83, II(o); RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.03	RSA 161:2, XII; RSA 167:58, IV; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.04	RSA 161:2, XII ; RSA 167:83, II(a)(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, VIII, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.05	RSA 161:2, XII ; RSA 167:83, II(a), (o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, VIII, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.06	RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.07	RSA 161:2, XV; RSA 167:17-b, I(a); RSA 167:17-c; RSA 167:58, IV; RSA 167:61-a, I(a)-(c) and (e); RSA 167:83, II(k); RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.08	RSA 167:83, II(a); RSA 170-E:11; RSA 170-G:4, VIII; RSA 170-G:4, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.09	RSA 167:83, II(a)
He-C 6914.10	RSA 170 – E:11, II; and RSA 170-G:8-a
He-C 6914.11	RSA 170 – E:11, I (m)

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

Name: **Allyson Zinno** Title: **Administrative Rules Coordinator**
 Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: **allyson.zinno@dhhs.nh.gov**
Concord, NH 03301

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>

NN 2020-12 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, February 13, 2020**

 Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 6, 2020 at 5:00pm.**

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

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

FIS # 19:228, dated January 2, 2020

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

When compared to the existing rules, the proposed rules may have an indeterminable impact on independently-owned businesses.

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):

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

Waivers granted to childcare providers may result in a small administrative cost to said providers, depending on the number of waivers that will be prepared and submitted to the Department of Health and Human Services. The need for computer access to receive training available online may likewise result in an indeterminable cost.

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

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

Notice Number 2020-13Rule Number He-C 6918

1. Agency Name & Address:

Department of Health and Human Services
 Division of Economic and Housing Stability
 129 Pleasant Street
 Concord, NH 03301

2. RSA Authority: RSA 167:83, II(o)

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment X5. Short Title: **Child Care Provider Billing and Payment Requirements**

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

He-C 6918 identifies the requirements that enrolled child care providers must meet to bill the Department of Health and Human Services (Department) and receive payment for child care services provided through the New Hampshire child care scholarship program. He-C 6918 includes all billing and payment costs and benefits associated with proposed rules He-C 6910 and He-C 6912.

The Department is proposing to readopt with amendment He-C 6918.

The Department is required, pursuant to 45 CFR 98, to delink provider payment from a child's occasional absences. This proposal amends He-C 6918 to change from an annual absentee allotment to a monthly absentee allotment by providing full payment if a child attends at least 85 percent of the authorized time. The annual allotment of absentee hours did not meet federal requirements. This payment practice will also apply to both employment related child care and preventive and protective child care.

The Department is also required to allow for payment for reasonable mandatory registration fees that the provider charges to private-paying parents pursuant to 45 CFR 98. This proposal amends He-C 6918 to allow enrolled child care providers to be paid, per calendar year, for Thanksgiving day, Christmas day, New Year's day, twelve hours of staff professional development, and twelve hours of program closures. Additionally, enrolled providers can be paid for federal, state, and Department administrator declared disaster closures.

In addition to the above amendments, the proposal:

- **Updates the rule for better clarity, program integrity, and makes minor, substantive and editorial changes throughout;**
- **Adds the definitions of "license-exempt facility based program", "license-exempt in home provider", and "registration fee";**
- **Updates the definitions of "authorized service level", "child care", "child experiencing significant special needs", "cost share", and "job search";**
- **Removes the definition of "assistance group", "license-exempt", "New Hampshire employment program (NHEP)", "provider", "redetermination", and "wait list";**
- **Updates various billing and payment requirements by making substantive and editorial changes; and**
- **Adds new sections on confidentiality and waiver of rules.**

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

Groups affected by this rule include This part shall apply to licensed and license-exempt child care providers who receive financial reimbursement from the department of health and human services (DHHS) for those families utilizing employment-related, preventive or protective child care services.

NN 2020-13 Continued

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

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-C 6918.01	RSA 167:77
He-C 6918.02	RSA 161:2, XII; and RSA 167:83, I(b)
He-C 6918.03	RSA 161:2, XXI; and RSA 167:83, I(b)
He-C 6918.04	RSA 167:83, II(o)
He-C 6918.05	RSA 161:2, XII; and RSA 167:83, II
He-C 6918.06	RSA 161:2, XV; RSA 167:17-b, I(a); RSA 167:17-c; RSA 167:58, IV; RSA 167:61-a, I(a)-(c) and (e); RSA 167:83, II(k); RSA 170-E:7; and RSA 170-E:12, V
He-C 6918.07	RSA 161:2, XII; RSA 167:83, II(a); and RSA 170-G:4,a.
He-C 6918.08	RSA 167:83, II(i)
He-C 6918.09	RSA 170-E:11, II; and RSA 170-G:8-a
He-C 6918.10	RSA 170-E:11, I (m)

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

Name: **Allyson Zinno** Title: **Administrative Rules Coordinator**
 Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: **allyson.zinno@dhhs.nh.gov**
Concord, NH 03301
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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: **Thursday, February 13, 2020**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 6, 2020 at 5:00pm.**

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

NN 2020-13 Continued

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

FIS # 19:229, dated January 2, 2020

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

When compared to the existing rule, the proposed rule may increase state general fund expenditures, benefit state citizens, and have an indeterminable impact on independently-owned businesses.

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

The Department of Health and Human Services states that the proposal for employment-related child care includes federally-mandated requirements to pay for a child's occasional absence and registration fees pursuant to 45 CFR 98. The Department notes that the cost associated with these mandates is attributable to the mandate rather than to the rule.

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

As noted above, the proposed rule includes a federal requirement pursuant to 45 CFR 98 to provide a payment practice to allow for a child's occasional absence. The proposed rule includes a change from an annual absentee allotment to a monthly absentee allotment by providing full payment if a child attends at least 85 percent of the authorized time. The Department estimates this change will cost approximately \$536,882 annually in FY 2020-21. This cost will be paid for with federal funds from the Child Care and Development Fund (CCDF), as well as general funds included in the operating budget.

The same federal rule also requires the Department to allow payment for registration fees that the provider charges to private-paying parents. The Department estimates this requirement will cost \$422,000 annually in FY 2020-21, which will again be paid for using federal CCDF funds and general funds in the operating budget.

Finally, the proposed rule will result in a cost, not mandated by the federal rule, related to the payment of proposed closure days. The Department estimates this cost at approximately \$952,000 annually in FY 2020-21, which will again be paid for with CCDF funds and general funds in the operating budget.

A. To State general or State special funds:

See response to 3 above.

B. To State citizens and political subdivisions:

Eligible families will benefit from payment for monthly allotment hours and closure hours, as these will reduce out-of-pocket expenses for child care.

C. To independently owned businesses:

Waivers granted to childcare providers may result in a small administrative cost to providers, depending on the number of waivers that need to be prepared. Providers may benefit from the payments for monthly absentee allotment hours and closure hours, as these will help in providing sufficient payment for child care services for eligible families.

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

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

Notice Number 2020-14

Rule Number Rev 200 various

<p>1. Agency Name & Address: Department of Revenue Administration P.O. Box 457 Concord, NH 03302-0457</p>	<p>2. RSA Authority: <u>RSA 21-J:13, I;</u> <u>RSA 78:27;</u> <u>RSA 78-A:2, II;</u> <u>RSA 541-A:16, I(b)(2)</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u> X </u></p> <p>Amendment <u> X </u></p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u> X </u></p>
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5. Short Title: **Hearing Procedures Relating to Meals and Rooms (Rentals) Tax Licenses, and Tobacco Tax Licenses and Seizures**

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

Rev 200 contains the rules governing procedures for adjudicative proceedings pursuant to RSA 541-A:30-a. This proposal implements the procedural changes in Chapters 178 and 304 of the Laws of 2019, effective January 1, 2020, concerning meals and rooms (rentals) (“M&R”) tax licenses, and tobacco tax licenses and seizures.

Rev 201.02(b) is being inserted to define “applicant.” Rev 201.02(i) defining “licensee” is being amended and renumbered as (j) to include a person or entity that holds a tobacco tax license issued by the New Hampshire Liquor Commission, or that owns or has a right to control any interest in another licensee, in accordance with RSA 78:20.

Rev 206.02(a) on motions for reconsideration or petitions for rehearing is being amended, consistent with the proposed changes to Rev 207.08 and Rev 207.10 below.

Rev 207 contains specific rules of practice and procedure. The existing Rev 207.05 intro and (g)-(i) concerning hearings on tobacco tax license suspension or revocation are being amended, and a new paragraph (h) inserted, to specify the reasons for a suspension or revocation, and/or an administrative fine, in accordance with RSA 78:20-21. Rev 207.051 is being adopted to implement the procedures for hearings on tobacco tax license denials, in accordance with RSA 78:9 and RSA 78:20. Rev 207.08(a)-(d), (i), (k), and (l) concerning hearings on tobacco tax seizures are being amended to implement the changes in RSA 78:18-19. Rev 207.06(g)-(i) concerning hearings on M&R tax license suspension or revocation, and Rev 207.09(f)(3) and (g) concerning hearings on M&R tax license denials, are being amended consistent with procedures for hearings on tobacco tax licenses, and to implement the changes in RSA 78-A:4, I-a and RSA 78-A:8-b. Rev 207.10 is being readopted with amendments to implement the procedures for hearings involving M&R tax bonds, in accordance with RSA 78-A:8-b.

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

The groups affected are M&R and tobacco tax licensees.

NN 2020-14 Continued

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

Rule	Statute
Rev 201.02(b), (j)	RSA 78:20; RSA 78:27; RSA 78-A:2, II; RSA 541-A:16, I(b)(2)
Rev 206.02(a)	RSA 78:27; RSA 78-A:2, II; RSA 78-A:8-b; RSA 541-A:16, I(b)(2)
Rev 207.05 intro and (g)-(j)	RSA 78:19; RSA 78:20; RSA 78:21, II; RSA 78:27; RSA 541-A:16, I(b)(2)
Rev 207.051	RSA 78:9; RSA 78:20; RSA 78:27; RSA 541-A:16, I(b)(2)
Rev 207.06(g)-(i)	RSA 78-A:2, II; RSA 78-A:4, I-a; RSA 78-A:5; RSA 541-A:16, I(b)(2)
Rev 207.08(a)-(d), (i), (k), and (l)	RSA 78:18; RSA 78:19; RSA 78:27; RSA 541-A:16, I(b)(2)
Rev 207.09(f) intro, (f)(3), and (g)	RSA 78-A:2, II; RSA 78-A:4, I-a; RSA 78-A:5; RSA 78-A:8-b; RSA 541-A:16, I(b)(2)
Rev 207.10	RSA 78-A:2, II; RSA 78-A:8-b; RSA 541-A:16, I(b)(2)

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

Name: **Tracey Russo, Legal Bureau**

Title: **Paralegal**

Address: **P.O. Box 457
Concord, NH 03302-0457**

Phone #: **603-230-5027**

Fax#: **603-230-5932**

E-mail: **Tracey.Russo@dra.nh.gov**

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

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, February 18, 2020**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, February 7, 2020 @ 9:00 am**

Place: **New Hampshire Department of Revenue Administration
109 Pleasant Street
Concord, NH 03301**

*****The security procedures at the Department of Revenue Administration require all visitors to sign-in and present photo identification. If you plan on attending the public hearing, please bring photo identification with you.*****

NN 2020-14 Continued

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

FIS # 19:237, dated 1/10/20

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

There is no cost comparing the proposed rules to the existing rules, except not applicable to proposed Rev 207.051 as this is a new proposed rule with no associated cost, and any cost associated with proposed Rev 207.05(h,) pursuant to administrative fines that the department may assess in addition to or in lieu of license suspension, is attributable to Chapter 178, Laws of 2019, and not the rule.

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):

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 rule does not mandate fees or additional local expenditures on a political subdivision of the state, and, therefore, does not violate Part I, Article 28-a of the N.H. Constitution.

Notice Number 2020-15

Rule Number Rev 700 various

1. Agency Name & Address:
Department of Revenue Administration
P.O. Box 457
Concord, NH 03302-0457

2. RSA Authority: RSA 78-A:2, II
 3. Federal Authority: _____
 4. Type of Action:
 Adoption X
 Amendment X
 Repeal X
 Readoption _____
 Readoption w/amendment X

5. Short Title: **Meals and Rooms (Rentals) Tax with Regard to Meals**

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

Rev 700 contains the rules governing the meals and rooms (rentals) (“M&R”) tax, RSA 78-A. This proposal implements the changes in Chapter 304 of the Laws of 2019 to simplify, clarify, and modernize the M&R tax law, effective January 1, 2020, as follows:

Rev 701.07, Rev 701.211 and Rev 701.271, respectively, are being adopted to define “food products,” “restaurant portion,” and “store”; Rev 701.05, Rev 701.10, Rev 701.12-701.16, Rev 701.19-701.22, Rev 701.24, Rev 701.25, Rev 701.28, and Rev 701.31, also definitions, are being readopted with amendments; and Rev 701.18 defining “premises” is being repealed.

Rev 702.011 and Rev 702.012 are being adopted to further clarify the taxability of meals and food products when sold by a restaurant, or a store.

Rev 702.03-702.05 on meals provided by nonprofit or qualified educational organizations, Rev 702.08 on meals provided at hospitals, Rev 702.13 on bakery sales, and Rev 705.12 on surety bonds, are being readopted with amendments.

Rev 702.11(e) on meals purchased with federal nutrition assistance benefits, Rev 702.17(a) on admission charges, and Rev 705.01(j) on license requirements, are being amended.

Rev 702.14(b) on sales for resale, Rev 703.04(a) on computation of permanent residency, and Rev 704.04(a) intro and (b) intro on motor vehicle rental agreements, are also being amended, but only to update statutory references.

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

The groups affected are M&R tax restaurant operators and consumers purchasing meals.

NN 2020-15 Continued

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

Rule	Statute
Rev 701.05	RSA 78-A:2, II; RSA 78-A:6-c, II(d)
Rev 701.07	RSA 78-A:2, II; RSA 78-A:3, IV
Rev 701.10	RSA 78-A:2, II; RSA 78-A:3, VII
Rev 701.12	RSA 78-A:2, II; RSA 78-A:3, VIII
Rev 701.13	RSA 78-A:2, II; RSA 78-A:3, X
Rev 701.14	RSA 78-A:2, II; RSA 78-A:3, XII
Rev 701.15	RSA 78-A:2, II; RSA 78-A:3, XIII
Rev 701.16	RSA 78-A:2, II; RSA 78-A:3, XVI
Rev 701.18 (repealed)	RSA 78-A:2, II
Rev 701.19	RSA 78-A:2, II; RSA 78-A:6-c, II
Rev 701.20	RSA 78-A:2, II; RSA 78-A:3, XVII
Rev 701.21	RSA 78-A:2, II; RSA 78-A:3, XX
Rev 701.211	RSA 78-A:2, II; RSA 78-A:3, XXI
Rev 701.22	RSA 78-A:2, II; RSA 78-A:3, XXII
Rev 701.24	RSA 78-A:2, II
Rev 701.25	RSA 78-A:2, II; RSA 78-A:3, XXIII
Rev 701.271	RSA 78-A:2, II; RSA 78-A:3, XXIV
Rev 701.28	RSA 78-A:2, II; RSA 78-A:3, XXV
Rev 701.31	RSA 78-A:2, II; RSA 78-A:3, VIII
Rev 702.011	RSA 78-A:2, II; RSA 78-A:3, VIII
Rev 702.012	RSA 78-A:2, II; RSA 78-A:3, IV and VIII
Rev 702.03	RSA 78-A:2, II; RSA 78-A:6-c, I and VII
Rev 702.04-702.05	RSA 78-A:2, II; RSA 78-A:6-c, II
Rev 702.08	RSA 78-A:2, II; RSA 78-A:6-c, IV
Rev 702.11(e)	RSA 78-A:2, II; RSA 78-A:6-c, X
Rev 702.13	RSA 78-A:2, II; RSA 78-A:3, VIII
Rev 702.14 intro and (b)	RSA 78-A:2, II; RSA 78-A:6-c, I
Rev 702.17(a)	RSA 78-A:2, II; RSA 78-A:6-b, III
Rev 703.04(a)	RSA 78-A:2, II; RSA 78-A:3, XV
Rev 704.04(a) intro and (b) intro	RSA 78-A:2, II; RSA 78-A:3, XVIII
Rev 705.01(j)	RSA 78-A:2, II; RSA 78-A:4, I-a; RSA 78-A:4-a
Rev 705.12	RSA 78-A:2, II; RSA 78-A:8-b

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

Name: **Tracey Russo, Legal Bureau**

Title: **Paralegal**

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E-mail: **Tracey.Russo@dra.nh.gov**

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

NN 2020-15 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Tuesday, February 18, 2020**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday, February 7, 2020 @ 1:00 pm**

Place: **New Hampshire Department of Revenue Administration
109 Pleasant Street
Concord, NH 03301**

*****The security procedures at the Department of Revenue Administration require all visitors to sign-in and present photo identification. If you plan on attending the public hearing, please bring photo identification with you.*****

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

FIS # 19:239, dated 1/10/2020

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

There is no cost when comparing the proposed rules to the existing rules. Not applicable to proposed Rev 701.07, Rev 701.211, Rev 701.271, Rev 702.011 and Rev 702.012 as these are new proposed rules with no associated cost.

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):

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 rule does not mandate fees or additional local expenditures on a political subdivision of the state, and, therefore, does not violate Part I, Article 28-a of the N.H. Constitution.