



NEW HAMPSHIRE RULEMAKING REGISTER

OFFICE OF LEGISLATIVE SERVICES

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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)

CONTINUED MEETING Previously Scheduled for June 7, 2019 Has Been Cancelled

REGULAR MEETING: **Friday, June 21, 2019 9:00 a.m.**
Rooms 306/308, Legislative Office Building

JLCAR MEETING DATES AND RELATED FILING DEADLINES JUNE, 2019

The JLCAR has voted to hold its regularly scheduled meetings for May through June, 2019 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
June 7	June 21	June 28

***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*.

Notices of Proposed Rules

<u>Notice Number</u>	<u>Rule Number</u>	<u>Agency and Short Title of Rule</u>	<u>Page No.</u>
2019-84	He-W 536	Department of Health and Human Services Former Division of Human Services Medical Services Clinic.	1
2019-85	Jus 1300	Department of Justice Land Sales Full Disclosure Rules.	4
2019-86	Jus 1400	Department of Justice Condominium Rules.	8
2019-87	Ins 6203	Insurance Department Ancillary Health Minimum Standards for Benefits for Accident-Only and Specified Accident Coverage.	12
2019-88	Saf-C 500 various	Department of Safety, Commissioner Various NH Vehicle Registration Rules.	14
2019-89	Saf-C 2203.02, 2203.04, 2204.02 and 2205.01(a)	Department of Safety, Commissioner Licensing of Private Investigators, Security Guards, and Bail Recovery Agents.	18
2019-90	He-E 801	Department of Health and Human Services Division of Elderly and Adult Services Choices for Independence Program.	21

**JLCAR MEETING DATES AND RELATED FILING DEADLINES
JULY-DECEMBER, 2019**

The JLCAR has voted to hold its regularly scheduled monthly meetings for July through December, 2019 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 3 (Wednesday)	July 18	August 1
August 1	August 15	September 5
September 5	September 19	October 3
October 3	October 17	November 7
November 7	November 21	December 5
December 5	December 19	None

Notice Number	<u>2019-84</u>	Rule Number	<u>He-W 536</u>
1. Agency Name & Address:		2. RSA Authority:	<u>RSA 161:4-a, IX</u>
Dept. of Health & Human Services Division of Medicaid Services 129 Pleasant Street, Brown Bldg. Concord NH 03301		3. Federal Authority:	<u>42 CFR 440.90</u>
		4. Type of Action:	
		Adoption	<u>X</u>
		Amendment	<u> </u>
		Repeal	<u> </u>
		Readoption	<u> </u>
		Readoption w/amendment	<u> X </u>
5. Short Title:		Medical Services Clinic	

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

He-W 536 describes the requirements for, and services available, under the Medicaid fee for service program (FFS) for medical services clinics including recipient eligibility requirements, provider participation requirements, service limits, covered services, and payment. The Department is proposing to enter regular rulemaking because the interim rule effective 2-22-19 (Document #12732) expires on 8-21-19. This proposal would amend the rule with mostly minor editorial changes and some substantive changes.

The changes are as follows:

- **Amending the rule to address editorial comments made by the office of legislative services staff to the interim rule;**
- **Changing references from Title XIX to Medicaid;**
- **Deleting a reference to “Title XIX” in He-W 536.02 on recipient eligibility as unnecessary;**
- **Updating the references to other rules within Chapter He-W 500 to incorporate new rule parts to Chapter He-W 500;**
- **Updating references from Title XIX provider to New Hampshire Medicaid provider in He-W 536.03 on provider participation;**
- **Updating the name of the Departmental unit that monitors utilization review to the program integrity unit and providing more information on the purpose of program integrity’s utilization review;**
- **Inserting a citation to 42 CFR 1001 as this regulation contains the provider exclusions from participation which is applicable to all enrolled Medicaid providers; and**
- **Adding language to explicitly state that the Department has the ability to recoup federal or state Medicaid payments made pursuant to 42 CFR 455, 42 CFR 447, and 42 CFR 456, as stated in the provider contract between providers and Medicaid.**

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

The rule impacts all Medicaid recipients and medical services providers who provide services within a clinic setting.

NN 2019-84 Continued

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

Rule Section	Federal or state statute or regulation implemented
He-W 536.01	42 CFR 440.90
He-W 536.02	42 CFR 440.210, 42 CFR 440.220 & 42 CFR 440.225
He-W 536.03	42 CFR 440.90
He-W 536.04	42 CFR 440.230 and 42 CFR 440.240
He-W 536.05	42 CFR 440.90, 42 CFR 440.230 & 42 CFR 440.240
He-W 536.06	42 CFR 455, 42 CFR 456
He-W 536.07	42 CFR 433.139
He-W 536.08	42 CFR 447.15, 42 CFR 430.0, 42 CFR 447.204 & 42 CFR 431.107; RSA 161:4, VI(a)

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

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: **June 28, 2019**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Friday June 21, 2019 1PM**

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

NN 2019-84 Continued

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

FIS # 19:081, dated 05/16/19

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

When compared to the interim rule, the proposed rule 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:

The proposed rules do not change services when comparing them to the expired rules, so there will be no change to expenditures compared to previous years. Based on the average amount in claims from calendar years 2016, 2017, and 2018, the estimated annual cost is \$2,603 in state general funds, which is matched by federal dollars.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

The Department of Health and Human Services is authorized to recover federal or state Medicaid payments made pursuant to 42 CFR 455, 42 CFR 447, and 42 CFR 456; however, the interim rules do not explicitly specify this authority. Under the proposed rules, the authority of the Department to recoup payments is specified. The Department states that providers should already be aware that noncompliance could result in the recovery of payments based on the provider agreements, but there may be an indeterminable impact on providers who were previously unaware of the Department's authority and, as a result, need to make administrative changes to come into compliance.

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	<u>2019-85</u>	Rule Number	<u>Jus 1300</u>
1. Agency Name & Address: Department of Justice 33 Capitol Street Concord, NH 03301		2. RSA Authority:	RSA 356-A:3, II; RSA 356-A:6, I(f); RSA 541-A:16, I(b)
		3. Federal Authority:	_____
		4. Type of Action:	
		Adoption	<u> X </u>
		Amendment	_____
		Repeal	_____
		Readoption	_____
		Readoption w/amendment	_____

5. Short Title: **Land Sales Full Disclosure Rules**

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

The Department proposes the adoption of Jus 1300 in substantially the same form as those rules have previously existed since 2010. These rules are instrumental in clarifying and exemplifying the process by which subdivision developers must seek registration or exemption from the Consumer Protection and Antitrust Bureau of the Department of Justice prior to selling or disposing of subdivided lands as required under RSA 356-A. Most of the rules in Jus 1300 expired on September 11, 2018, and interim rules were in effect from November 1, 2018 to April 30, 2019, when they expired.

The Department proposes a limited number of changes from the expired rules, including the addition of a single new rule, Jus 1302.05, allowing for electronic submissions to the Department. The proposed changes from the expired rules are summarized as follows:

1. Jus 1301.04 – Definition of “Institutional Lender” – Change formatting of language to identically track the statutory definition of “institutional lender” pursuant to RSA 356-B:3, XVII.
2. Jus 1302 – Change part heading from “Fees” to “Fees and Form of Submission” to reflect proposed addition of Jus 1302.05.
3. Jus 1302.02 – “Calculation of Fees” – Change to reflect current statutory fee structure.
4. Add a new section, Jus 1302.05 “Form of Submissions”, allowing for applications, requests, and submissions to be filed either in a paper format or an electronic format with the Department.
5. Jus 1304.03 – “Urban Single Family Exception” – Change section to read “shall” instead of “must” in accordance with the drafting conventions required by OLS.
6. Jus 1304.10 – “Exemption From Registration – Other Grounds” – Remove paragraph (b) prohibiting use of this “catch-all” exemption to instances where no other exemption applies. This prohibition does not appear in the corollary Condominium rule, Jus 1404.11, and removing it will provide consistency between the two regulatory schemes.
7. Jus 1305.01 – “Application” – Change paragraphs (d) and (e) to comply with the statutory changes to RSA 541-A:29, I and IV.
8. Jus 1305.02 – “Sales to Developers and Builders” – Change subparagraph (a)(8) to comply with the statutory changes to RSA 541-A:29, IV.
9. Jus 1306.03 – “Comprehensive Application for Registration” – Change to correct the effective date of form CPLS100.

NN 2019-85 Continued

10. Jus 1306.12 – “Abbreviated Application for Registration” – Change to correct the effective date of form CPLS 110.
11. Jus 1306.14 – “Registration of Additional Lots, Parcels, Units, or Interests” – Change to correct the effective date of forms CPLS100 and CPLS110.
12. Jus 1306.15 – “Fees” – Change to reflect current statutory fee structure.
13. Jus 1306.19 – “Registration by Successor Subdivider” – Change to correct the effective date of forms CPLS100 and CPLS110.
14. Jus 1306.20 – “Registration of Subdivided Lands Located Outside of New Hampshire” – Change to correct the effective date of forms CPLS100 and CPLS110.
15. Jus 1308.05 – “Interstate Advertising” – Change section to read “shall” instead of “must” in accordance with the drafting conventions required by OLS.
16. Jus 1310.01 – “Cover Sheet Required For All Applications” – Change to correct the effective date of form CPLS001.
17. Jus 1311.01 – “Availability of Forms” – Change paragraph (b) to read “shall be” instead of “are” in accordance with the drafting conventions required by OLS.

Other minor punctuation and formatting edits have been made throughout rules at the request of OLS.

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

All subdividers offering or disposing of subdivided lands consisting of 16 lots or more, along with their employees, contractors, subcontractors, suppliers, and customers, as well as the Department of Justice.

NN 2019-85 Continued

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

Rule Number	State Statute Implemented
Jus 1301.01 - 1301.06	RSA 356-A:1
Jus 1302.01 - 1302.03	RSA 356-A:5, VII
Jus 1302.04 - 1302.05	RSA 356-A:3, II
Jus 1303.01 - 1303.05	RSA 356-A:3; RSA 356-A:5, III
Jus 1304.01 - 1304.06	RSA 356-A:3
Jus 1304.07- 1304.08	RSA 356-A:3, II
Jus 1304.09	RSA 356-A:3; RSA 356-A:8
Jus 1304.10 – 1304.13	RSA 356-A:3
Jus 1304.14	RSA 356-A:6, I(o)
Jus 1304.15	RSA 356-A:8, III
Jus 1305.01	RSA 356-A:3
Jus 1305.02	RSA 356-A:4
Jus 1305.03	RSA 356-A:13
Jus 1306.01	RSA 356-A:3
Jus 1306.02	RSA 356-A:2
Jus 1306.03 - 1306.11	RSA 356-A:5
Jus 1306.12	RSA 356-A:5, II
Jus 1306.13	RSA 356-A:5, II; RSA 356-A:8, III
Jus 1306.14 - 1306.15	RSA 356-A:5, V, VII
Jus 1306.16	RSA 356-A:8, I
Jus 1306.17	RSA 356-A:9
Jus 1306.18	RSA 356-A:1, V; RSA 356-A:8, V
Jus 1306.19	RSA 356-A:5
Jus 1306.20	RSA 356-A:4, I; RSA 356-A:10, V
Jus 1307.01 - 1307.05	RSA 356-A:6
Jus 1308.01 - 1308.02	RSA 356-A:4, IV
Jus 1308.03	RSA 356-A:6, II
Jus 1308.04 - 1308.05	RSA 356-A:4; RSA 356-A:17
Jus 1309.01 - 1309.03	RSA 356-A:11; RSA 541-A
Jus 1310.01	RSA 356-A:5, I
Jus 1311.01	RSA 356-A:2; RSA 356-A:5, I

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

Name: **John W. Garrigan**

Title: **Assistant Attorney General**

Address: **Department of Justice
33 Capitol Street
Concord, NH 03301**

Phone #: **271-1252**

Fax#: **271-2110**

E-mail: **John.garrigan@doj.nh.gov**

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

NN 2019-85 Continued

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **July 1, 2019**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **June 24, 2019 at 9am**

Place: **Legislative Office Building, Room 204
33 North State Street
Concord, NH 03301**

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

FIS # 19:052 (revised) , dated 5/22/19

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

Not applicable as the Interim Jus 1300 rules expired in April 2019.

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):

The proposed rules will not result in any additional cost or benefit. Any cost or benefit associated with these rules is attributable to RSA 356-A and not the proposed 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:

The proposed rules do not violate Part 1, Article 28-a of the N.H. Constitution because the rules do not create or expand a new program or responsibility and do not assign any program or responsibility to any political subdivision in such a way as to increase the costs the political subdivision must pay.

Notice Number	<u>2019-86</u>	Rule Number	<u>Jus 1400</u>
1. Agency Name & Address: Department of Justice 33 Capitol Street Concord, NH 03301		2. RSA Authority:	RSA 356-B:49, III, RSA 356-B:52, I(i), RSA 541- A:16, I(b)
		3. Federal Authority:	_____
		4. Type of Action:	
		Adoption	<u> X </u>
		Amendment	_____
		Repeal	_____
		Readoption	_____
		Readoption w/amendment	_____

5. Short Title: **Condominium Rules**

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

The Department proposes the adoption of Jus 1400 in substantially the same form as those rules have previously existed since 2010. These rules are instrumental in clarifying and exemplifying the process by which condominium declarants must seek registration or exemption from the Consumer Protection and Antitrust Bureau of the Department of Justice prior to selling or disposing of units as required under RSA 356-B. Most of the rules in Jus 1400 expired on September 11, 2018, and interim rules were in effect from November 1, 2018 to April 30, 2019, when they expired.

The Department proposes a limited number of changes from the expired rules, including the addition of a single new rule, Jus 1402.05, allowing for electronic submissions to the Department. The proposed changes from the expired rules are summarized as follows:

1. Jus 1401.05- "Institutional Lender" – Change formatting of language to identically track the statutory definition of "institutional lender." This change made at request of OLS.
2. Jus 1402 – Change part heading from "Fees" to "Fees and Form of Submission" to reflect proposed addition of Jus 1402.05.
3. Jus 1402.02 – "Calculation of Fees" – Change to reflect current statutory fee structure.
4. Add a new section, Jus 1402.05 "Form of Submissions" allowing for applications, requests, and submissions to be filed either in a paper format or an electronic format with the Department. This change is proposed at request of Bureau staff and industry actors.
5. Jus 1404.14 – "Exemptions from Other Statutory Requirements" – Change paragraphs (d) and (e) to comply with the statutory changes to RSA 541-A:29, I and IV.
6. Jus 1404.17 – "Bulk Sales to Builders and Developers" – Change paragraph (c) to comply with the statutory changes to RSA 541-A:29, IV.
7. Jus 1405.03 – "Comprehensive Application for Registration" – Change to correct the effective date of form CPLC100.
8. Jus 1405.14 – "Abbreviated Application for Registration" – Change to correct the effective date of form CPLC110.
9. Jus 1405.16 – "Registration of Additional Units" – Change to correct the effective date of forms CPLC100 and CPLC110.

NN 2019-86 Continued

10. Jus 1405.17 – “Fees” – Change to reflect the current statutory fee structure.
11. Jus 1405.22 – “Registration by Successor Declarant” – Change to correct the effective date of forms CPLC100 and CPLC110.
12. Jus 1405.23 – “Registration of Condominiums Located Outside of New Hampshire” – Change to correct the effective date of forms CPLC100 and CPLC110.
13. Jus 1411.01 – “Forms” – Change paragraph (b) to read “shall be” instead of “are” in accordance with the drafting conventions required by OLS.

Other minor punctuation and formatting edits have been made throughout rules at request of OLS.

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

All declarants and developers offering or disposing of condominium units in condominiums with 10 units or more, along with their employees, contractors, subcontractors, suppliers, and customers, as well as the Department of Justice.

NN 2019-86 Continued

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

<u>Rule Number</u>	<u>State Statute Implemented</u>
Jus 1401.01 - 1401.07	RSA 356-B:3
Jus 1402.01 - 1402.03	RSA 356-B:51, VII
Jus 1402.04 - 1402.05	RSA 356-B:49, II
Jus 1403.01 - 1403.03	RSA 356-B:16; RSA 356-B:20
Jus 1403.04	RSA 356-B:57
Jus 1404.01	RSA 356-B:49, III
Jus 1404.02 - 1404.05	RSA 356-B:49, III
Jus 1404.06	RSA 356-B:49, III; RSA 356-B:50
Jus 1404.07 - 1404.09	RSA 356-B:49, III
Jus 1404.10	RSA 356-B:54
Jus 1404.11 - 1404.12	RSA 356-B:49, II, III
Jus 1404.13	RSA 356-B:54; RSA 356-B:49, II, III
Jus 1404.14	RSA 356-B:49, III
Jus 1404.15	RSA 356-B:62
Jus 1404.16 - 1404.17	RSA 356-B:49, II, III; RSA 356-B:48
Jus 1404.18	RSA 356-B:54
Jus 1405.01	RSA 356-B:49
Jus 1405.02	RSA 356-B:51
Jus 1405.03 - 1405.13	RSA 356-B:51; RSA 356-B:57
Jus 1405.14	RSA 356-B:51, II
Jus 1405.15	RSA 356-B:54
Jus 1405.16	RSA 356-B:51, V
Jus 1405.17	RSA 356-B:51, VII
Jus 1405.18	RSA 356-B:54
Jus 1405.19 - 1405.20	RSA 356-B:55
Jus 1405.21	RSA 356-B:54, IV
Jus 1405.22	RSA 356-B:51
Jus 1405.23	RSA 356-B:59, III(a)
Jus 1406.01 - 1406.05	RSA 356-B:52
Jus 1407.01 - 1407.02	RSA 356-B:49, III
Jus 1407.03	RSA 356-B:3, XXI; RSA 356-B:52
Jus 1407.04 - 1407.05	RSA 356-B:50
Jus 1408.01 - 1408.03	RSA 356-B:62; RSA 541-A
Jus 1409.01	RSA 356-B:54, V
Jus 1410.01 - 1411.01	RSA 356-B:51; RSA 356-B:49

NN 2019-86 Continued

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

Name: **John W. Garrigan** Title: **Assistant Attorney General**
Address: **Department of Justice** Phone #: **271-1252**
33 Capitol Street Fax#: **271-2110**
Concord, NH 03301 E-mail: **John.garrigan@doj.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: **July 1, 2019**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **June 24, 2019 at 9am**
Place: **Legislative Office Building, Room 204**
33 North State Street
Concord, NH 03301

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

FIS # **19:053 (revised)** , dated **5/22/19**

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

Not applicable as the Interim Jus 1400 rules expired in April 2019.

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):

The proposed rules will not result in any additional cost or benefit. Any cost or benefit associated with these rules is attributable to RSA 356-B and not the proposed 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:

The proposed rules do not violate Part 1, Article 28-a of the N.H. Constitution because the rules do not create or expand a new program or responsibility and do not assign any program or responsibility to any political subdivision in such a way as to increase the costs the political subdivision must pay.

Notice Number 2019-87

Rule Number Ins 6203

1. Agency Name & Address:

**NH Insurance Dept.
21 S. Fruit St., Suite 14
Concord, NH 03301**

2. RSA Authority:

**RSA 400-A:15, I;
RSA 415:18, I; RSA 415-A:2; RSA 415-A:3, I**

3. Federal Authority:

4. Type of Action:

Adoption X

Amendment

Repeal

Readoption

Readoption w/amendment

5. Short Title: **Ancillary Health Minimum Standards for Benefits for Accident-Only and Specified Accident Coverage**

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

This proceeding adopts new rules Ins 6203 to establish minimum standards for benefits, required disclosure and outline of coverage provisions, and prohibited policy provisions relating to accident-only and specified accident ancillary health insurance coverage. Ins 6203 essentially adopts again and updates those provisions pertaining to such coverage that were contained in Ins 1901.06, which expired 4-10-14.

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

All insurers offering these types of policies for sale to New Hampshire citizens.

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

Rule	Specific State Statute the Rule Implements
Ins 6203.01	RSA 400-A:15, I; RSA 415:1; RSA 415:6, VII; RSA 415:18; RSA 415-A:2, I
Ins 6203.02	RSA 400-A:15, I; RSA 415-A:2, I(n)
Ins 6203.03	RSA 400-A:15, I; RSA 415:1; RSA 415:6; RSA 415:18; RSA 415-A:2; RSA 415-A:3
Ins 6203.04	RSA 400-A:15, I; RSA 415-A:2, II
Ins 6203.05	RSA 400-A:15, I; RSA 415-A:2, I
Ins 6203.06	RSA 400-A:15, I; RSA 415-A:4
Ins 6203.07	RSA 400-A:15, I; RSA 541-A:22, IV

NN 2019-87 Continued

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

Name: **Roni Karnis** Title: **LAH Attorney**
Address: **NH Insurance Dept.** Phone #: **271-4002**
21 S. Fruit St., Suite 14 Fax#: **271-1406**
Concord, NH 03301 E-mail: **Roni.karnis@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: **Tuesday, July 2, 2019**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, June 25, 2019, at 10:30 am**
Place: **Room 158, NH Insurance Department, 21 S. Fruit Street, Concord, NH**

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

FIS # 19:080, dated May 20, 2019

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

Not applicable, these are new proposed 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):**

There is no cost or benefit attributable to the proposed 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:

This rule does 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 does not violate Part I, Article 28-a of the New Hampshire Constitution.

Notice Number	<u>2019-88</u>	Rule Number	<u>Various Saf-C 500</u>
1. Agency Name & Address:		2. RSA Authority:	<u>RSA 21-P:14, III (m) & (n); RSA 261-B:8; RSA 261-C:7</u>
New Hampshire Department of Safety 33 Hazen Drive Concord, NH 03305		3. Federal Authority:	<u>n/a</u>
		4. Type of Action:	
		Adoption	<u>X</u>
		Amendment	<u>X</u>
		Repeal	<u> </u>
		Readoption	<u> </u>
		Readoption w/amendment	<u> X </u>

5. Short Title: **Various NH Vehicle Registration Rules**

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

Chapter Saf-C 500 concerns the registration of motor vehicles in the state of New Hampshire. This action is proposing the following changes to the Chapter:

- In the proposal, Saf-C 509.04 on application rejection and Saf-C 509.05 on application approval are being readopted with amendment to renumber references to Saf-C 514.61 as Saf-C 514.62 that occur elsewhere in the proposal.
- In the proposal, Saf-C 511.03 on temporary registration is being readopted with amendment to conform to RSA 261:57-a, which was amended in 2018 to allow a regular registration certificate to be issued to new residents of New Hampshire who are registering a vehicle that was previously registered in another state.
- In the proposal, Saf-C 511.04 on temporary registration plates is being readopted with amendment to conform to RSA 261:57, which was amended in 2018 to allow a number plate to be issued to new residents of New Hampshire who are registering a vehicle that was previously registered in another state.
- In the proposal, Saf-C 512.07 is proposed to be readopted with amendment to have certain categories of plates issued to government or non-profit agencies be non-lapsing to a specific vehicle once issued, as allowed in RSA 261:92.
- In the proposal, Saf-C 514.17 is being adopted to create a special disabled veteran motorcycle plate, and the remainder of the rules in Saf-C 514 are being renumbered.
- In the proposal, Saf-C 514.19 is being readopted with amendment and being renumbered as Saf-C 514.20 to conform to RSA 261:87-c, which allows a stepmother to be eligible under certain circumstances for a gold star mother special plate.
- In the proposal, Saf-C 514.61 is being renumbered as Saf-C 514.62, and paragraph (b) is being amended to add disabled veteran motorcycle plates, decal plates, and veteran decal plates to the list of available plate classifications.
- In the proposal, Saf-C 514.69 is being adopted, which sets out specifications for multi-use decal plates, as provided in RSA 261-B and RSA 261-C.
- In the proposal, Part Saf-C 523 on the multi-use decal plate is being adopted, which addresses rulemaking directed under RSA 261-B:8 and RSA 261-C:7 including:
 - Vehicle eligibility as provided in RSA 261-B:5 and RSA 261-C:5;
 - Eligibility for multi-use veteran decal plates;
 - Decal specifications;

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- Fees for multi-use plates as provided in RSA 261-B:4;
- Reporting requirements as outlined in RSA 261-B:3, I(a)-(h) and RSA 261-C:4, II; and
- Procedures for termination of a multi-use decal program as provided in RSA 261-B:3, II and III.

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

Agencies and persons who are or wish to be licensed as private investigators, security guards or bail recovery agents.

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

Rule	Statutory Reference
Saf-C 509.04 & Saf-C 509.05	RSA 261:61
Saf-C 511.03	RSA 261:57-a
Saf-C 511.04	RSA 261:57
Saf-C 512.07	RSA 261:92
Saf-C 514.17	RSA 261:75, II
Saf-C 514.20 (formerly Saf-C 514.19)	RSA 261:87-c
Saf-C 514.62(b) (formerly Saf-C 514.61(b))	RSA 261:89
Saf-C 514.69	RSA 261:75; RSA 261-B:2; RSA 261-C:2
Saf-C 523.01	RSA 261-B:1; RSA 261-C:1
Saf-C 523.02	RSA 261-C:3
Saf-C 523.03	RSA 261-B:2; RSA 261-C:4
Saf-C 523.04	RSA 261-B:4; RSA 261-C:2, III
Saf-C 523.05	RSA 261-B:1, I; RSA 261-C:4, II
Saf-C 523.06	RSA 261-B:3, II & III

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

Name: **Keith Lohmann** Title: **Program Specialist IV**
Address: **33 Hazen Drive Room 206** Phone #: **603-227-0040**
Concord, NH 03305 Fax#: **603-227-1033**
E-mail: **keith.lohmann@dos.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: **July 5, 2019 3:30 pm**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **June 27, 2019 2:00 pm**

Place: **33 Hazen Drive, Concord, NH 2nd Floor Conference Room**

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

FIS # 19:077 , dated 5-16-2019

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

When compared to existing rules, the proposed rules may increase state revenue and costs to citizens, as well as reduce state and political subdivision costs. Not applicable to Saf-C 514.17, Saf-C 514.69, or Saf-C 523, as these are new rules.

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

No federal mandate, no impact on state funds.

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

The proposed rules may result in an increase to state revenue, for both the reflectorized plate fund and the highway fund, as well as an increase in cost to state citizens, to the extent individuals choose to register for a disabled veteran motorcycle plate. Additionally, the Department of Safety states the proposed rules may reduce Department and political subdivision administrative costs relative to processing renewal registrations under Saf-C 512.07 and renewal registrations following the expiration of a temporary registration under Saf-C 511.03.

A. To State general or State special funds:

See section 3 above. No impact on state general funds.

B. To State citizens and political subdivisions:

See section 3 above.

C. To independently owned businesses:

None.

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

- 1. The proposed rules do not create a new program or responsibility or expand or modify an existing program or responsibility to any political subdivision.**
- 2. The proposed rules do not mandate or assign a program or responsibility to any political subdivision of the state in such a way as to increase the costs the political subdivision must pay.**
- 3. No state funding is necessary because the proposed rules do not mandate or assign a program or responsibility to any political subdivision so as to increase the costs the political subdivision must pay.**

Notice Number	2019-89	Rule Number	Saf-C 2203.02; Saf-C 2203.04; Saf-C 2204.02 and Saf-C 2205.01(a)
1. Agency Name & Address: New Hampshire Department of Safety 33 Hazen Drive Concord, NH 03305		2. RSA Authority:	RSA 106-F:3, I
		3. Federal Authority:	83 FR 48335
		4. Type of Action:	
		Adoption	_____
		Amendment	X _____
		Repeal	_____
		Readoption	_____
		Readoption w/amendment	_____ X _____
5. Short Title: Licensing of Private Investigators, Security Guards, and Bail Recovery Agents			

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

Chapter Saf-C 2200 is concerned with the licensing of private investigators, security guards, and bail recovery agents. The rules establish criteria for licensing, establish fees, and establish criteria for suspension or revocation. Specifically in this proposal:

- **Saf-C 2203.02, 2203.04, and 2204.02 address individual applications, employee applications, and renewal applications, respectively. They are proposed to be readopted with amendments as follows:**
 - **An amendment in paragraph (a) in each rule updates the DSSP 157, 247, and 259 forms due to a change in the fees charged by the FBI for non-criminal background fingerprint checks authorized by 83 FR 48335. The cost savings associated with this intended action are due to a change in the fee charged by the Federal Bureau of Investigation (FBI) for non-criminal background fingerprint checks to the state for private investigators, security guards and bail recovery agents. The savings will be passed on to the applicants, who pay for the checks, unless, in the case of employees, the employing agency pays the fee, in which case the employing agency would see the cost savings; and**
 - **A second amendment is the addition of a new paragraph (e) in each rule to require presentation of a government-issued photo identification at the time of application.**
- **Saf-C 2205.01(a) on the fingerprint check fee is proposed to be amended to authorize the Department to automatically charge the federal fee for non-criminal background fingerprint checks (without the need for a rulemaking process for each change in the federal fees).**

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

Persons who are licensed, or seeking licensure, or agencies who employ private investigators, security guards, and or bail recovery agents.

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

RULE NUMBER	STATUTE IMPLEMENTED
Saf-C 2203.02; Saf-C 2203.04	RSA 106-F:6
Saf-C 2204.02	RSA 106-F:7, III & 106-F:8, I
Saf-C 2205.01(a)	RSA 106-F:7, I

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

Name: **Keith Lohmann** Title: **Program Specialist IV**
Address: **33 Hazen Drive Room 206** Phone #: **603-227-0040**
Concord, NH 03305 Fax#: **603-227-1033**
E-mail: **keith.lohmann@dos.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: **Friday, July 5, 2019 4:00 pm**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, June 27, 2019 3:00 pm**

Place: **33 Hazen Drive, Concord 2nd Floor Conference Room**

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

FIS # 19:078 , dated 5-20-2019

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

When compared to the existing rule, the proposed rules will decrease state restricted revenue and costs to state citizens and independently owned businesses, to the extent they submit a non-criminal background fingerprint check for private investigators, security guards, and bail recovery agents.

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

Federal regulations establish the cost of providing a fingerprint-based criminal history records check in 83 FR 48335 which is mandated by 28 CFR 20.31(e).

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

The proposed rules set the fingerprint check fee under Saf-C 2205.01 at the amount set by the FBI, which is currently \$13.25. Under current rules, the Department of Safety charges \$16.50, with \$13.25 as the FBI fee and \$3.25 credited to the state's criminal records fund. To the extent a state citizen or independently owned business pays for a non-criminal background fingerprint check for private investigators, security guards, or bail recovery agents, they will have a decreased cost, which will result in less revenue for the state's criminal records fund. Using FY 2018 data, this was approximately \$1,000 in total.

A. To State general or State special funds:

See 3 above. No impact on state general funds.

B. To State citizens and political subdivisions:

See 3 above. No impact on political subdivisions.

C. To independently owned businesses:

See 3 above.

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

1. The proposed rules do not create a new program or responsibility or expand or modify an existing program or responsibility to any political subdivision.

2. The proposed rules do not mandate or assign a program or responsibility to any political subdivision of the state in such a way as to increase the costs the political subdivision must pay.

3. No state funding is necessary because the proposed rules do not mandate or assign a program or responsibility to any political subdivision so as to increase the costs the political subdivision must pay.

Notice Number	<u>2019-90</u>	Rule Number	<u>He-E 801</u>
1. Agency Name & Address: Dept. of Health & Human Services Division of Long Term Supports and Services Bureau of Elderly & Adult Services 105 Pleasant Street, Main Building. Concord NH 03301		2. RSA Authority: <u>RSA 161-F:4; RSA 161:4-a, IX</u> 3. Federal Authority: <u>42 USC 1397</u> 4. Type of Action: Adoption <u>X</u> Amendment _____ Repeal _____ Readoption <u>X</u> Readoption w/amendment <u>X</u>	
5. Short Title: <u>Choices for Independence Program</u>			

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

He-E 801 is essentially being readopted with amendments, including four new sections. The rule describes eligibility for, services covered by, and provider requirements for the Choices for Independence (CFI) program, which is a Medicaid 1915(c) waiver program for seniors and adults with disabilities, also known as the Home and Community Based Care program (HCBS-CFI) or CFI waiver program. The program serves individuals who are financially eligible for Medicaid coverage and clinically eligible for long-term services and supports (LTSS), who choose to receive care in their home or another community setting instead of an institutional setting. Most of the rules in He-E 801 are scheduled to expire 8-8-19 but are subject to extension pursuant to RSA 541-A:14-a.

Specific proposed changes to rule He-E 801 are as follows:

- Inserting definitions for “adult day services,” “adult family care,” “appeal,” “authorized representative,” “congregate meals,” “environmental accessibility services,” “home-delivered meals,” “home health aide services,” “homemaker services,” “in-home services,” “non-medical transportation,” “nursing home,” “person-centered,” “personal care services,” “personal emergency response systems,” “residential care facility,” “skilled nursing services,” “specialized medical equipment,” “supportive housing services,” and “targeted case management”. These terms were used in the rule, but were not previously defined;
- Inserting definitions for “financial management services,” “participant-directed and managed services,” and “supported employment services.” These three services were added to the CFI waiver as a result of the Centers for Medicare and Medicaid Services (CMS) approved 2017 amendment to the waiver. The rule is being amended to include these services and their descriptions as new sections He-E 801.19, 801.24, and 801.32 to rule He-E 801. The definition for “fading plan” is being added as a result of the supported employment services inclusion in the rule;
- Inserting a definition for “community transition services” and an associated new service description section He-E 801.17. CMS approved the addition of these services when the waiver was amended and approved on 7/1/2012; however, the Department inadvertently failed to amend He-E 801 to cover this service;
- Inserting a definition for “skilled medical professional”. This definition is being inserted because the Department will now use a skilled medical professional rather than a registered nurse to determine clinical eligibility. This change impacts eligibility under He-E 801.03 and He-E 801.04, and specialized medical equipment review in He-E 801.30;
- Making editorial changes to the definitions for “annual aggregate medicaid costs”, “average aggregate payment”, “home-based services”, and “medicaid bed days”;

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- Updating references to targeted case management throughout He-E 801 to refer to the rule covering that service, He-E 805;
- Clarifying in He-E 801.03(a)(3) that to be eligible for CFI services an individual must be financially and categorically needy;
- Moving the requirement that a CFI participant sign-off on the Department's assessment of medical need in He-E 801.04(a)(2) to He-E 801.05;
- Clarifying that, if the requested additional information for eligibility determination from the applicant or the applicant's licensed practitioner is not received within 20 calendar days, the Department will send a second request;
- Clarifying that the Department shall request within 2 business days additional information from the case manager when there is conflicting or missing information in the service authorization request, and requiring the case manager to provide the requested information within 2 business days;
- Clarifying that the Department shall authorize services consistent with the clinical assessment within 6 business days, and clarifying that the clinical assessment is person-centered;
- Removing the word "applicant" from He-E 801.06 because service authorizations are requested by case managers for CFI participants, and not for applicants to the program. Once an individual is found eligible for CFI services pursuant to He-E 801.03 and He-E 801.04, he or she is considered a participant and service authorizations are then performed;
- Clarifying that when services are no longer requested by the participant, the Department shall have the ability to terminate eligibility or reduce the services previously authorized;
- Clarifying that a request by the CFI participant for a clinical redetermination shall be in accordance with the eligibility provision of the rule in He-E 801.03 and He-E 801.04. This does not represent a program change but rather a clarification which should result in less confusion about the process of redetermination;
- Amending the rule to state that the costs associated with services rendered for acute care needs, environmental accessibility services, and community transition services shall not be included in the methodology used to determine whether the requested service costs less than institutional care;
- Removing the words "home-based services" and replacing it with long term services and supports (LTSS) which is a more accurate description of the services being provided;
- Making editorial and minor substantive changes throughout the rule such as by removing and replacing "bureau" with "department";
- Clarifying that when the Commissioner does not approve the applicant's request to participate in the CFI waiver program or the participant's request for additional or a reduction in services, the Department will send a letter stating that the services will not be delivered, continued, or reduced until after a safety risk assessment is completed;
- Readopting with amendment He-E 801.11 to refer to only participants for post-eligibility computation of cost of care because that calculation is done after the eligibility determination. Accordingly, all references to "applicants" have been removed in He-W 801.11;
- Clarifying that CFI waiver services shall be provided in accordance with federal regulation found at 42 CFR 441.301(c)(4) which is the regulation requiring services to be delivered in accordance with the CMS approved waiver and delivered in certain settings;
- Inserting language that CFI participants have a right to receive targeted case management while residing in a nursing home or facility pursuant to RSA 151-E:17;
- Inserting into the non-covered services section, He-E 801.13, the stipulation that, if the requested services would result in the Department's inability to obtain federal Medicaid funding, then the service cannot be covered pursuant to 42 CFR 441.301(c)(4). This is not a new requirement as it exists in federal law, but the Department is including it so that participants and case managers are notified about this requirement;
- Deleting paragraph (c) in He-E 801.14 on adult family care providers because the requirements for adult family care providers can be found at He-P 813;

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- **Updating the rule to include for in-home services the following services:**
 - **Maintaining a safe environment;**
 - **Rearranging light-weight furniture;**
 - **Grocery shopping; and**
 - **ADLs or instruction in self-care based on the participant's needs in the care plan;**
- **Updating the rule for covered adult day services and updating the name of the service. The following services are being added from He-E 803 to the adult day covered services for clarity and are as follows:**
 - **Supervision in a protected environment;**
 - **Personal care;**
 - **Monitoring a participant's condition and counseling on diet, and hygiene; and**
 - **Referrals for other services;**
- **Updating the rule to include the following He-P 818 services:**
 - **Health and safety;**
 - **Dietary;**
 - **Nursing; and**
 - **Social and recreational activities;**
- **Updating the environmental accessibility services (EAS) section, formerly He-E 801.17, now renumbered as He-E 801.18, to:**
 - **Clarify that an enrolled medicaid physician or nurse practitioner makes the determination of need;**
 - **Require that the EAS provider must affirm that the work will meet the requirements of RSA 155 A:2;**
 - **Clarify that participants submit an explanation to the case manager when there is a preference for one bid over another. This isn't a new requirement as the rule stated that the participant needed to do this, but didn't state who the explanation needed to be submitted to;**
 - **Inserting a requirement that the case manager not request an authorization for the EAS if there is a discrepancy between the provider's recommended specifications for the EAS and the EAS provider's quote. Further the rule now states that the Department will not approve the service request in such a situation;**
 - **Inserting that the EAS provider's restocking fee can be submitted and paid by the Department in the situation where a replacement or modification is required;**
- **Amending the documentation and prior authorization requirements for non-medical transportation services. Case managers will still need to request authorization but will not need to provide as extensive information as they currently provide. Additionally, language has been added to stipulate that transportation provided with the participant's vehicle is not covered;**
- **Deleting the requirement that personal care services do not include food preparation for meals and snacks provided to CFI participants and other individuals;**
- **Stipulating that personal care services do not include transportation when no other assistance is being provided;**
- **Removing the prohibition that personal care services cannot be provided at an adult day program;**
- **Amending the section on personal emergency response systems, formerly He-E 801.23, now renumbered to He-E 801.26, as follows:**
 - **To move the definition for the service to the definitions section He-E 801.21 and remove the requirement that a nurse, occupational, or physical therapist perform a risk of fall assessment; and**
 - **To simply state that the risk of having a medical emergency should be documented in the comprehensive care plan;**
- **Adding the requirement that skilled nursing services are not coverable when determined to be needed for the provision of acute needs under the medicaid state plan;**

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- Inserting a requirement that the case manager not request an authorization for the specialized medical equipment if there is a discrepancy between the provider's recommended specifications for the equipment and the specialized medical equipment provider's quote. Further the rule now states that the Department will not approve the service request in such a situation;
- Inserting that the specialized medical equipment provider's restocking fee can be submitted and paid by the Department in the situation where a replacement or modification is required;
- Inserting language to require providers and case managers to provide a copy of the comprehensive care plan to the Department upon request;
- Inserting language to stipulate providers must maintain supporting documents, and that the Department has the ability to recover federal or state Medicaid payment made pursuant to CFR 455, 42 CFR 447, and 42 CFR 456. Medicaid-enrolled providers are already aware that payment recovery may occur as it is stated in the provider contract signed with the Department;
- Inserting language to require personal care services (PCS) workers to adhere to the electronic visitation requirement in the 21st Century Cures Act, 42 U.S.C. Chapter 6A; and
- Updating language in the utilization review to specify that the Department will monitor the utilization of the CFI waiver services to identify, prevent, and correct potential occurrences of fraud, waste and abuse. Additionally, the Department is inserting the federal regulation that contains the prohibition on certain types of providers from participation in the Medicaid program, 42 CFR 1001.

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

All CFI participants are affected by this rule, as are all providers of CFI services and case management agencies that serve CFI participants.

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

RULE	STATE OR FEDERAL REGULATION IMPLEMENTED
He-E 801.01	RSA 151-E:1
He-E 801.02	RSA 151-E:1, 2
He-E 801.03	Section 1915(c)(1) and (2) of the Social Security Act; RSA 151-E:3, 4
He-E 801.04	RSA 151-E:3
He-E 801.05	RSA 151-E:4
He-E 801.06	RSA 151-E:1
He-E 801.07	RSA 151-E:8
He-E 801.08	Section 1915(c)(1) and (2) of the Social Security Act; RSA 151-E:3, 4
He-E 801.09	RSA 151-E:11, II-IV
He-E 801.10	RSA 151-E:11, IV
He-E 801.11	42 CFR 435.217; 42 CFR 435.735
He-E 801.12	Section 1915 (c)(4)(B) of the Social Security Act; RSA 161-I
He-E 801.13	Section 1915 (c)(1) of the Social Security Act
He-E 801.14 - 801.32	Section 1915 (c)(4)(B) of the Social Security Act; RSA 161-I
He-E 801.33	42 CFR 447.15; 42 CFR 431.107
He-E 801.34	42 CFR 431.107
He-E 801.35	42 CFR 447.50; 42 CFR 447.300; RSA 161:4, VI(a)
He-E 801.36	42 CFR 455; 42 CFR 456
He-E 801.37	RSA 167:14-a, III; 42 CFR 433 Subpart D
He-E 801.38	Section 1915(c) of the Social Security Act

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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

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, June 27, 2019**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, June 20, 2019, 5:00 PM**

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

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

FIS # 19:075, dated 05/16/19

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 benefits to state citizens and increase costs for 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. State spending on Choices for Independence (CFI) waiver services is capped by the appropriation amount contained in the state budget. If utilization is greater than that assumed by the budget, rates are reduced accordingly so that total state spending falls within the appropriated amount. For this reason, although the proposed rule may increase utilization and hence increase program costs, those costs will not be borne by the state unless future legislatures opt to fund those costs in the operating budget.

B. To State citizens and political subdivisions:

The proposed rules contain a number of new services, including supported employment, financial management services, and participant-directed and managed services. In addition, the proposed rule: updates the types of services performed as part of in-home care services; adds services provided at adult day care facilities; clarifies that CFI participants have a right to receive targeted case management while in nursing homes; changes payment coverage for specialized medical equipment;

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changes documentation and prior authorization requirements for non-medical transportation; allows personal care services to cover meal preparation; and allows personal care services to be performed at adult day programs. To the extent that these changes increase costs, those costs will be borne by neither the state nor counties, but may result in reduced rates paid to providers for the reasons described in A above.

State citizens who participate in the CFI program may benefit from the expanded services identified above. Although the proposed rule contains a stipulation that skilled nursing services are not coverable when determined to be needed for the provision of acute needs under the Medicaid state plan, the Department of Health and Human Services (DHHS) states participants should not be negatively impacted, as these services will still be provided but will be billed to the Medicaid state plan rather than to the CFI program.

C. To independently owned businesses:

Independently-owned businesses may experience costs due to the following: the requirement that case managers provide additional documentation for service authorizations in the case of conflicting or missing information; the requirement that a risk assessment be performed when requested services are not approved; changes to the requirement regarding submission of service authorization requests; changes to documentation and prior authorization processes for non-medical transportation; the requirement that providers provide a copy of the comprehensive care plan upon request; the requirement that personal care services not include transportation when no other service is required; supporting document requirements; and the requirement that personal care workers adhere to the electronic visitation requirements of the 21st Century Cures Act.

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.