

RULEMAKING NOTICE FORM

Notice Number 2016-130

Rule Number He-M 407

1. Agency Name & Address:

**Dept. of Health & Human Services
Division of Behavioral Health
Bureau of Mental Health Services
105 Pleasant Street-Main Building
Concord, NH 03301**

2. RSA Authority: RSA 135-C:61, III

3. Federal Authority: _____

4. Type of Action:

Adoption X

Amendment _____

Repeal _____

Readoption _____

Readoption w/amendment _____

5. Short Title: Assertive Community Treatment

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

He-M 407 describes the Department of Health and Human Services (DHHS) program for adult assertive community treatment (ACT). The rule describes services provided, ACT team composition, admission and step-down criteria, and quality assurance. The rule describes community based services including but not limited to crisis intervention.

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

Those affected by the rule include individuals who are receiving assertive community treatment services.

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

<u>RULE</u>	<u>STATE OR FEDERAL STATUTE THE RULE IMPLEMENTS</u>
He-M 407	RSA 135-C:5

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

Name: **Catherine Bernhard** Title: **Rules Coordinator**
 Address: **Dept. of Health and Human Services** Phone #: **271-9374**
Administrative Rules Unit Fax#: **271-5590**
129 Pleasant St. E-mail: catherine.bernhard@dhhs.nh.us
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, August 25, 2016**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, August 18, 2016 at 2:30 p.m.**

Place: **DHHS Main Bldg., Chapel, 105 Pleasant St., Concord, NH**

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

FIS # 16:137 , dated 07/19/16

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

Not applicable, these are new rules.

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

There is no federal mandate and no impact on state funds.

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

A. To State general or State special funds:

Although there is no existing rule governing the program for adult assertive community treatment (ACT), these services are currently provided by community mental health centers through a contract with the Department. The Department anticipates the cost of those services will no increase as a result of the proposed rule, and that the intent of the program is to reduce admissions to New Hampshire Hospital and reduce related general fund costs. The Department notes that mental health ACT services are funded by Medicaid, which is 50% general fund and 50% federal dollars.

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. Consitution:

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

Adopt He-M 407, to read as follows:

PART He-M 407 ADULT ASSERTIVE COMMUNITY TREATMENT

Statutory Authority: RSA 135-C:61, III and RSA 135-C:5, I.

He-M 407.01 Purpose. The purpose of this rule is to describe services, admission criteria, and step-down criteria for adults who are receiving assertive community treatment services.

He-M 407.02 Definitions.

(a) “Assertive Community Treatment” (ACT) means a team-based approach to delivering comprehensive and flexible treatment, support, and services.

(b) “Commissioner” means the commissioner of the department of health and human services.

(c) “Community mental health program (CMHP)” means “community mental health program” as defined in RSA 135-C: 2, IV.

(d) “Community mental health provider” means a medicaid provider of community mental health services that has been previously approved by the commissioner to provide specific mental health services pursuant to He-M 426.04.

(e) “Department” means the New Hampshire department of health and human services.

(f) “Facility” means New Hampshire Hospital, Glencliff Home, and any receiving facility so designated by the commissioner pursuant to RSA 135-C:26.

(g) “Individual” means any person receiving or applying for services from a program or community residence.

(h) “Program” means any public or private corporation, person or organization which provides services to individuals with a mental illness when such services are funded in whole or in part or are operated, monitored or regulated by the department.

(h) “SAMHSA” means the Substance Abuse and Mental Health Services Administration agency within the U.S. Department of Health and Human Services.

(i) “Severe mental illness” means a condition of a person who is determined severely mentally disabled in accordance with He-M 401.06.

(j) “Severe and persistent mental illness” means a condition of a person who is determined severely mentally disabled in accordance with He-M 401.05.

(k) “Substandard Housing” means a dwelling unit that is either dilapidated or unsafe, thus endangering the health and safety of the occupant(s), or that does not have adequate plumbing or heating facilities.

He-M 407.03 ACT Team Services.

(a) ACT services, supports, treatments, and rehabilitation services shall be based on the Assertive Community Treatment Practices Kit developed by SAMHSA.

(b) ACT teams shall be available twenty-four hours per day, seven days per week, and provide on-call ACT team availability from midnight to eight o’clock a.m.

(c) Services, supports, treatment, and rehabilitation services shall be customized to the individual's needs and shall vary over time as the individual's needs change.

(d) Services, supports, treatment, and rehabilitation services shall include, but are not limited to:

- (1) Initial and on-going assessments;
- (2) Crisis intervention;
- (3) Group therapeutic behavioral services;
- (4) Individual therapeutic behavioral services;
- (5) Family and peer support and education;
- (6) Targeted case management services;
- (7) Housing assistance;
- (8) Medication prescription, administration, and monitoring;
- (9) Psychiatric services;
- (10) Nursing services;
- (11) Substance abuse services;
- (12) Illness management and recovery, group;
- (13) Illness management and recovery, individual;
- (14) Evidence-based supported employment; and
- (15) Psychotherapy.

(e) All services, supports, treatments, and rehabilitation services shall be provided to allow the individual a reasonable opportunity to live independently in the community.

(f) In the event of a crisis and consistent with safety concerns, a face to face meeting shall be conducted in a timely manner, not to exceed 24 hours, to de-escalate the crisis until the crisis subsides and without removing the individual from their home and/or community programs.

He-M 407.04 ACT Team Composition.

(a) Assertive community treatment teams shall be composed of a transdisciplinary group between seven and ten professionals, including at a minimum:

- (1) Team leader;
- (2) Psychiatrist;
- (3) Nurse;

- (4) Masters level clinician;
- (5) Functional support specialist;
- (6) Peer support specialist;
- (7) A member trained to provide substance abuse support services;
- (8) A member trained to provide housing assistance;
- (9) A member trained to provide evidence based supported employment; and
- (b) Serve no more than ten individuals per ACT team member, excluding the psychiatrist;
- (c) Serve no more than seventy individuals per 0.5 full time equivalent psychiatrist; and
- (d) ACT team members shall work with community members and service providers, including law enforcement personnel to respond to individuals in mental health crisis to meet individualized needs.

He-M 407.05 Admission Criteria.

- (a) The individual shall meet all of the following criteria to be assessed for ACT services:
 - (1) The individual shall have a severe mental illness or a severe and persistent mental illness and shall meet the criteria listed in He-M 401.05 or He-M 401.06;
 - (2) The individual shall have a primary diagnosis of psychotic or major mood disorder, with or without a co-occurring substance use disorder;
 - (3) The individual shall be 18 years or older; and
 - (4) The individual shall meet at least one of the following criteria:
 - a. Lengthy or multiple uses of acute psychiatric hospitalization in past twelve months;
 - b. Multiple psychiatric emergency services in past twelve months;
 - c. At risk or recent involvement in the criminal justice system due to symptoms of mental illness in the past twelve months;
 - d. Resides in substandard housing, is homeless, or is at risk of homelessness as the result of symptoms of mental illness;
 - e. Currently in-patient at a facility and could move to independent housing if the individual had ACT services at time of referral;
 - f. Residing in a group home and could move to independent housing if the individual had ACT services at time of referral;
 - g. Inability to access needed community services as a result of symptoms of mental illness within the past twelve months; or

h. Inability to access or participate in traditional office based services due to mental illness.

(b) The organization responsible for providing ACT services shall conduct a clinical assessment of applicants to determine if ACT services will be provided.

(c) Once the assessment has been completed the ACT psychiatrist, with consultation from the ACT team leader, will determine the medical necessity for ACT services

He-M 407.06 Step-Down Criteria.

(a) An individual shall meet all of the following criteria in order to transition to another level of care:

- (1) Has maintained stable housing for more than twelve months;
- (2) Has had no utilization of emergency room visits due to psychiatric symptoms in the past twelve months;
- (3) Has not been incarcerated during the past twelve months; and
- (4) The individual has demonstrated ability to utilize office-based non-ACT mental health services as needed to maintain stability for the past six months.

(b) Individuals who are admitted to a facility, and who had been on an ACT team prior to admission, shall continue ACT services upon discharge from the facility.

(c) Individuals shall not be immediately removed from ACT services due to failure to keep appointments. Persistent, caring attempts to engage clients shall be documented for at least 3 months prior to the individual being transitioned into other services.

He-M 407.07 Quality Assurance.

(a) The organization providing ACT services shall conduct a self-assessment fidelity review annually.

(b) The organization shall submit their completed fidelity assessment to the Department of Health and Human Services, Division of Behavioral Health for review.

He-M 407.08 Waivers.

(a) A community mental health program, facility, or ACT services provider, may request a waiver of specific rules in this part, in writing, from the department.

(b) A request for waiver shall include:

- (1) A specific reference to the section of the rule for which a waiver is being sought;
- (2) A full explanation of why a waiver is necessary; and
- (3) A full explanation of alternative provisions or procedures proposed.

(c) No provision or procedure prescribed by statute shall be waived.

(d) A request for waiver shall be granted if the commissioner determines that the alternatives proposed meet the objective or intent of the rule and either:

- (1) Do not negatively impact the health or safety of the individual; or
- (2) Are administrative in nature, and do not affect the quality of individual care.

(e) Upon receipt of approval of a waiver request, the community mental health program, facility, or ACT services provider program shall comply with the alternative provisions or procedures approved which shall be considered to be compliant with the rule from which waiver was sought.

Appendix

<u>Rule</u>	<u>RSA Implemented</u>
He-M 407	RSA 135-C:5