

RULEMAKING NOTICE FORM

Notice Number 2016-217 Rule Number He-W 513.02(q); He-W 513.05 (c) intro, (c)(5) intro & (c)(5)c.; He-W 513.05 (r) intro & (r)(6)

1. Agency Name & Address: Dept. of Health & Human Services Office of Medicaid Business and Policy 129 Pleasant Street Concord, NH 03301
2. RSA Authority: RSA 161:4-a, X
3. Federal Authority: 42 U.S.C. 1396d(a), 1932(a) of the SSA; 42 CFR 438
4. Type of Action: Adoption, Amendment (X), Repeal, Readoption (X), Readoption w/amendment

5. Short Title: Medicaid Substance Use Disorder (SUD) Treatment and Recovery Support Services

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

He-W 513 describes the substance use disorder (SUD) treatment and recovery support services benefit provided through NH Medicaid.

This regular rule is a follow-up to a current interim rule and allows peer recovery providers under contract with the Department’s Bureau of Drug and Alcohol Services (BDAS) to enroll in Medicaid for the purposes of reimbursement for the provision of peer recovery support services.

This regular rule removes the limitation in the interim rule which requires the entities under contract with BDAS to be in compliance with Chapter 330:13, Laws of 2016 (relative to a supplemental appropriation to BDAS to support direct grants for the creation, initiation, expansion, and/or operational costs for SUD peer recovery support services). This limitation only applied to peer recovery programs receiving funding under the chapter law. The regular rule will allow any peer recovery program under contract with BDAS to be enrolled in NH Medicaid.

Also, the rule is being amended to allow for the provision of screening, brief intervention, and referral to treatment (SBIRT) services by practitioners who are not necessarily individually enrolled in NH Medicaid if they are working for certain outpatient SUD programs. This is necessary to allow physicians, physician assistants, and advanced practice registered nurses, particularly those who practice in Federally Qualified Health Centers, to provide and bill for this service.

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

This rule affects peer recovery programs under contract with the Department’s Bureau of Drug and Alcohol Services, as well as certain outpatient SUD programs relative to the provision of SBIRT 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-W 513.02(q)	42 USC 1396u-7(b)(5), RSA 126-A:5, XXIII-XXV, 42 CFR 440.347
He-W 513.05 (c) intro, (c)(5) intro & (c)(5)c.	42 USC 1396u-7(b)(5), RSA 126-A:5, XXIII-XXV, 42 CFR 440.347
He-W 513.05 (r) intro & (r)(6)	42 USC 1396u-7(b)(5), RSA 126-A:5, XXIII-XXV, 42 CFR 440.347

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

Name: **Michael Holt** Title: **Rules Coordinator**  
Address: **Dept. of Health and Human Services** Phone #: **271-9234**  
**Administrative Rules Unit** Fax#: **271-5590**  
**129 Pleasant St.** E-mail: [michael.holt@dhhs.state.nh.us](mailto:michael.holt@dhhs.state.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: **Tuesday, December 27, 2016**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, December 19, 2016 at 11:30 a.m.**

Place: [\*\*DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH\*\*](#)

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

FIS # 16:239, dated 11/10/16

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

When compared to the existing interim rules, the proposed rules may increase state general fund expenditures and may have an indeterminable impact on independently-owned businesses to the extent that they provide peer-recovery services newly allowed to enroll in Medicaid under the proposed rule.

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

No federal mandate, no impact on state funds.

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

The proposed rule removes the requirement of the interim rule that peer recovery support providers under contract with the Bureau of Drug and Alcohol Services (BDAS) be in compliance with Chapter 330:15, Laws of 2016 (relative to a supplemental appropriation to BDAS). The proposed rule will allow any peer recovery program under contract with BDAS to enroll in NH Medicaid, and is not limited to peer recovery programs providing services as part of that specific chapter law. In addition the proposed rule amends the rule to allow for the provision of screening, brief intervention, and referral to treatment (SBIRT) services by practitioners who are not necessarily individually enrolled in NH Medicaid if they are working for certain substance use disorder programs.

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

The proposed rule may increase costs to the state general fund to the extent that an increase in the number of peer recovery providers results in increased utilization of peer recovery services. Any such cost is indeterminable.

**B. To State citizens and political subdivisions:**

None.

**C. To Independently owned businesses:**

Peer recovery providers who are under contract with BDAS and allowed to enroll in NH Medicaid under the proposed rule may experience an indeterminable benefit in that they will be able to collect Medicaid reimbursement for services provided to Medicaid recipients. Such providers may also experience an indeterminable cost associated with the documentation requirements specified in the rule if those providers are not accustomed to keeping their records in the required manner.

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

**The proposed rules modify an existing program or responsibility, but they 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.**

CHAPTER He-W 500 MEDICAL ASSISTANCE

PART He-W 513 SUBSTANCE USE DISORDER (SUD) TREATMENT AND RECOVERY SUPPORT SERVICES

**Amend He-W 513.02, effective 7/1/16 (Document #11107), as amended effective 10/25/16 (Document #12012), by amending (q), cited and to read as follows:**

He-W 513.02 Definitions.

(q) “Peer recovery program” means a program that is accredited by the Council on Accreditation of Peer Recovery Support Services (CAPRSS), is under contract with the department’s contracted facilitating organization, or is under contract with the department’s BDAS to provide peer recovery support services ~~in accordance with Chapter 330:13, Laws of 2016.~~

**Amend He-W 513.05, effective 7/1/16 (Document #11107), as amended effective 10/25/16 (Document #12012), by inserting new clause (c)(5)c., so that (c) intro, (c)(5) intro, and c. are cited and read as follows:**

He-W 513.05 Covered Services.

(c) Screening, brief intervention, and referral to treatment (SBIRT) shall be a covered service when provided as follows:

(5) SBIRT shall be conducted by a provider who has been trained in the SBIRT model and is either:

c. A practitioner working in an outpatient SUD program as defined in He-W 513.02(o)(4) or He-W 513.02(o)(6) who is either:

1. A physician or APRN; or

2. A physician assistant or other practitioner under a physician’s supervision;

**Readopt He-W 513.05(r)(6), effective 10/25/16 (Document #12012), so that (r) intro and (r)(6) are cited and read as follows:**

He-W 513.05 Covered Services.

(r) Peer recovery support shall be a covered service when provided as follows:

(6) Peer recovery support services shall be billed by the outpatient or comprehensive SUD program, or the peer recovery program.

**APPENDIX B**

<b>RULE</b>	<b>STATE OR FEDERAL STATUTE THE RULE IMPLEMENTS</b>
He-W 513.02(q)	42 USC 1396u-7(b)(5), RSA 126-A:5, XXIII-XXV, 42 CFR 440.347
He-W 513.05 (c) intro, (c)(5) intro & (c)(5)c.	42 USC 1396u-7(b)(5), RSA 126-A:5, XXIII-XXV, 42 CFR 440.347
He-W 513.05 (r) intro & (r)(6)	42 USC 1396u-7(b)(5), RSA 126-A:5, XXIII-XXV, 42 CFR 440.347