

**RULEMAKING NOTICE FORM**

Notice Number	<b>2016-56</b>	Rule Number	<b>He-W 606.78, He-W 724.01, He-W 746.02, &amp; He-W 806.78</b>
---------------	----------------	-------------	---

---

<p>1. Agency Name &amp; Address:</p> <p style="margin-left: 40px;"><b>Dept. Health &amp; Human Services Division of Family Assistance 129 Pleasant St., Brown Bldg. Concord, NH 03301</b></p>	<p>2. RSA Authority: <u style="float: right;"><b>167:-3-c,I</b></u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <table style="width: 100%;"><tr><td style="padding-left: 20px;">Adoption</td><td style="text-align: right;"><u>  <b>X</b>  </u></td></tr><tr><td style="padding-left: 20px;">Amendment</td><td style="text-align: right;">_____</td></tr><tr><td style="padding-left: 20px;">Repeal</td><td style="text-align: right;">_____</td></tr><tr><td style="padding-left: 20px;">Readoption</td><td style="text-align: right;">_____</td></tr><tr><td style="padding-left: 20px;">Readoption w/amendment</td><td style="text-align: right;"><u>  <b>X</b>  </u></td></tr></table>	Adoption	<u>  <b>X</b>  </u>	Amendment	_____	Repeal	_____	Readoption	_____	Readoption w/amendment	<u>  <b>X</b>  </u>
Adoption	<u>  <b>X</b>  </u>										
Amendment	_____										
Repeal	_____										
Readoption	_____										
Readoption w/amendment	<u>  <b>X</b>  </u>										

---

5. Short Title:     **Expiring Rules Related to Personal Property Resources in the Cash and Medical Assistance Programs, and Required Verifications and Eligibility Certification Periods in the Food Stamp Program**

---

6. (a) Summary of what the rule says and of any proposed amendments:
- The New Hampshire Department of Health and Human Services (Department) is intending to:**
- **Relative to personal property resources:**
    - **Readopt with amendment He-W 606.78 which describes the types of verification the Department accepts for personal property resources in the eligibility determination process for Financial Assistance to Needy Families (FANF) and adult category cash assistance and those categories of medical assistance that use a resource test. The amendments to He-W 606.78 are mostly editorial, replacing “NHEP/FAP” with “FANF” and “district office” with “DHHS,” and do not change the verification requirements. The substantive amendment is to delete references to the medical assistance policy.**
    - **The Department proposes to adopt He-W 806.78 relative to the medical assistance policy for personal property resources for medical assistance categories that have a resource test which is being moved from He-W 606.78 to the new He-W 806.78;**
  - **Readopt with amendment He-W 724.01, which describes verification requirements in the Food Stamp Program. The amendments to He-W 724.01 add the requirement that verifications must be submitted to DHHS within 10 calendar days of the, and eliminate a requirement to submit a specific federal form to prove application for SSN allowing instead submission of any document issued from the Social Security Administration that proves application for an SSN. Editorial updates include, replacement of “district office” with “DHHS” and more specific federal code citations;**

- **Readopt with amendment He-W 746.02, which describes Food Stamp eligibility certification periods. The amendments to He-W 746.02 are editorial in nature to add more specific federal code citations.**

**Portions of existing rules He-W 606.78, He-W 724.01, and He-W 746.02 are scheduled to expire 6-7-16, but are subject to extension pursuant to RSA 541-A:14-a.**

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

**The proposed readoption of existing rules should have no effect on any particular group.**

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>STATUTE</u>
He-W 606.78	RSA 167:4; RSA 167:7, IV; RSA 167:81, I; 45 CFR 233.20(a)(1)(v) & (a)(3)
He-W 724.01	7 CFR 273.2(f)(1)(v); 7 CFR 273.3(a); 7 CFR 273.6(b); 7 CFR 273.7(b); 42 USC 1320b-7
He-W 746.02	7 CFR 273.10(f)
He-W 806.78	RSA 167:4; RSA 167:7, IV; 42 CFR 435.601(b), 42 CFR 435.914

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

Name: **Catherine Bernhard** Title: **Rules Coordinator**  
 Address: **Dept. Health & Human Services** Phone #: **271-9374**  
**Administrative Rules Unit** Fax#: **271-5590**  
**129 Pleasant St., Brown Bldg.** E-mail: **catherine.bernhard@dhhs.state.nh.us**  
**Concord, NH 03301**  
 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: **Thursday, May 12, 2016**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, May 5, 2016 at 2:30pm**

Place: **[DHHS, Brown Bldg., Room 288, 129 Pleasant St., Concord, NH 03303](#)**

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

FIS # 16:058 , dated 04/08/16

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

There is no cost when comparing proposed rules He-W 606.78, He-W 724.01, and He-W 746.02 to the existing rules. Not applicable to proposed rule He-W 806.78 as this is a new rule.

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

- 7 CFR 273.2(f)(1)(v) and 7 CFR 273.6(b) mandate certain verification requirements for social security number in the food stamp program as implemented by He-W 724.01(e). This mandate has no impact on state funds and the food stamp program is 100 percent federally funded.
- 7 CFR 273.3(a) restricts a food stamp household from receiving food stamp benefits in more than one household in any given month, as implemented by He-W 724.01(a). This mandate has no impact on state funds and the food stamp program is 100 percent federally funded.
- 7 CFR 273.2(f) mandates that the accuracy of statements or information provided by food stamp applicants or recipients must be verified and that at least 10 days must be allowed for the applicant or recipient to provide the proof. This mandate guides the intended action for He-W 724.01, but has no impact on state funds and the food stamp program is 100 percent federally funded.
- 7 CFR 273.10(f) mandates the parameters under which a household must be certified in the food stamp program. This mandate guides the intended action for He-W 746.02, but has no impact on state funds and the food stamp program is 100 percent federally funded.
- 42 CFR 435.914 mandates the recording of facts to support the Department's eligibility decision. This mandate guides the intended action for He-W 806.78, but has no impact on state funds.

**3. Costs 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 proposed rule does not create a new program or responsibility, expand or modify an existing program or responsibility, or 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.**

**Readopt with amendments He-W 606.78, effective 6-7-08 (Document #9174), as amended effective 1-24-13 (Document #10259), to read as follows:**

He-W 606.78 Personal Property Resources.

(a) For all categories of financial ~~and medical~~ assistance:

(1) The following documents shall be used to verify that a resource is legally unavailable to the applicant or recipient, pursuant to RSA 167:81, IV(e):

a. For irrevocable trust funds, the trust instrument or agreement;

b. For irrevocable burial funds, the bank account, agreement, trust instrument, or similar document which clearly states that the burial funds are not legally available to the individual; and

c. For property in probate, written or verbal contact with the register of probate in the appropriate county indicating that the property is currently in probate and legally unavailable to the applicant or recipient or a letter from the attorney handling the property indicating the property is legally unavailable to the applicant or recipient;

(2) Acceptable verification of income tax refunds or lump sum earned income tax credit payments shall be a copy of the tax refund check or the applicant's or recipient's submitted tax return;

(3) Acceptable verification of the value of IRA and non-contractual Keogh accounts and penalty for early withdrawal shall be a written statement from the financial institution where the account was issued indicating the current balance in the account and penalty for withdrawal of the entire amount in the account;

(4) Acceptable verification of the type of Keogh account, such as contractual or non-contractual, shall be a written statement from the individual's employer or the financial institution where the account was issued indicating whether it involves a contractual relationship with other individuals and if money can be withdrawn without affecting the other individuals involved;

(5) Acceptable verification of the face value of life insurance shall be:

a. The actual policy itself; or

b. Written or verbal contact with the insurance company when the face value cannot be determined using the actual policy;

(6) Acceptable verification of the equity value of life insurance shall be determined by written or verbal contact with the insurance company;

a. Using the cash value or non-forfeiture of benefits table, if there is no loan on the policy; or

b. Written or verbal contact with the insurance company, if there is a loan on the policy;

(7) Acceptable verification of lump sum death benefits shall be a letter of award, written contact with the agency providing the benefit or with the funeral director arranging for payment of the benefit, or if written documentation cannot be furnished, ~~district office~~ department of health and human services (DHHS) verbal contact with the agency or funeral director;

(8) Acceptable verification of resources resulting from an accumulation of types of income which are excluded by federal mandate shall be letters of award, written statements from the source providing benefits, or, if written documentation cannot be furnished, ~~district office~~ DHHS verbal contact with the source providing the benefits;

(9) Acceptable verification of stocks and bonds shall be the market value of the stock or bond in the financial section of a current newspaper or, if written documentation cannot be located, ~~district office~~ DHHS verbal contact with a stock broker; and

(10) Good faith effort to sell a personal property asset that cannot be readily converted to cash shall be newspaper clippings or evidence of other means of advertising showing that the asset is for sale at a price commensurate with the property's fair market value.

(b) For verification of resources for the ~~NHEP/FAPFANE~~ category of financial ~~and medical~~ assistance the following shall apply:

(1) For equity value of a vehicle:

a. The fair market value of an automobile or truck shall be verified by using the "trade-in value" in the most recent edition of the NADA Official Used Car Guide, also known as the "Blue Book";

b. The fair market value shall not be increased because of special equipment for the handicapped, low mileage, or optional equipment;

c. If the applicant or recipient states that the fair market value in the Blue Book does not apply to the vehicle because of body damage or other factors, the individual shall present verification of the true fair market value of the vehicle from an auto dealer or an individual who is engaged in a vehicle sales or service business; and

d. If a vehicle is custom made, too old, or too new to be included in the Blue Book, the applicant or recipient shall verify its fair market value by:

1. Obtaining an appraisal from an automobile dealer or an individual who is engaged in a vehicle sales or service business;

2. Submitting a tax assessment on the vehicle indicating its value; or

3. Submitting a newspaper advertisement which indicates the amount for which like vehicles are being sold;

(2) The applicant's or recipient's written statement shall be acceptable verification of the fact that a vehicle is a junk vehicle, provided the statement gives an accurate and complete description of the vehicle's condition; and

(3) Acceptable verification of the fact that farm machinery and vehicles are necessary for subsistence, maintenance, or employment shall be a written statement from the applicant or recipient.

(c) Acceptable verification of incurred unpaid medical expenses for adult category financial ~~or medical~~-assistance shall be bills which substantiate the amount of unpaid medical expenses that the applicant or spouse have incurred and that the applicant or spouse is still liable for the unpaid medical expenses.

**Readopt with amendments He-W 724.01, effective 6-7-08 (Document #9174), as amended effective 7-30-10 (Document #9763), to read as follows:**

#### PART He-W 724 VERIFICATION REQUIREMENTS

##### He-W 724.01 Required Verification.

(a) When a newly arrived resident of the state applies for food stamps at ~~a district office~~the department of health and human services (DHHS), the departmentDHHS shall contact the state in which the household previously resided to determine whether the household already received food stamps for the month of application.

(b) The applicant or recipient shall provide to DHHS within 10 calendar days of the date of the request verification regarding excluded income as follows:

(1) For loan income, the applicant or recipient shall provide to DHHS a statement signed by the lender and the lendee indicating that the payment is a loan and must be repaid;

(2) If a household receives payments on a recurrent and regular basis from the same source, but claims the payments are loans, the applicant or recipient shall sign an affidavit which states:

- a. That repayments are being made or shall be made; and
- b. The repayment schedule.

(c) The applicant or recipient shall provide to DHHS within 10 calendar days of the date of the request proof of work registration exemptions as follows:

(1) For an exemption due to the age of a child, the applicant or recipient shall:

- a. Be the child's parent, foster parent, stepparent, adoptive parent, guardian, adult with legal custody, or when no parent resides in the household, a member of the household exercising parental control; and
- b. Provide documentation, such as a birth certificate, which substantiates the child's date of birth;

(2) For an exemption due to employment of 30 hours per week, the applicant or recipient shall provide documentation or information that establishes the accuracy of statements regarding the number of hours worked;

(3) For an exemption due to self-employment, the applicant or recipient shall provide documentation or information that establishes the accuracy of statements regarding the number of hours worked; and

(4) For an exemption due to self-employment ~~as defined in He-W 701.08~~, the applicant or recipient who has been self-employed for 18 consecutive calendar months or more shall show that this has resulted in weekly net income equal to at least 30 hours multiplied by the current federal minimum wage for 6 of the most recent 12 calendar months.

(d) For an exemption due to:

(1) ~~Being physically or mentally disabled or lack of unfitness to for work employment~~ pursuant to 7 CFR 273.7(b)(1)(ii), the applicant or recipient shall provide to DHHS within 10 calendar days of the date of the request:

a. Documentation which indicates that a household member is receiving temporary or permanent disability benefits issued by governmental or private sources; or

b. A statement from a licensed physician or licensed or certified psychologist;

(2) Receipt of earnings above the minimum specified by 7 CFR 273.5(b)(5), the self-employed student shall provide to DHHS within 10 calendar days of the date of the request documentation or information which indicates that weekly earnings are 20 times the federal minimum hourly wage;

(3) Lack of adequate child care, the applicant or recipient shall provide to DHHS within 10 calendar days of the date of the request a written statement that adequate child care is not available for a child age 6 through 11 years; and

(4) Continuous enrollment in an institution of higher education, the student shall provide to DHHS within 10 calendar days of the date of the request a written statement regarding his or her intent to return or register for the next normal school term.

(e) ~~Pursuant to 7 CFR 273.2(f)(1)(v), the applicant shall verify~~ to DHHS within 10 calendar days of the date of the request his or her Social Security Account Number (SSN) or application for an SSN card either:

(1) By providing a SSN card issued to the individual by the Social Security Administration (SSA); or

(2) By submitting proof issued from the SSA that:

a. The individual has applied for an SSN; or

b. ~~If a completed Form SS-5, application for a SSN, or a completed Form 2853, application for a SSN for a newborn infant,~~ that an SSN has been applied for on behalf of the newborn pursuant to 7 CFR 273.2(f)(1)(v).

**Readopt with amendments He-W 746.02, effective 6-7-08 (Document #9174), to read as follows:**

He-W 746.02 Establishing Certification Periods.

(a) No more than 12 months certification shall be allowed for households where:

- (1) Income and circumstances are very stable as described in 7 CFR 273.10(f), and all individuals are disabled or elderly; or
- (2) The only source of income is from self-employment.

(b) No more than 6 months certification shall be allowed for households where:

- (1) There is little likelihood of changes in income and household circumstances;
- (2) A household that had been certified for 12 months provided information which resulted in incorrect benefits;
- (3) The household receives or is eligible for assistance payments and the household expenses do not exceed its income;
- (4) A household receives earned income or unemployment compensation;
- (5) The household's income is from self-employment and includes one or more individuals with unstable circumstances as described in 7 CFR 273.10(f)(3); or
- (6) After the initial 4-month certification period, the household meets one or more criteria specified in ~~He-W 746.02(b)(1)-(5) above.~~

(c) No more than 4 months certification shall be allowed for households where:

- (1) Expenses exceed household income;
- (2) A member is a potential wage earner;
- (3) The household's situation is unstable as described in 7 CFR 273.10(f)(3); or
- (4) At least one member is an able bodied adult without dependents as defined in He-W 701.01.

(d) No more than a one month certification shall be allowed for households where imminent changes are expected pursuant to 7 CFR 273.10(f)(3)(iii).

(e) For a household where one or more members are subject to lockout or are on strike, the following certification periods shall apply:

- (1) No more than one month for a household that applies before the 15th of the month; and
- (2) No more than 2 months for a household that applies after the 15th of the month.

**Adopt He-W 806.78 to read as follows:**

He-W 806.78 Personal Property Resources.

(a) For medical assistance categories that have a resource test:

(1) The following documents shall be used to verify that a resource is legally unavailable to the applicant or recipient:

a. For irrevocable trust funds, the trust instrument or agreement;

b. For irrevocable burial funds, the bank account, agreement, trust instrument, or similar document which clearly states that the burial funds are not legally available to the individual; and

c. For property in probate, written or verbal contact with the register of probate in the appropriate county indicating that the property is currently in probate and legally unavailable to the applicant or recipient or a letter from the attorney handling the property indicating the property is legally unavailable to the applicant or recipient;

(2) Acceptable verification of income tax refunds or lump sum earned income tax credit payments shall be a copy of the tax refund check or the applicant's or recipient's submitted tax return;

(3) Acceptable verification of the value of IRA and non-contractual Keogh accounts and penalty for early withdrawal shall be a written statement from the financial institution where the account was issued indicating the current balance in the account and penalty for withdrawal of the entire amount in the account;

(4) Acceptable verification of the type of Keogh account, such as contractual or non-contractual, shall be a written statement from the individual's employer or the financial institution where the account was issued indicating whether it involves a contractual relationship with other individuals and if money can be withdrawn without affecting the other individuals involved;

(5) Acceptable verification of the face value of life insurance shall be:

a. The actual policy itself; or

b. Written or verbal contact with the insurance company when the face value cannot be determined using the actual policy;

(6) Acceptable verification of the equity value of life insurance shall be determined by written or verbal contact with the insurance company;

a. Using the cash value or non-forfeiture of benefits table, if there is no loan on the policy; or

b. Written or verbal contact with the insurance company, if there is a loan on the policy;

(7) Acceptable verification of lump sum death benefits shall be a letter of award, written contact with the agency providing the benefit or with the funeral director arranging for

payment of the benefit, or if written documentation cannot be furnished, department of health and human services (DHHS) verbal contact with the agency or funeral director;

(8) Acceptable verification of resources resulting from an accumulation of types of income which are excluded by federal mandate shall be letters of award, written statements from the source providing benefits, or, if written documentation cannot be furnished, DHHS verbal contact with the source providing the benefits;

(9) Acceptable verification of stocks and bonds shall be the market value of the stock or bond in the financial section of a current newspaper or, if written documentation cannot be located, DHHS verbal contact with a stock broker; and

(10) Good faith effort to sell a personal property asset that cannot be readily converted to cash shall be newspaper clippings or evidence of other means of advertising showing that the asset is for sale at a price commensurate with the property's fair market value.

(b) For verification of resources for medical assistance categories that have a resource test, the following shall apply:

(1) For equity value of a vehicle:

a. The fair market value of an automobile or truck shall be verified by using the "trade-in value" in the most recent edition of the NADA Official Used Car Guide, also known as the "Blue Book";

b. The fair market value shall not be increased because of special equipment for the handicapped, low mileage, or optional equipment;

c. If the applicant or recipient states that the fair market value in the Blue Book does not apply to the vehicle because of body damage or other factors, the individual shall present verification of the true fair market value of the vehicle from an auto dealer or an individual who is engaged in a vehicle sales or service business; and

d. If a vehicle is custom made, too old, or too new to be included in the Blue Book, the applicant or recipient shall verify its fair market value by:

1. Obtaining an appraisal from an automobile dealer or an individual who is engaged in a vehicle sales or service business;

2. Submitting a tax assessment on the vehicle indicating its value; or

3. Submitting a newspaper advertisement which indicates the amount for which like vehicles are being sold;

(2) The applicant's or recipient's written statement shall be acceptable verification of the fact that a vehicle is a junk vehicle, provided the statement gives an accurate and complete description of the vehicle's condition; and

(3) Acceptable verification of the fact that farm machinery and vehicles are necessary for subsistence, maintenance, or employment shall be a written statement from the applicant or recipient.

(c) Acceptable verification of incurred unpaid medical expenses for medical assistance shall be bills which substantiate the amount of unpaid medical expenses that the applicant or spouse have incurred and that the applicant or spouse is still liable for the unpaid medical expenses.

**APPENDIX**

<b><u>RULE</u></b>	<b>STATUTE</b>
He-W 606.78	RSA 167:4; RSA 167:7, IV; RSA 167:81, I; 45 CFR 233.20(a)(1)(v) & (a)(3)
He-W 724.01	7 CFR 273.2(f)(1)(v); 7 CFR 273.3(a); 7 CFR 273.6(b); 7 CFR 273.7(b); 42 USC 1320b-7
He-W 746.02	7 CFR 273.10(f)
He-W 806.78	RSA 167:4; RSA 167:7, IV; 42 CFR 435.601(b), 42 CFR 435.914