

Readopt with amendment He-M 507, effective 10-1-23 (Document #10426), to read as follows:

PART He-M 507 COMMUNITY PARTICIPATION SERVICES

Statutory Authority: New Hampshire RSA 171-A:3; 171-A:18, IV; 137-K:3, IV

He-M 507.01 Purpose. The purpose of these rules is to establish standards for certified community participation services as part of a comprehensive array of community-based services for individuals with developmental disabilities or acquired brain disorders that:

- (a) Assist the individual to attain, improve, and maintain a variety of life skills, including vocational skills;
- (b) Emphasize, maintain, and broaden the individual's opportunities for community participation and relationships;
- (c) Support the individual to achieve and maintain valued social roles, such as of an employee or community volunteer;
- (d) Promote personal choice and control in all aspects of the individual's life and services, including the involvement of the individual, to the extent they are able, in the selection, hiring, training, and ongoing evaluation of their primary staff and in determining the quality of services; and
- (e) Are provided in accordance with the individual's service agreement and goals and desired outcomes.

He-M 507.02 Definitions. The words and phrases used in these rules shall mean the following:

- (a) "Acquired brain disorder" means a disruption in brain functioning that:
 - (1) Is not congenital or caused by birth trauma;
 - (2) Presents a severe and life-long disabling condition which significantly impairs a person's ability to function in society;
 - (3) Occurs prior to age 60;
 - (4) Is attributable to one or more of the following reasons:
 - a. External trauma to the brain as a result of:
 - 1. A motor vehicle incident;
 - 2. A fall;
 - 3. An assault; or
 - 4. Another related traumatic incident or occurrence;
 - b. Anoxic or hypoxic injury to the brain such as from:
 - 1. Cardiopulmonary arrest;
 - 2. Carbon monoxide poisoning;
 - 3. Airway obstruction;

4. Hemorrhage; or
5. Near drowning;
- c. Infectious diseases such as encephalitis and meningitis;
- d. Brain tumor;
- e. Intracranial surgery;
- f. Cerebrovascular disruption such as a stroke;
- g. Toxic exposure; or
- h. Other neurological disorders such as Huntington's disease or multiple sclerosis which predominantly affect the central nervous system resulting in diminished cognitive functioning and ability; and

(5) Is manifested by one or more of the following:

- a. Significant decline in cognitive functioning and ability; or
- b. Deterioration in:
 1. Personality;
 2. Impulse control;
 3. Judgment;
 4. Modulation of mood; or
 5. Awareness of deficits;

(b) "Area agency" means "area agency" as defined in RSA 171-A:2, I-b;

(c) "Basic living skills" means activities accomplished each day to acquire, improve, or maintain independence in daily life;

(d) "Bureau" means the bureau of developmental services of the department of health and human services;

(e) "Centralized service site" means a location operated by a provider agency where individuals receive community participation services for more than one hour per day;

(f) "Certification" means the written approval by the department's office of legal and regulatory services, for the operation of community participation services in accordance with the requirements set forth in He-M 507;

(g) "Community participation services", also called "day services" elsewhere in He-M 500 and He-M 1001, means habilitation, assistance, and instruction provided to individuals that:

- (1) Improve or maintain their performance of basic living skills;
- (2) Offer vocational and community activities, or both;
- (3) Enhance their social and personal development; and

- (4) At a minimum, meet the needs and achieve the desired goals and outcomes of each individual as specified in the service agreement;
- (h) “Covered services” means community participation services described pursuant to He-M 507.04 as reimbursable under the Medicaid program or through grants from the bureau;
- (i) “Days” means calendar days unless otherwise specified;
- (j) “Department” means the New Hampshire department of health and human services;
- (k) “Developmental disability” means “developmental disability” as defined in RSA 171-A:2, V, namely, “a disability:
- (a) Which is attributable to an intellectual disability, cerebral palsy, epilepsy, autism, or a specific learning disability, or any other condition of an individual found to be closely related to an intellectual disability as it refers to general intellectual functioning or impairment in adaptive behavior or requires treatment similar to that required for persons with an intellectual disability; and
 - (b) Which originates before such individual attains age 22, has continued or can be expected to continue indefinitely, and constitutes a severe disability to such individual's ability to function normally in society.”;
- (l) “Exploitation” means “exploitation” as defined in RSA 161-F:43, IV;
- (m) “Health assessment” means an evaluation of an individual’s health status done by a physician or other licensed practitioner for the purpose of making recommendations regarding strategies for promoting and maintaining optimum health;
- (n) “Health Risk Screening Tool (HRST)” means the 2015 edition of the Health Risk Screening Tool, available as noted in Appendix A, which is a web-based rating instrument used for performing health risk screenings on individuals in order to:
- (1) Determine an individual’s vulnerability regarding potential health risks; and
 - (2) Enable the early identification of health issues and monitoring of health needs;
- (o) “Home and community based waiver services (HCBS services)” means the services defined and funded pursuant to New Hampshire’s agreement with the federal government, known as the “Disabilities Waiver” and the “Acquired Brain Disorder Waiver”, pursuant to the authority section of 1915(c) of the Social Security Act which allows the federal funding of long-term care services in non-institutional settings for persons who are developmentally disabled or who have an acquired brain disorder;
- (p) “Individual” means any person with a developmental disability or acquired brain disorder;
- (q) “Medicaid Management Information System (MMIS)” means the general system for mechanized claims processing and information retrieval recommended by the Centers for Medicare and Medicaid Services (CMS) for the implementation of the requirements of state fiscal administration pursuant to 42 CFR 433, Subpart C;
- (r) “Personal development” means supporting or increasing an individual's capacity to make choices, to communicate interests and preferences, and to have sufficient opportunities for exploring and meeting those interests;

(s) “Personal profile” means a narrative description as defined in He-M 503.02 and He-M 522.02, and developed and prepared pursuant to He-M 503 and He-M 522;

(t) “Primary staff” means staff who are regularly assigned to provide services to specific individuals;

(u) “Provider” means a person receiving any form of remuneration for the provision of services to an individual;

(v) “Provider agency” means an agency or an independent provider that is established to provide community participation services to individuals and meets the criteria in He-M 504;

(w) “Risk management plan” means a person-centered document that describes the services, supports, approaches, and guidelines to be utilized to meet the individual’s needs and mitigate risks to community safety and which is consistent with the service guarantees and protections articulated in He-M 503 or He-M 522;

(x) “Service agreement” means a written agreement between an individual, guardian, or representative and provider agency(ies) that is prepared as a result of a person-centered service planning process and that describes the services that the individual will receive and constitutes an individual service agreement as defined in RSA 171-A:2, X and developed pursuant to He-M 503 or He-M 522;

(y) “Service coordinator” means a person who meets the criteria in He-M 503 or He-M-522 and is chosen by an individual and their guardian or representative to organize, facilitate, and document service planning and to negotiate and monitor the provision of the individual’s services;

(z) “Sheltered workshop” means a program that provides a segregated service environment where the contract objectives of the provider agency are the primary focus and goal;

(aa) “Staff” means a person employed by a provider agency, subcontract agency, or other employer;

(ab) “Supports Intensity Scale Adult Version ® (SIS-A ®)” means the 2023 edition of the Supports Intensity Scale, available as noted in Appendix A, which is an assessment tool intended to assist in service planning by measuring the individual’s support needs in the areas of home living, community living, lifelong learning, employment, health and safety, social activities, and protection and advocacy. The tool uses a formal rating scale to identify the type of supports needed, frequency of supports needed, and daily support time; and

(ac) “Systematic, therapeutic, assessment, respite and treatment (START)” means the model of service supports that is intended to optimize independence, treatment, and community living for individuals with developmental disabilities and mental health needs.

He-M 507.03 Service Principles.

(a) All community participation services shall be designed to:

(1) Support the individual’s participation in a variety of integrated community activities and settings;

(2) Assist the individual to be a contributing and valued member of their community through vocational and volunteer opportunities;

(3) Meet the individual's needs, goals, and desired outcomes, as identified in their service agreement, related to community opportunities for volunteerism, employment, personal development, socialization, recreation, communication, mobility, and personal care;

(4) Help the individual to achieve more independence in all aspects of their life by learning, improving, or maintaining a variety of life skills, such as:

- a. Traveling safely in the community;
- b. Managing personal funds;
- c. Participating in community activities; and
- d. Other life skills identified in the service agreement;

(5) Promote the individual's health and safety;

(6) Protect the individual's right to freedom from abuse, neglect, and exploitation;

(7) Protect the individual's rights in accordance with He-M 310; and

(8) Provide opportunities for the individual to exercise personal choice and independence within the bounds of reasonable risks.

(b) Community participation services shall be provided in the individual's community in ways that best meet their goals and desired outcomes as described in their service agreement, ensures community integration, and does not cause the individual to be isolated.

(c) Services in (b) above shall not be provided only in the home where the individual lives.

(d) An individual, guardian, or representative may select any available provider or provider agency that is qualified pursuant to He-M 504 to deliver the community participation services identified in the individual's service agreement.

(e) All provider agencies and providers of community participation services shall:

(1) Comply with the rules pertaining to service planning, development, and provision of community participation services in He-M 310, He-M 503, He-M 504, He-M 506, He-M 507, He-M 517, He-M 521, He-M 522, and He-M 525, as applicable;

(2) Comply with the home and community-based care waiver requirements for community participation services; and

(3) Operate within the limits of funding authorized by the department.

He-M 507.04 Covered Services.

(a) All community participation services shall be designed and provided in accordance with the individual's specific needs, interests, competencies, and learning style, and in the least restrictive setting, as described in the individual's service agreement.

(b) The following services shall be covered:

(1) Instruction and assistance to learn, improve, or maintain:

- a. Social and safety skills in different community settings;
 - b. Decision-making regarding choice of and participation in community activities;
 - c. Life skills as applied to community-based activities, such as purchasing items and managing personal funds;
 - d. Good nutrition and healthy lifestyle;
 - e. Self-advocacy and rights and responsibilities as citizens;
 - f. Communication skills and abilities including non-verbal communication; and
 - g. Any other skill identified by the individual or guardian during service planning and related to the individual's participation in, or contribution to, their community;
- (2) Supports to identify and develop the individual's interests and capacities related to securing employment opportunities, including internships;
- (3) Services related to job development and on-the-job training;
- (4) Assistance in finding and maintaining volunteer positions;
- (5) Supports related to enabling the individual to explore, and participate in, a wide variety of community activities and experiences in settings that are available to the general public; and
- (6) Transportation that is:
- a. Related to community participation services, including travel from the individual's residence to locations where the community participation service activities are taking place; or
 - b. Related to community participation services, including travel from the individual's residence to employment or volunteer positions described in He-M 507.05 (c) below.

He-M 507.05 Non-Covered Services. The following services shall not be covered by community participation services funding provided by the bureau or the Medicaid home- and community-based care waiver:

- (a) Custodial care programs provided only to maintain an individual's basic welfare;
- (b) Sheltered workshops;
- (c) Employment or volunteer positions where the individual is:
 - (1) Being solely supported by persons who are not providers; and
 - (2) Not receiving any services from a provider agency at those locations;
- (d) Educational services or education programs, including those services or programs, for individuals under 22 years of age for which school districts are responsible;
- (e) Post-secondary education regardless of whether it leads to a degree; and
- (f) Private tutoring.

He-M 507.06 Certification.

(a) To be eligible for reimbursement by the bureau or by Medicaid for community participation services provided to individuals, community participation services shall be certified by the department.

(b) If a provider agency wishes to furnish community participation HCBS waiver services to 3 or more persons who have not been found eligible for HCBS waiver services, the provider agency shall be licensed as an adult day program in accordance with RSA 151 and He-P 818.

(c) An entity seeking certification or recertification to provide community participation services shall submit an application by:

- (1) Fax at (603) 271-4968;
- (2) Email at communityresidence@dhhs.nh.gov; or
- (3) Mail to:

Department of Health and Human Services
Office of Legal and Regulatory Services
Hugh J. Gallen State Office Park
129 Pleasant Street, Brown Building
Concord, NH 03301

(d) Application materials shall include the following:

- (1) A completed “Request for Certification of Community Residence and/or Individual Community Participation Services Provider” application (April 2024 edition); and
- (2) If the community participation services are provided in a centralized service site, a copy of a life safety report which shall:
 - a. Have been completed no more than 90 days prior to submission; and
 - b. Include:
 1. The name and address of the provider agency;
 2. The date of inspection and certification by the local fire inspector that the centralized service site, if applicable, complies with local fire safety codes;
 3. The maximum number of individuals authorized to receive services; and
 4. The signature, title, and professional affiliation of the local fire inspector.

(e) For a provider agency requesting initial certification, certification shall be granted for 90 days from the date the department receives all required information if the provider agency meets the requirements of, or demonstrates the capacity to meet the requirements of, He-M 507.04, He-M 507.08 (b), and He-M 507.10.

(f) An initial certification review shall be conducted at the provider agency location by the office of legal and regulatory services within 90 days of the effective date of the initial certificate for the purposes of determining whether or not the community participation services are in compliance with these rules.

(g) Initial certification shall be granted from the effective date of the initial certificate until the last day of the twelfth month following certification when the provider agency verifies that:

- (1) Any necessary corrective action has been taken; and
- (2) The services conform with all applicable rules adopted by the commissioner.

(h) For community participation services that are applying for recertification, the office of legal and regulatory services shall conduct a certification review prior to the expiration date of the certificate. The current certification shall be effective until recertification has been granted or denied or unless the current certification is revoked.

(i) A community participation service program applying for recertification shall submit a completed application 60 days prior to the expiration of the certificate.

(j) The renewal period for certificates shall be one year from the expiration date of the previous certificate.

(k) If deficiencies were cited in the inspection report, within 21 days of the date of issuance of the report the community participation service program shall submit a written plan of correction or submit information demonstrating that the deficiency(ies) did not exist. The department shall evaluate any submitted information on its merits and render a written decision on whether a written plan of correction is necessary.

(l) The department shall, within 45 days:

(1) Accept a plan of correction or other information submitted pursuant to (k) above if:

a. The plan:

1. Addresses each identified deficiency in a manner which achieves full compliance with rules cited in the inspection report;
2. Does not create another violation of statute or rule as the result of its implementation;
3. States a completion date; and
4. Identifies a plan for how each deficiency will be prevented in the future; or

b. The information submitted proves that the deficiency was cited erroneously; or

(2) Reject a plan of correction or other information submitted pursuant to (k) above that fails to meet the criteria in (1) above.

(m) If the proposed plan of correction is rejected, the department shall notify the provider agency in writing of the reason(s) for rejection.

(n) Within 10 business days of the date of the written notice under (m) above, the provider agency shall submit a revised plan of correction that includes proposed alternatives that address the reason(s) for rejection.

(o) The department shall either accept or reject the revised plan in accordance with (l) above. If the revised plan of correction is rejected, the department shall deny the certification request. The provider agency may appeal the denial pursuant to He-M 507.15.

(p) The department shall renew a certificate if it determines that:

- (1) No deficiencies exist; or
- (2) The plan of correction complies with (1) (1) a. above.

He-M 507.07 Operating Requirements.

(a) Community participation services shall:

- (1) Be provided in accordance with an individual's service agreement;
- (2) Be designed in accordance with He-M 503 or He-M 522;
- (3) Include reviewing documentation of each individual's progress with respect to goals and outcomes, as specified in their service agreement; and
- (4) Be voluntary.

(b) Any person may make a recommendation for termination of community participation services in accordance with He-M 503.

He-M 507.08 Organization and Administration.

(a) The community participation services director shall be responsible for the administration of community participation services and the hiring, training, and supervision of community participation services staff.

(b) Provider agencies shall have written policies and procedures that address the following:

- (1) The provision of covered services;
- (2) Emergency plans, which shall minimally include:
 - a. Procedures to follow while at a service site, in a vehicle, or in the community in case of:
 1. Behavioral or medical emergencies of an individual; or
 2. Fire or severe weather; and
 - b. If individuals gather at a centralized service site to receive services, an emergency evacuation plan including provisions in compliance with the following:
 1. Each individual shall be oriented to evacuation procedures upon starting services;
 2. If the service site has been evacuated in 3 minutes or less during each of 6 consecutive monthly drills, the provider agency shall thereafter conduct a drill at least once quarterly;
 3. If the service site has not been evacuated in 3 minutes or less during each of 6 consecutive monthly drills, the provider agency shall conduct monthly drills;

4. For each individual unable to evacuate in 3 minutes or less, the provider agency shall implement a specific evacuation plan;
5. Evacuation drills shall be held at varied times of the day;
6. A written record of each drill shall be kept on file by the provider agency;
7. Staff shall be trained in all aspects of evacuation procedures; and
8. Staff who conduct training pursuant to 7. above shall document such training;

(3) A policy for the administration of medication, which shall comply with the requirements of He-M 1201;

(4) A policy on individual rights in accordance with He-M 202 and He-M 310; and

(5) If individuals gather at a centralized service site to receive services, a policy which ensures compliance with applicable local and state health, zoning, building, and fire codes and requires documentation of compliance with fire codes.

(c) Record keeping shall be as follows:

(1) Records shall comply with the requirements of He-M 310, rights of individuals receiving developmental services in the community, and He-M 503.09–He-M 503.10 or He-M 522.10 – He-M 522.11, service planning and service agreements;

(2) The provider agency shall maintain a separate record for each individual and records regarding administration of services;

(3) Each individual's record shall have an administrative and a service component as described in (d) and (e) below; and

(4) Attendance records, either individual or collective, shall be kept at the administrative offices of the provider agency.

(d) The administrative component of each individual's record shall include, for that individual, at least the following:

(1) Personal and identifying information, including:

- a. Name;
- b. Address;
- c. Phone number;
- d. Photo or physical description;
- e. Date of birth;
- f. Primary language, if other than English, or communication means and level;
- g. Emergency contact;
- h. Parent or next of kin;

- i. Guardian, if applicable;
 - j. Home provider, if applicable;
 - k. Service coordinator; and
 - l. Health insurance, if any; and
- (2) A current annual health assessment.
- (e) The service component of each individual's record shall include at least the following:
- (1) A copy of the current service agreement containing:
 - a. Goals and desired outcomes that will be addressed through the individual's participation in community participation services; and
 - b. The methods or strategies for achieving the individual's goals and desired outcomes through community participation services;
 - (2) As a guide for planning activities, an individual, week-long, personal schedule or calendar that is created at the time of the annual service planning meeting and, if applicable, identifies:
 - a. The days, times, and locations of the individual's specified activities:
 - 1. Paid employment;
 - 2. Community activities, volunteerism, or internship; and
 - 3. Other regularly recurring activities, such as therapeutic activities related to communication, mobility, and personal care; and
 - b. The days and approximate times of unspecified community activities, which shall not exceed 20% of the total community participation service hours the individual receives per week;
 - (3) A record of daily community participation services activities maintained by the provider agency, including:
 - a. The name(s) of individual(s) served and names of staff supporting them;
 - b. The dates on which services were provided; and
 - c. Activities that took place and the locations of the activities;
 - (4) Narrative progress notes, and other service documentation as specified in the service agreement, recorded at least monthly, and addressing:
 - a. The individual's goals, desired outcomes, and actual outcomes from participation in community participation services; and
 - b. Other activities related to the individual's support services, health, interests, achievements, and relationships;
 - (5) The individual's medical status, including current medications, known allergies, and other pertinent health care information;

(6) Results of any screenings or evaluations that have been conducted, including:

- a. The SIS-A ®, available as noted in Appendix A;
- b. Vocational assessments;
- c. Results of any assistive technology assessments;
- d. The HRST, available as noted in Appendix A;
- e. START in-depth assessments and crisis plans; and
- f. Risk management plans; and

(7) For each individual for whom medications are administered during community participation services, medication log documentation pursuant to He-M 1201.07.

(f) Records of service operations shall include the following:

- (1) A register of current and prior individuals who received community participation services, including termination dates when applicable;
- (2) A daily census;
- (3) Documentation of all incident reports as defined in He-M 202.02 (o);
- (4) Evacuation drill records, if there is a centralized service site; and
- (5) Copies of emergency plans.

(g) Provider agencies shall have personal injury liability insurance for the staff and providers and for vehicles used to transport individuals. Proof of insurance shall be on file at the provider agency premises.

He-M 507.09 Oversight and Quality Improvement.

(a) The community participation services director shall:

- (1) Be responsible for providing oversight; and
- (2) Evaluate, facilitate, and improve the quality of services being delivered and outcomes achieved.

(b) Each individual's service coordinator shall provide oversight regarding the community participation services as outlined in the service arrangement and review and facilitate the effectiveness of the community participation services being provided and outcomes achieved.

(c) In fulfilling the responsibilities cited in (a) and (b) above, the community participation services director and service coordinator shall determine whether the following criteria are being met and, if not, take appropriate action:

- (1) Services are customized and meet the interests, goals, and desired outcomes of the individual, as defined in the service agreement;
- (2) Goals reflect the individual's growth and evolving interests and are revised accordingly;

- (3) The goals and desired outcomes identified in the service agreement are being achieved;
- (4) Staff are knowledgeable of the individual's service agreement as it pertains to community participation services and are assisting in meeting the desired goals and outcomes;
- (5) Services occur in integrated settings;
- (6) Methods or strategies for achieving the individual's goals and desired outcomes through participation in community participation services are evident and documented;
- (7) An individual week-long personal schedule or calendar is present; and
- (8) Individuals, and guardians if applicable, are satisfied with services.

He-M 507.10 Staff and Provider Qualifications.

(a) Community participation services staff and providers shall possess professional backgrounds and competencies such that the needs of the individuals who receive community participation services can be met.

(b) All persons who provide community participation services shall be at least 18 years of age.

(c) Prior to a person providing community participation services to individuals, the provider agency, with the consent of the person, shall complete the necessary registry, criminal background, and office of the inspector general exclusion list checks in accordance with He-M 504.03.

(d) Prior to a person providing community participation services to individuals, the provider agency, with the consent of the person, shall:

- (1) Obtain at least 2 references for the person; and
- (2) Complete a motor vehicles record check to ensure that the person has a valid driver's license if such provider will be transporting individuals.

He-M 507.11 Staff and Provider Training.

(a) Prior to delivering community participation services to an individual, the provider agency shall orient staff and providers to the needs and interests of the specific individuals they serve, in the following areas:

- (1) Rights and safety;
- (2) Health-related requirements including those related to:
 - a. Current medical conditions, medical history, and routine and emergency protocols; and
 - b. Any special nutrition, dietary, hydration, elimination, or ambulation needs;
- (3) Any communication needs;
- (4) Any behavioral supports;

- (5) The individuals' service agreements, including all goals and desired outcomes and methods or strategies to achieve the goals and desired outcomes; and
 - (6) The community participation services' evacuation procedures, if applicable.
- (b) Provider agencies shall:
- (1) Assign staff to work with an experienced staff member, not less than 16 hours, during their orientation if they have had no prior experience providing services to individuals;
 - (2) Train staff in accordance with (c) below within the first 6 months of employment; and
 - (3) Provide staff with training in accordance with their annual individual staff development plans.
- (c) A provider agency shall train staff in the following areas within the first 6 months of employment:
- (1) An overview of developmental disabilities and acquired brain disorders, which shall include:
 - a. An overview of the different types of disabilities and their causes;
 - b. An overview of the local and state service delivery system; and
 - c. An overview of professional services and technologies including therapies, assistive technologies, and environmental modifications necessary to achieve individuals' goals in the community, in the workplace, in recreation or leisure activities, and at home;
 - (2) An overview of conditions promoting or detracting from the quality of life that individuals enjoy, which shall:
 - a. Aid staff to develop an understanding of the stigmas, negative labels, and common life experiences of people with disabilities; and
 - b. Aid staff to gain the competencies necessary to:
 1. Support individuals to obtain and maintain valued social roles;
 2. Support individuals to build relationships with their families, neighbors, co-workers, and other community members;
 3. Create and enhance opportunities for individuals to:
 - (i) Increase their presence in the life of their local communities; and
 - (ii) Increase the ways in which they contribute to their communities;
 4. Support individuals to have as much control as possible over their own life;
 5. Build individuals' skills, strengths, and interests that are functional and meaningful in natural community environments; and
 6. Create conditions that provide opportunities for individuals to experience and participate in a wide range of community organizations and resources;
 - (3) Methods to assist individuals with challenging behaviors utilizing positive behavioral supports;

- (4) Techniques to:
 - a. Facilitate social relationships; and
 - b. Enhance skills that improve everyday living and promote independence;
- (5) Basic health and safety practices related to:
 - a. Personal wellness;
 - b. Success in living, working, and recreating in the community; and
 - c. An understanding of the importance of common signs and symptoms of illness; and
- (6) Skills necessary to support individuals to:
 - a. Make their own decisions;
 - b. Advocate for themselves; and
 - c. Create their own social networks.

He-M 507.12 Prior Authorization of Community Participation Services.

(a) In order to receive community participation services, an individual shall have a service agreement that includes the goals and desired outcomes addressed through the provisions of community participation services and either:

- (1) Be eligible for developmental services and the developmental disabilities waiver in accordance with He-M 503.05; or
- (2) Be eligible for acquired brain disorder services and the acquired brain disorder waiver in accordance with He-M 522.05.

(b) An agency intending to provide community participation services to an individual through the medicaid program shall request prior authorization using the procedure outlined in He-M 517.08.

He-M 507.13 Denial or Revocation of Certification.

(a) The department shall deny an application for certification or issue a notice of intent to revoke certification, following written notice pursuant to (b) below and opportunity for a hearing pursuant to He-C 200, due to any of the following reasons:

- (1) Any reported abuse, neglect, or exploitation of an individual by an applicant, provider, provider agency, or community participation services staff, if such abuse, neglect, or exploitation is reported on the state registry of abuse, neglect, and exploitation in accordance with RSA 161-F:49 or RSA 169-C:35;
- (2) Except as provided in He-M 504.03(k)-(l), any applicant, provider, provider agency, or community participation services staff for whom He-M 504.03(j)(1) or (2) is true;

- (3) A provider agency fails to conduct criminal records check on all persons who are paid to provide services under He-M 507;
 - (4) An applicant, provider, provider agency, or community participation services staff has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the provider agency to comply with department rules and the provider agency failed to take appropriate action to address and respond;
 - (5) An applicant or provider agency, or any representative or employee thereof, knowingly provides materially false or misleading information to the department;
 - (6) An applicant or provider agency, or any representative or employee thereof, fails to permit or interferes with any inspection or investigation by the department;
 - (7) An applicant or provider agency, or any representative or employee thereof, fails to provide required documents to the department or entities acting on its behalf;
 - (8) At an inspection the applicant or provider agency is not in compliance with RSA 171-A or He-M 507 or other applicable federal and state rules and requirements; or
 - (9) As a result of certification review, the applicant or provider agency or certificate holder is not in compliance with RSA 171-A or He-M 507 or other applicable federal and state rules and requirements and:
 - a. The applicant or provider agency failed to fully implement and continue to comply with a plan of correction that has been accepted by the department in accordance with He-M 507.06 (l); or
 - b. The applicant or provider agency has submitted a revised plan of correction that has been rejected by the department in accordance with He-M 507.06 (o).
- (b) Certification shall be denied or revoked upon the written notice by the department to the applicant or provider agency stating the specific rule(s) with which the provider agency does not comply.
- (c) Any applicant or provider agency aggrieved by the denial or revocation of certification may request an adjudicative proceeding in accordance with He-M 507.15. The denial or revocation shall not become final until the period for requesting an adjudicative proceeding has expired or, if the applicant or provider agency requests an adjudicative proceeding, until such time as the administrative appeals unit issues a decision upholding the department's action.
- (d) Pending compliance with all requirements for certification specified in the written notice made pursuant to (b) above, a provider agency shall not accept additional individuals if a notice of revocation has been issued concerning a violation which presents potential danger to the health or safety of the individuals being served.
- (e) If certification has been revoked, the provider agency shall transfer all individuals to another appropriately certified community participation service program within 10 days of certificate revocation becoming final in accordance with (c) above and He-M 504.

He-M 507.14 Immediate Suspension of Certification.

- (a) Notwithstanding the provision of He-M 507.13(c), in the event that a violation poses an immediate and serious threat to the health or safety of an individual, the department shall, in accordance

with RSA 541-A:30, III, suspend a provider agency's certification immediately upon issuance of written notice specifying the reasons for the action.

(b) The department shall schedule and hold a hearing within 10 business days of the suspension for the purpose of determining whether to revoke or reinstate the provider agency's certification. The hearing shall provide opportunity for the provider agency whose certification has been suspended to demonstrate that it has been, or is, in compliance with the specified requirements.

He-M 507.15 Appeals.

(a) An applicant for certification or provider agency may request a hearing regarding a proposed revocation or denial of certification, except as provided in He-M 507.14 above.

(b) Appeals shall be submitted, in writing, to the bureau administrator in care of the department's office of client and legal services within 10 days following the date of the notification of denial or revocation of certification.

(c) The bureau administrator or their designee shall immediately forward the appeal to the department's administrative appeals unit which shall assign a presiding officer to conduct a hearing, as provided in He-C 200. The burden of proof shall be as required in He-C 203.14.

He-M 507.16 Prior Authorization and Payment.

(a) In order to receive medicaid reimbursement for community participation services, provider agencies shall submit claims for payment:

- (1) Through the MMIS system at, <https://nhmmis.nh.gov/portals/wps/portal/ProviderLogin>; or
- (2) Through paper claim submission to:

NH Medicaid Claims Unit
P.O. Box 2003
Concord, NH 03302-2003

(b) Payment for Medicaid waiver services shall only be made if prior authorization has been obtained from the bureau pursuant to He-M 517.

(c) Requests for prior authorization shall be made:

- (1) Via the electronic database at <https://nheasy.nh.gov/#/>; or
- (2) In writing to:

Division of Long Term Supports and Services
Bureau of Developmental Services
State Office Park South
105 Pleasant Street
Concord, NH 03301

He-M 507.17 Waivers.

(a) An applicant, provider agency, individual, guardian, or provider may request a waiver of specific procedures outlined in He-M 507 using the form titled “NH bureau of developmental services waiver request” (October 2023). The waiver request shall be submitted in writing to the bureau administrator.

(b) A completed waiver request form shall be signed by:

- (1) The individual or guardian indicating agreement with the request, if applicable; and
- (2) The provider agency’s executive director or designee recommending approval of the waiver, when the waiver is requested by a provider agency.

(c) A waiver request shall be submitted via:

- (1) Email to bds@dhhs.nh.gov; or
- (2) Mail to:

Department of Health and Human Services
The Bureau of Developmental Services
Hugh J. Gallen State Office Park
105 Pleasant Street, Main Building
Concord, NH 03301

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

(e) The request for a waiver shall be granted by the commissioner or their designee within 30 days if the alternative proposed by the requesting entity meets the objective or intent of the rule and it:

- (1) Does not negatively impact the health or safety of the individual(s); and
- (2) Does not affect the quality of services to individuals.

(f) Upon receipt of approval of a waiver request, the requesting entity’s subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which waiver was sought.

(g) Waivers shall be granted in writing for the minimum period necessary to accommodate the waiver request, with the specific duration not to exceed 5 years except as in (h) and (i) below.

(h) Those waivers which relate to other issues relative to the health, safety, or welfare of individuals that require periodic reassessment shall be effective for the current certification period only.

(i) Any waiver shall end with the closure of the related program or service.

(j) A requesting entity may request a renewal of a waiver from the bureau. Such request shall be made at least 90 days prior to the expiration of a current waiver.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-M 507.02(n) & He-M 507.08(e)(6)d.	Health Risk Screening Tool (HRST) (2015 edition)	Publisher: IntellectAbility Cost: 1–100 consumers = \$699.00 each; 1–200 consumers = \$899.00 each; 1–1000 consumers = \$999.00 each The incorporated document is available at https://replacingrisk.com/
He-M 507.02(z) & He-M 507.08(e)(6)a.	Supports Intensity Scale Adult Version ® (2023 edition)	Publisher: American Association on Intellectual and Developmental Disabilities (AAIDD) Cost: \$115 The incorporated document is available at: https://www.aidd.org/sis

APPENDIX B

Rule	State/Federal Authority
He-M 507.01 – 507.12	RSA 171-A:18; I, II; RSA 137-K:9
He-M 507.08	RSA 171-A:18; I, II; RSA 137-K:9;
He-M 507.09 – 507.12	RSA 171-A:18; I, II; RSA 137-K:9
He-M 507.13	RSA 171-A:18; I, II; RSA 541-A:29, 30, II; RSA 137-K:9
He-M 507.14	RSA 171-A:18; I, II; RSA 541-A:30, III; RSA 137-K:9
He-M 507.15	RSA 171-A:18; I, II; RSA 541-A:31, III; RSA 137-K:9
He-M 507.16	RSA 171-A:18; I, II; RSA 137-K:9
He-M 507.17	RSA 171-A:18; I, II; RSA 541-A:22, IV; RSA 137-K:9