



# State of New Hampshire

DEPARTMENT OF HEALTH AND HUMAN SERVICES

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JEFFREY A. MEYERS  
COMMISSIONER

July 8, 2019

His Excellency, Governor Christopher T. Sununu  
State House  
107 North Main Street  
Concord, New Hampshire 03301

The Honorable Donna M. Soucy  
State House, Room 302  
107 North Main Street  
Concord, New Hampshire 03301

The Honorable Steve Shurtleff  
State House  
107 North Main Street  
Concord, New Hampshire 03301

*Re: Determination and Findings Relative to the Granite Advantage Community Engagement Requirement*

Dear Governor Sununu, President Soucy and Speaker Shurtleff:

In accordance with the provisions of Senate Bill 290, now codified at RSA 126-AA:2, X, I am notifying you of my decision to temporarily waive the application of the community engagement requirement for the beneficiaries of the Granite Advantage program for the period of June 1 to September 30, 2019 for the reasons described below. This action, which effectively delays the implementation of the work and community engagement requirement, is consistent with Paragraph 18 of the final terms and conditions of Waiver No. 11-W-00298/1 issued by the Centers for Medicare and Medicaid Services (CMS) on November 30, 2018 for the Granite Advantage program that permits the state upon thirty days prior notice to CMS to choose the implementation date for this requirement.

A. Findings In Support of Decision to Temporarily Waive the Application of the Community Engagement Requirement

1. The changes to the Community Engagement requirement represent an unforeseen circumstance that will impact the administration of the program and that will more likely than not lead to persons losing coverage. This finding is made pursuant to RSA126-AA:2,X (f).

Senate Bill 290 makes several changes to the exemptions and qualifying activities of the community engagement requirement that are applied only prospectively upon enactment and would

significantly effect the administration of the program. SB 290 changes the exemption for parents or caretakers of a child from a child age 6 to a child age 12. It also changes the qualifying activities to explicitly include self-employment and, for the first time, to include participation in recovery activities and mental health treatment. The bill also now categorically exempts persons with an ADA disability regardless of whether their disability would impact compliance with the community engagement requirement.

These changes made by SB 290 were enacted very late in the first month of compliance for the program and must now be incorporated into the Department's eligibility system through multiple software updates that require extensive testing to ensure accuracy. This process takes weeks to complete. It is impractical, if not impossible, to implement these changes manually. As a result of the Department's inability to effectuate these changes into the eligibility system until sometime in August, thousands of beneficiaries could receive notices that they are at risk for suspension or are suspended even though they are now exempt under the SB 290 changes. For example, there are approximately 2000 additional parents or caretakers of minor children who will now be exempt as a result of raising the threshold for the exemption from age 6 to 12. But there is no ability to code that change prior to August 1<sup>st</sup>. As a result, many parents who are now coded as mandatory and are subject to the requirement will, in fact, be exempt. The eligibility system, however, will not recognize that change prior to the issuance of a suspension letter for those parent or caretakers of children between 7 and 12 who did not otherwise satisfy the requirement for June and/or July.

The Department must also amend its administrative rules to reflect the changes made to exemptions and qualifying activities. This too is a process that will take additional time and impacts the administration of the program. In amending the community engagement requirement, the legislature did not relieve the Department from having accurate rules in place.

2. Despite extensive efforts, the Department requires additional time to effectively communicate with a significant number of Granite Advantage beneficiaries regarding the community engagement program in accordance with the Administrative Rule He-W 837(c). This finding is made pursuant to RSA 126-AA:2,X (a).

The Granite Advantage rules require the department to provide both "information and assistance" to the Granite Advantage population with respect to every material element of the community engagement program. SB 290 now takes this requirement a step further and suggests that the Department "directly counsel" Granite Advantage beneficiaries. SB 290 also requires the Department to apply for an amended waiver from CMS incorporating all the changes to the program made by the legislation, including a revised retroactive coverage waiver. Providing information and assistance alone to the Granite Advantage members will require a delay in implementing the community engagement requirement.

Starting last summer, the department has undertaken multiple efforts to explain the program, including 11 public information sessions, sustained advertisements on radio and social media, over 50,000 telephone calls, counseling sessions in each of the department's 11 district offices, and four separate letters to beneficiaries. Exemption and other forms were distributed to providers to facilitate interactions with their patients. In recent days, teams of state employees have travelled door to door in selected locations in the state to speak with persons from whom we have not received information.

These considerable efforts did not result in the type and volume of personal contact that would help ensure the success of the program. Of the 50,000 plus phone calls made, less than 10% of those called answered their phone; and only 10% of that number were able to provide identifying information that enabled the department to discuss personal health information. The district office sessions held three times per week for two months drew less than 500 persons. Of the 1,200 home visits to date, less than 150 persons were able to be approached.

Despite these efforts, and notwithstanding the ability for beneficiaries to provide information regarding qualifying activities and exemptions in person, over the phone or by facsimile, online and at the 11 department district offices, the department has no information on the compliance status of approximately 17,000 beneficiaries who are mandatory for the program in the month of June. Clearly, there needs to be a continuing effort by the department, its managed care organizations who serve this population and other providers in order to educate the beneficiaries and implement the program in order that it does not result in the unintended loss of coverage for thousands of beneficiaries.

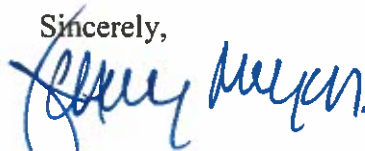
**B. Ongoing Efforts and Future Steps**

The Department will continue its ongoing efforts to communicate with all beneficiaries as required, including utilizing the managed care organizations and other providers. The Department will also proceed to develop and submit changes to the Granite Advantage Waiver as required by SB 290 and submit an amendment to the program's administrative rules.

**C. Conclusion**

Based on the foregoing findings, I am exercising authority provided in Senate Bill 290 to waive the application of the community engagement requirement for the 4-month period of June 1 through September 30, 2019. The waiver of retroactive eligibility that was implemented on January 1, 2019 remains in place and is unaffected by this determination, pending the Department's application to CMS for a modification of that waiver in accordance with Senate Bill 290. Separate notice will be made to CMS that the implementation of the community engagement requirement will be delayed consistent with this determination.

Sincerely,



Jeffrey A. Meyers  
Commissioner