RULEMAKING NOTICE FORM

Notice Number	**2017-90**	Rule Number	**He-C 1501-He-C 1504**

1. Agency Name & Address:	2. RSA Authority: **RSA 126:27 and RSA 126:28**
Dept. of Health & Human Services **Bureau of Health Statistics and Data Mgmt.** **29 Hazen Drive** **Concord, NH 03301**	3. Federal Authority: 4. Type of Action: Adoption Amendment Repeal Readoption **X** Readoption w/amendment **X**

5. Short Title: **Data Submission and Release of Health Care Facility Discharge Data**

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

He-C 1501-1504 "Data Submission and Release of Health Care Facility Discharge Data" are currently interim rules which are scheduled to expire on September 18, 2017. He-C 1501-1504 set forth the data collection and release standard for health care facility discharge data in accordance with RSA 126:25 and RSA 126:28. The rules require that payment of a user fee be assessed to persons requesting copies of data or statistical information filed with the Department. Any cost associated with the user fee is mandated by RSA 126:30.

The Department of Health and Human Services (Department) proposes to readopt He-C 1501-1504 with amendments to He-C 1502-1504 including those listed below:

- **Updating definitions for "Confidential data set" and "Limited use data set;"**
- **Adding to the list of required data elements.**
- **Removing the requirement for facilities to report patient names as better statistical techniques now make it possible to conduct public health surveillance and to monitor changes in health care costs over time without requiring patient name;**
- **Changing submission deadlines to be submitted quarterly instead of monthly as required in the existing rule;**
- **Deleting existing He-C 1503.10 relating to automated submission;**
- **Amending existing He-C 1503.13 relating to a primary language code set and renumbering the rule as He-C 1503.11;**
  - **Amending He-C 1504 to:**
    - **Describe the Part as relating to requests for the release of health care facility data discharge data sets;**
    - **Describe public use data sets and require records of their release to be available for public inspection;**
    - **Describe limited data use sets and require a written data use agreement for access to them;**

- **Describe the process for requesting limited data use sets, and update the elements included in limited data use sets;**

- . (b) Brief description of the groups affected:
- **The proposed rules affect those entities collecting and releasing discharge data or statistical information obtained from health care facilities in accordance with RSA 126:25 and RSA 126:28. The proposed rules also affect those seeking to obtain released data or information subject to the mandated user fee.**

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

Rule Section	**Statute Implemented**
He-C 1501.01	RSA 126:25, RSA 126:27
He-C 1502.01	RSA 126:25, RSA 126:27, RSA 151:2, 45 CFR 164.514
He-C 1503.01-1503.11	RSA 126:25, 45 CFR 162, RSA 91-A: 10 IV
He-C 1504.01	RSA 126:25; 45 CFR 46; RSA 125:28
He-C 1504.02	RSA 126:28; 45 CFR 46
He-C 1504.03	RSA 126:28; 45 CFR 46, RSA 126:24 -e
He-C 1504.04	RSA 91-A:10; RSA 126:28; 45 CFR 46
He-C 1504.05	RSA 126:30
He-C 1504.06	RSA 126:30
He-C 1504.07	45 CFR 46; RSA 126:30
He-C 1504.08	45 CFR 46

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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.gov**

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, July 27, 2017**

☒Fax ☒E-mail ☐Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, July 20, 2017 at :2:00 p.m.**

Place: **DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**

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

FIS # **17:089** , dated **6/22/17**

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**
   There is no cost when comparing the proposed rules to the existing rules.
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):**

   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 rules modify an existing program or responsibility but 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-C 1500 DATA SUBMISSION AND RELEASE OF HEALTH CARE FACILITY DISCHARGE DATA

Statutory Authority: RSA 126:27

Readopt He-C 1501, effective 3/22/17 (Document #12139, Interim), to read as follows:

PART He-C 1501 PURPOSE AND SCOPE

He-C 1501.01 Purpose and Scope. This chapter contains the provisions for submission and release of health care facility discharge data from acute care hospitals, specialty hospitals, freestanding hospital emergency facilities, and walk-in urgent care centers.

Readopt with amendment He-C 1502-1504, effective 3/22/17 (Document #12139, Interim), to read as follows:

PART He-C 1502 DEFINITIONS

He-C 1502.01 Definitions.

~~(a) "Acute care hospital" means a health care facility that is licensed by the state of New Hampshire under RSA 151:2 as a general hospital.~~

~~(b~~ (a) "Agent" means a person engaged under contractual agreement with the department for the performance of services pursuant to RSA 126:25.

(~~c~~b) "Cell size" means the count of patients that share a set of characteristics in a statistical table.

(~~d~~c) "Clinical data" means the health care, hospital and non-hospital health care facility data, and all other data collected in accordance with the rules adopted pursuant to RSA 126:27.

(~~e~~d) "Commissioner" means the commissioner of the New Hampshire department of health and human services or his or her designee.

(~~f~~e) "Confidential ~~data~~Data Set" means individual or collective data elements contained in the data set that:

(1) ~~Have not been revealed previously to the general public; and~~

~~(2)~~ Directly identify a patient~~.~~; and

~~(g) "Confidential research data set" means a data set available~~(2) Available for research, subject to the provisions in He-C 1504.~~05 below, which contains confidential data and does not contain information that can be used to directly identify individual health care practitioners.~~04.

(~~h~~f) "Data" mean factual information used as a basis for calculating or measuring.

(~~i~~g) "Data set" means a collection of individual data records.

(~~j~~h) "Database" means a collection of data organized especially for search and retrieval.

(~~k~~i) "Department" means the New Hampshire department of health and human services.

(~~l~~j) "Direct patient identifiers" means ~~any~~an individual's health information~~, other than information used to create anonymous~~ that is created or ~~encrypted data,~~received by a health care provider related to the provision of health care by a covered entity that ~~plainly discloses~~ identifies or could reasonably identify the ~~identity of an~~ individual~~.~~. The identifiers including, but not limited to, ~~those data elements~~that are considered protected health information (PHI) are specified in ~~RSA 91-A:10, I(e~~45 CFR 164.514 (2)(i).

(~~m~~k) "Disclosure" means the communication of clinical data to a person not already in possession of that information.

(~~n~~l) "Element" means a constituent part of a database to which values can be assigned.

~~(o) "Freestanding hospital emergency facility" means a health care facility that is licensed by the state of New Hampshire under RSA 151:2 as a freestanding hospital emergency facility.~~

~~(p~~ (m) "Health care data" means information consisting of, or derived directly from patient discharge data. "Health care data" does not include analysis, reports, or studies ~~containing information from health care data sets,~~ if those analyses, reports, or studies have already been released in response to another request for information or as part of a general distribution of public information by the department.

(~~q~~n) "Health care facility" means, in this chapter, a public or private, proprietary or not-for-profit entity or institution providing health services licensed under RSA 151:2 that is an:

(1) Acute care hospital;

(2) Specialty hospital;

(3) Freestanding hospital emergency facility; ~~or~~

(4) Walk-in urgent care center; or~~.~~

~~(r~~(5) Ambulatory surgical center.

(o) "Health care practitioner" means physicians and all persons licensed or registered as a health care provider in the state of New Hampshire including, but not limited to:

(1) Nurses;

(2) Podiatrists;

(3) Optometrists;

(4) Pharmacists;

(5) Chiropractors;

(6) Physical therapists;

(7) Dentists;

(8) Psychologists;

(9) Licensed clinical social workers;

(10) Marriage and family therapists;

(11) Professional counselors; and

(12) Physician~~s'~~ assistants.

(~~s~~p) "Indirect patient identifier" means information that used in conjunction with another data set that contains direct patient identifiers which could identify patients, but used alone do not identify patients, including:

(1) All geographic subdivisions of New Hampshire or any state or province, including census tracts, blocks, and block groups, cities, towns, and zip codes, except county or areas made up of 10 or more municipalities; and

(2) All elements of dates, except year, for dates related to a patient, including birth date, admission date, discharge date, date of death, and all ages over 89 and all elements of dates, including year, indicative of such age, except that such elements may be aggregated into a single category of age 90 and older.

(~~t~~q) "Inpatient acute care discharges" means records or data from discharges of patients who are admitted to a health care facility and are coded as "Inpatient" as described in He-C 1503.04(a)(5), "type of bill".

(~~u~~r) "Limited ~~use research data set~~use data set" means a limited set of identifiable patient information as defined in the ~~P~~privacy ~~R~~regulations issued under the "Health Insurance Portability and Accountability Act," better known as "HIPAA". A "Limited ~~U~~use ~~D~~data ~~S~~set" of information includes ~~means~~ a data set available for ~~research~~the purposes of public health, or health care operations, subject to ~~provisions in~~ He-C 1504.~~04 below, from which all direct patient identifiers have been encrypted in such a way as to not allow direct identification and that does not contain information that can be used to directly identify individual health care practitioners.~~03.

(~~v~~s) "Patient" means any person in a data set that is the subject of the activities of the ~~claim~~hospital discharge or visit performed by the health care provider.

(~~w~~t) "Principal investigator" means the person in charge of a project that makes use of ~~limited use research or research health care claims data sets~~confidential data sets. The principal investigator is the custodian of the data and is responsible for the observance of all conditions of use and for establishment and maintenance of security arrangements to prevent unauthorized use.

(~~x~~u) "Provided by law" means use and disclosure as permitted or required by New Hampshire state law governing programs or activities undertaken by the state or its agencies, or required by federal law or regulations.

(~~y~~v) "Public ~~use data set~~use data set" means a data set which contains no confidential data, and from which all known direct or indirect identifiers about individual patients, health care practitioners and employers or purchaser groups have been removed, and that contains the data elements specified in He-C 1504.02 below.

(~~z~~w) "Release" means to make all or part of the ~~claims~~discharges data set available for inspection and analysis to persons other than the department.

~~(aa) "Specialty hospital" means a health care facility licensed by the state of New Hampshire under RSA 151:2 as a specialty hospital that is engaged in providing psychiatric, substance abuse, physical rehabilitation, long term acute care, or other services to patients under the supervision of a physician.~~

~~(ab~~ (x) "Statistical table" means single or multivariate counts based on the information contained in a data set and which does not include any direct identifiers.

~~(ac) "Walk-in urgent care center" means a health care facility licensed under RSA 151:2 by the state of New Hampshire as part of a larger general hospital, freestanding hospital emergency facility, or outpatient clinic that provides patients access to prompt medical care for minor illnesses or injury without an appointment.~~

PART He-C 1503 HEALTH CARE FACILITY DISCHARGE DATA SET SUBMISSION REQUIREMENTS

He-C 1503.01 Licensed health Care Facilities Required to Submit Discharge Data ~~Sets~~. All health care facilities defined in He-C 1502.01(~~q~~n) shall be required to submit discharge data ~~sets~~.

He-C 1503.02 Health Care Data ~~Set~~ Submission Description. ~~Beginning with discharges occurring on January 1, 2010, and continuing at least quarterly thereafter, health~~Health care facilities shall submit to the department, or its agent, ~~a~~ completed health care data ~~set~~ for all patient

discharges. Each health care facility shall also ensure submittal of all health care data processed by any sub-contractor or other third party on its behalf.

He-C 1503.03 General Requirements for Data ~~Set~~ Submission.

(a) Health care facilities shall submit data to the department, or its agent, as standard ~~claims~~ transactions in a format compliant with ~~the Official UB-04 Data Specifications Manual published by the National Uniform Billing Committee.~~ :

(1) The "Official UB-04 Data Specifications Manual", Version10 (Posted July 2015), published by the National Uniform Billing Committee (NUBC) available as listed in Appendix A; or

(2) The "1500 Health Insurance Claim Form Reference Instruction Manual", Version 4.0 (Posted July, 2016), published by the National Uniform Claim Committee (NUCC) available as listed in Appendix A.

(b) Unless otherwise specified in He-C 1503.04~~, the~~ :

(1) The "Official UB-04 Data Specifications Manual",Version10 (Posted July 2015) published by the National Uniform Billing Committee (NUBC) available as listed in Appendix A, shall be the code source to be utilized for discharge data submission~~.~~; or

(2) The "1500 Health Insurance Claim Form Reference Instruction Manual", Version 4.0 (Posted July, 2016), published by the National Uniform Claim Committee (NUCC) available as listed in Appendix A, shall be the code source to be utilized for discharge data submission.

(c) Unless otherwise specified in He-C 1503.04, data elements shall be required as defined by:

(1) ~~the~~The UB-04 reporting standard in the "Official UB-04 Data Specifications Manual~~.~~", Version10 (Posted July 2015), published by the National Uniform Billing Committee (NUBC) available as listed in Appendix A; or

(2) The "1500 Health Insurance Claim Form Reference Instruction Manual", Version 4.0 (Posted July, 2016), published by the National Uniform Claim Committee (NUCC) available as listed in Appendix A.

(d) Data submissions shall be made using the ANSI ASC X12N 837i or ANSI ASC X12N 837p Version 5010, effective January 1, 2012, available as listed in Appendix A, electronic file format pursuant to 45 CFR 162.

(e) Data submissions shall be made to the department or its agent utilizing ~~secure socket layer (SSL) protocol. E-mail attachments and paper submissions shall not be acceptable.~~Secure File Transfer Protocol (SFTP),

He-C 1503.04 Required Data Elements.

(a) The following elements from the UB-04 reporting standard shall be submitted as follows:

(1) UB-04 Form Locator 01, "billing provider name, address and telephone number";

(2) UB-04 Form Locator 02, "pay-to name and address";

(3) UB-04 Form Locator 03a, "patient control number";

(4) UB-04 Form Locator 03b, "medical/health record number", which shall be required on all ~~claims~~discharges;

(5) UB-04 Form Locator 04, "type of bill";

(6) UB-04 Form Locator 05, "federal tax ID number";

(7) UB-04 Form Locator 06, "statement covers period";

(8) UB-04 Form Locator ~~08~~09, "patient ~~name/identifier", which shall:~~address";

~~a. Be encrypted using a standard methodology and software provided by the department or its agent before submission to the department or its agent; and~~

~~b. Be divided into 4 distinct components of patient last name, patient first name, patient middle name, and patient generational identifier suffix, all provided in upper case prior to encryption;~~

(9) UB-04 Form Locator ~~09, "patient address";~~

~~(10) UB-04 Form Locator~~ 10, "patient birth date";

(10) UB-04 Form Locator 11, "patient sex";

(11) UB-04 Form Locator ~~11, "patient sex";~~

~~(12) UB-04 Form Locator~~ 12, "admission/start of care date", which shall be required on all ~~claims~~inpatient discharges;

(~~13~~12) UB-04 Form Locator 13, "admission hour", which shall be required on all ~~claims~~inpatient discharges;

(~~14~~13) UB-04 Form Locator 14, "priority (type) of visit~~";~~," which shall be required on all inpatient discharges;

(~~15~~14) UB-04 Form Locator 15, "point of origin for admission or visit~~";~~", which shall be required on all inpatient discharges;

(~~16~~15) UB-04 Form Locator 16, "discharge hour", which shall be required on all inpatient ~~and observation stay claims~~discharges;

(~~17~~16) UB-04 Form Locator 17, "patient discharge status";

(~~18~~17) UB-04 Form Locator 18 through 28, "condition codes", which shall:

a. Be submitted as recorded; and

b. Be collected, recorded, and submitted where applicable for:

1. 02 = Condition is Employment-Related; and

2. P1 = Do Not Resuscitate Order (DNR);

(~~19~~18) UB-04 Form Locator 31 through 34, "occurrence codes and dates 1 – 4", which shall:

a. Be submitted as recorded; and

b. Be collected, recorded, and submitted where applicable for 04 = Accident/employment related date;

(19) UB-04 Form Locator 35 through 36, "occurrence span code and dates;

(20) UB-04 Form Locator 39 through 41, "value codes and amounts", which shall:

a. Be submitted as recorded; and

b. Be collected, recorded, and submitted where applicable for~~:~~ "Newborn Birth Weight in Grams" (value shall be coded as 54);

~~1. 54 = Newborn Birth Weight in Grams; and~~

~~2. P0 = For newborns, mother's medical record number;~~

(21) UB-04 Form Locator 42, "revenue code";

(22) UB-04 Form Locator 44, "HCPCS or CPT/accommodation rates/HIPPS rate codes", except the length limit shall not apply;

(23) UB-04 Form Locator 45, "service date";

(24) UB-04 Form Locator 46, "service units";

(25) UB-04 Form Locator 47, "total charges";

(26) UB-04 Form Locator 50, "payer name", except the length limit shall not apply;

(27) UB-04 Form Locator 51, "health plan identification number";

(28) UB-04 Form Locator 56, "national provider identifier – billing provider";

(29) UB-04 Form Locator 57, "other, ~~(~~billing,~~)~~ provider identifier";

(30) UB-04 Form Locator 59, "patient's relationship to insured";

(31) UB-04 Form Locator 64, "document control number";

(32) UB-04 Form Locator 65, "employer", which shall:

a. When the employer is not known, be recorded as "UNKNOWN"; and

b. When not employed, be recorded as "NA.";

(33) UB-04 Form Locator 66, "diagnosis and procedure code qualifier";

(34) UB-04 Form Locator 67, "principal diagnosis code and present on admission indicator" which for the present on admission (POA) element shall only be recorded on inpatient acute care discharges;

(35) UB-04 Form Locator ~~67A-Q~~67a-q, "other diagnosis codes and present on admission indicator" which for the POA element shall only be recorded on inpatient acute care discharges;

(36) UB-04 Form Locator 69, "admitting diagnosis code";

(37) UB-04 Form Locator ~~70A-C~~70a-c, "patient's reason for visit";

(38) UB-04 Form Locator ~~72A-C~~72a-c, "external cause of injury code (ECI) and present on admission indicator", which shall be reported in order for every applicable principal and other diagnoses;

(39) UB-04 Form Locator 74, "principal procedure code and date";

(40) UB-04 Form Locator ~~74A-E~~74a-e, "other procedure codes and dates";

(41) UB-04 Form Locator 76, "attending provider name and identifiers";

(42) UB-04 Form Locator 77, "operating physician name and identifiers";

(43) UB-04 Form Locator 78 and 79, "other provider, ~~(~~individual,~~)~~ names and identifiers";

(44) UB-04 Form Locator ~~80, "remarks"; and~~

~~(45) UB-04 Form Locator 81A-D~~81a-d, "code-code field", which shall:

a. Be submitted as recorded; and

b. Be collected, recorded, and submitted where applicable for ~~B1~~Form Locator 81 ~~(~~indicating race and ethnicity~~)~~.

(b) The following elements from the "1500 Health Insurance Claim Form" (1500 Claim Form posted ~~)~~July 2016), reporting standard, available as listed in Appendix A, shall be submitted as follows:

(1) 1500 Claim Form Item Number 03, "patient birth date and sex";

(2) 1500 Claim Form Item Number 05, "patient address";

(3) 1500 Claim Form Item Number 06, "patient's relationship to insured";

(4) 1500 Claim Form Item Number 09d, "other insurance plan name or program name", except the length limit shall not apply;

(5) 1500 Claim Form Item Number 11c, "insurance plan name or program name", except the length limit shall not apply;

(6) 1500 Claim Form Item Number 14, "date of current illness, injury, or pregnancy";

(7) 1500 Claim Form Item Number 15, "other date";

(8) 1500 Claim Form Item Number 16, "dates patient unable to work in current occupation";

(9) 1500 Claim Form Item Number 17, "name of referring provider or other source";

(10) 1500 Claim Form Item Number 17b, "NPI", referring provider;

(11) 1500 Claim Form Item Number 18, "hospitalization dates related to current services";

(12) 1500 Claim Form Item Number 21, "diagnosis or nature of illness or injury";

(13) 1500 Claim Form Item Number 24a, "date of service";

(14) 1500 Claim Form Item Number 24b, "place of service";

(15) ~~health care~~1500 Claim Form Item Number 24d "procedures, services, or supplies", CPT/HCPCS and modifiers;

(16) 1500 Claim Form Item Number 24e, "diagnosis pointer";

(17) 1500 Claim Form Item Number 24f, "charges";

(18) 1500 Claim Form Item Number 24g "days or units";

(19) 1500 Claim Form Item Number 24j, "rendering provider NPI";

(20) 1500 Claim Form Item Number 25, "federal tax id number";

(21) 1500 Claim Form Item Number 26, "patient account number"

(22) 1500 Claim Form Item Number 28, "total charge";

(23) 1500 Claim Form Item Number 32, "service facility name and address"

(24) 1500 Claim Form Item Number 32a, "service facility NPI";

(25) 1500 Claim Form Item Number 33, "billing provider name and address"

(26) 1500 Claim Form Item Number 33a, "billing provider NPI"

(c) Health care facilities shall submit information regarding primary language spoken as an ~~integer numeric~~alpha element which health care facilities shall code consistently, pursuant to He-C 1503.11.

(d) Health care facilities shall submit information identifying:

(1) The walk-in urgent care center affiliated with the health care facility which provides patients access to prompt medical care for minor illnesses or injury without an appointment,

(2) Ambulatory surgery discharges;

(3) Observation stays which revenue code of 0762 on record or CPT code of 99217-99220 or 99234-9923 on record.

(4) Payer type, as coded, by the health care facility, into Commercial, Medicare, Medicaid, Other Federal Government, Workers Compensation, Uninsured, Self-Pay, and Other, based on UB-04 Form Locator 50, "payer name", or on 1500 Claim Form Item Number 11c "insurance plan name or program name".

He-C 1503.05 Registration.

(a) Each health care facility shall submit a registration to the department, or its agent, within one month of the effective date of these rules, and annually thereafter, with the following information:

(1) Health care facility name and mailing address;

(2) Health care facility federal tax identification number;

(3) Health care facility national provider identification number(s); and

(4) Name, e-mail address, and mailing address of the person completing the registration.

(b) Health care facilities becoming operational at a later date shall submit a registration within one month of becoming operational, and annually thereafter.

~~(c) When any of the information in (a) above changes, health care facilities shall submit the new information.~~

~~He~~-C 1503.06 Transmittal Record. With each submission of data, a transmittal record shall also be supplied that contains the following information:

(a) Submitting health care facility name;

~~(b)~~ Submitting health care facility tax identification number;

~~(c)~~ Submitting health care facility national provider identification number(s);

~~(d)~~ If different from submitting health care facility, the name and address of the location where discharges in the submitted records occurred;

(~~e~~e) File name;

~~(d) Contact person name;~~

~~(e) Contact person address;~~

(f) Contact person ~~telephone number~~name;

(g) Contact person telephone number;

~~(h)~~ Contact person e-mail address;

~~(h) Period beginning date;~~

(i) ~~Period ending date;~~

~~(j) Record count;~~

~~(k)~~ Date processed;

(j) Time processed;

(k ~~(l~~) Submission date; and

(~~m~~l) Explanatory notes to assist with processing of the file.

He-C 1503.07 Submission ~~of Test Data.~~

~~(a) Each health care facility shall submit to the department, or its agent, a test data submission for the purpose of determining compliance with required data submission standards.~~

~~(b) Each test data submission shall contain 3 months' worth of discharges.~~

~~(c) Test data submission shall be required:~~

~~(1) At least 3 months prior to the first required data submission date; and~~

~~(2) When a facility changes systems or processes.~~

~~He-C 1503.08 Submission~~ Periods.

(a) The submission period for health care facilities submission of data ~~sets~~ shall, at a minimum, be ~~quarterly~~monthly.

(b) Data ~~set~~ submissions shall be made no later than ~~2 months after the end of each quarter~~the data submission period, as follows:

(1) ~~(1) February 28,~~ April for those patients discharged in January;

(2) May for those patients discharged ~~between October 1 and December 31~~in February;

(3) ~~(2) May 31,~~June for those patients discharged ~~between January 1 and~~in March ~~31;~~;

(4) ~~(3) August 31,~~ July for those patients discharged ~~between~~in April ~~1 and June 30; and~~;

(5) ~~(4) November 30,~~ August for those patients discharged ~~between July 1 and~~ in May;

(1) September ~~30.~~for those patients discharged in June;

(6) October for those patients discharged in July;

(7) November for those patients discharged in August;

(8) December for those patients discharged in September;

(9) January for those patients discharged in October;

(10) February for those patients discharged in November; and

(11) March for those patients discharged in December.~~:~~

(c) Health care facilities may request up to 3 months additional time to file their ~~first 2~~ submissions by submitting the request in writing to the department, including an explanation of the reason for the request. The department shall ~~approve such requests~~respond within 10 days of receipt of a request pursuant to RSA 91-A: 10 IV.

He-C 1503.~~09~~ 08 Non-Monthly Submission. Health care facilities wishing to submit data on ~~a~~ a frequency other than monthly basis shall request prior approval from the department. ~~Monthly submission~~Permission shall be granted if the department determines that the integrity of the data will not be jeopardized ~~by monthly submission. Monthly data set submissions shall be made no later than 2 months after the end of each month for which a data set applies~~. The department shall respond within 10 days of receipt of a request pursuant to RSA 91-A: 10 IV.

He-C 1503.09~~10 Automated Submission.~~

~~(a) Health care facilities wishing to submit data on an automated basis shall request prior approval from the department.~~

~~(b) Automated submission shall be granted if the following criteria are met:~~

~~(1) All required data elements are able to be processed by the health care facility and the department, or its agent, on a daily or continual basis in the format specified in section He-C 1503.03; and~~

~~(2) The department determines that the integrity of the data will not be jeopardized by automated submission.~~

~~He-C 1503.11~~ Submission Compliance. With each submission, health care data~~ sets~~ shall comply with the following reporting requirements:

(a) The applicable code for each data element shall be within the eligible values for the element;

(b) Coding values indicating "data not available", "data unknown", or the equivalent shall not be used for individual data elements unless specified as an eligible value for the element;

(c) Patient sex, diagnosis and procedure codes, date of birth, and all other data fields shall be consistent within an individual record; and

(d) No duplicate records shall be submitted~~; and~~

~~(e) The volume of records submitted by type of bill shall be within 10 percent of the immediately proceeding submission, and if not, health care facilities shall provide information to the department explaining the change in volume.~~

He-C 1503.~~12~~10 Non-Compliant Data Submission.

(a) Each health care facility shall be notified when data submissions do not meet the standards described in this rule, including the specific file and the data elements that do not meet the standards.

(b) Each health care facility notified of a non-compliant data submission shall respond within 30 days of the notification by making the changes necessary to meet the standards and resubmit the entire data submission.

He-C 1503.~~13~~11 Primary Language Code Set.

(a) ~~Within 2 months of the effective date of these rules, each health care facility shall provide to the department the meaning of the primary language codes currently in use at the facility.~~

~~(b) For its first required data submission, and whenever primary language codes change, each~~Each health care facility shall submit the ~~meaning of the~~language codes ~~submitted~~ pursuant to He-C 1503.04(b).

(b) Patient's primary language shall be consistent with the "ISO 639 Codes for the representation of names of languages -- Part 2: Alpha-3 code", published October, 1998, by the International Organization for Standardization (ISO), available as listed in Appendix A.

(c) Languages other than codes in the ISO 639 Codes for the representation of names of languages -- Part 2: Alpha-3 code, shall be coded 'unk' for 'UNKNOWN'.

PART He-C 1504 RELEASE OF HEALTH CARE FACILITY DISCHARGE DATA SETS

He-C 1504.01 Purpose and Scope. This part establishes the requirements for the ~~release from~~request to the department ~~of~~for the health care facility discharge data sets collected in accordance with He-C 1503.

He-C 1504.02 Public Use Data Sets. ~~Public use data sets~~Records of releases of Public Use Data Sets shall be maintained and made available for public inspection, upon request. Public Use Data Sets shall consist of the following health care data elements:

(a) Type of bill;

(b) Patient county, state, and country, as coded by the department from patient address;

(c) Patient sex;

(d) Patient age if under 90, and if 90 or over patient age aggregated into a single category of age 90 or older;

(e) Patient race;

(f) Patient ethnicity;

(g) Admission year;

(h) Admission hour;

(i) Admission type;

(j) Priority of visit;

(k) Admission source;

(l) Length of stay;

(m) Discharge year;

(n) Discharge hour;

(o) Discharge patient status;

(p) Condition codes;

(q) Occurrence codes;

(r) Value codes and amounts;

(s) Revenue codes;

(t) Accommodation rates/HCPCS and HIPPS rates;

(u) Service units;

(v) Total charges;

(w) Payer type, as coded ~~by the department~~ into ~~C~~commercial, Medicare, Medicaid, ~~O~~other ~~F~~federal ~~G~~government, ~~W~~workers ~~C~~compensation, ~~U~~uninsured, ~~S~~self-~~P~~pay, and ~~O~~other; pursuant to He-C 1503.04 (d);

(x) Patient's relationship to insured;

(y) Diagnosis and procedure code qualifier;

(z) Principal diagnosis code, and present on admission indicator;

(aa) Other diagnosis codes;

(ab) Admitting diagnosis;

(ac) Patient's reason for visit;

(ad) Diagnosis related group (DRG), as coded by the department where data is sufficient;

~~(ae) E-codes;~~

(ae) Major ~~D~~diagnostic ~~C~~categories (MDC), as coded by the department where data is sufficient;

(af) External cause of injury codes;

(ag) Principal procedure code;

(~~ag~~ah) Other procedure codes;

~~(ah) Health care facility name;~~

(ai) Health care facility name;

(aj) Health care facility type, as coded by the department according to facility license; ~~and~~

(~~aj~~ak) Record type flag for inpatient and outpatient, as coded by the department from type of ~~bill~~bill~~.~~, and

(al) Patient primary language spoken, as grouped by the department.

He-C 1504.03 ~~Release of Public~~Limited Use Data Sets.

~~(a) Public use data sets shall be released upon written request.~~

~~(b) Records of releases of public use data sets~~ Except as otherwise provided by law, Limited ~~U~~use ~~D~~data ~~S~~sets shall be maintained and ~~made~~requested available for the purposes of public ~~inspection, upon request.~~health, or health care operations under the following conditions:

(a) The requestor shall submit a written application on a form provided by the department containing the following information about the contact person in charge of the request:

(1) Name, address, and phone number;

(2) Organizational affiliation;

(3) Professional qualification; and

(b) The requestor signs a "Data ~~U~~use ~~A~~agreement" that contains the following:

(1) Agreement not to use or further disclose the information to any person or organization other than as described in the application and as permitted by the Data ~~U~~use ~~A~~agreement without the written consent of the department;

(2) Agreement not to use or further disclose the information as otherwise required by law;

(3) Agreement not to seek to ascertain the identity of individuals revealed in the Limited ~~U~~use ~~D~~data ~~S~~set;

(4) Agreement not to publish or make public the content of cells in statistical tables in which the cell size is more than 0 and less than 5 unless:

a. Otherwise provided by law; or

b. The information is a public record;

(5) Agreement to report to the department any use or disclosure of the information contrary to the agreement of which the requestor becomes aware; and

(6) A date on which the Limited ~~U~~use ~~D~~data ~~S~~set will be returned to the department and/or all copies in the possession of the requestor will be destroyed.

(c) The department shall release Limited u~~U~~se ~~D~~data ~~S~~sets and sign the Data ~~U~~use ~~A~~agreement on behalf of the state when the application submitted is complete.

(d) The department shall provide notification of receipt request within 10 days of receipt of the application.

(e) Notification of denial shall include a written statement identifying the specific criteria that are the basis for denial of the application.

(f) Limited u~~U~~se d~~D~~ata ~~S~~sets shall consist of all the elements in the p~~P~~ublic ~~U~~use ~~D~~data ~~S~~set and the following health care data elements:

(1) Patient's residency city;

(2) Patient's residency zip-code;

(3) ~~(c) Any interested party that wants to be notified by electronic mail when a new year of data is available for release shall request such notice from the department or its agent.~~

Unclassified primary payer name;

(4) Attending provider's national provider identifier (NPI) number;

(5) Operation provider's national provider identifier (NPI) number;

(6) Other provider's national provider identifier (NPI) number; and

(7) Rendering provider's national provider identifier (NPI) number.

He-C 1504.04 ~~Release of Limited Use Facility Discharge~~Confidential Data Sets. Except as otherwise provided by law, ~~limited use facility discharge~~upon the approval of the NH v~~V~~ital ~~R~~records ~~P~~privacy ~~B~~board for ~~H~~health-related ~~R~~research (IRB) under the authority of RSA 126:24-e, confidential data sets shall be ~~released to~~requested by principal investigators for the purposes of research under the following conditions~~.~~:

(a) The principal investigator shall complete and submit a written application on a form provided by the department containing:

(1) The principal investigator's:

a. Name, address, and phone number;

b. Organizational affiliation;

c. Professional qualification; and

d. Name and phone number of principal investigator's contact person, if any;

(2) The names and qualifications of additional research staff, if any, who will have access to the data;

(3) A research protocol ~~containing:~~

~~a. A summary of background, purposes, and origin of the research;~~

~~b. A statement of the health related problem or issue to be addressed by the research;~~

~~c. The research design and methodology, including either the topics of exploratory research or the specific research hypotheses to be tested;~~

~~d. The procedures that will be followed to maintain the confidentiality of any data or copies of records provided to the principal investigator; and~~

~~e. The intended research completion date; and~~

~~(4) Information about the data set being requested, including:~~

~~a. The time period of the data requested;~~

~~b. The minimum needed data elements required;~~

~~c. A justification for the need for any data elements that are potentially indirect patient identifiers and specification of how the data should be recoded by the department to make the data element less of a potentially indirect patient identifier;~~

d. The selection criteria for the minimum needed data records required; and

e. Any special format or layout of data requested by the principal investigator.

(b) The principal investigator shall submit a signed data use agreement that specifies that the principal investigator shall:

(1) Use the data for only the purpose specified in the application;

(2) Establish appropriate safeguards to protect the confidentiality of the data and prevent unauthorized use of the data;

(3) Not use or further disclose or sell the data set or statistical tabulations derived from the data set to any person or organization other than as described in the application and as permitted by the data use agreement without the written consent of the department;

(4) Not use or further disclose the information as otherwise required by law;

(5) Not seek to ascertain or disclose the identity of patients, employer groups or purchaser groups revealed in the limited use data set;

(6) Not seek to ascertain or disclose any of the information removed from the data or encrypted as specified in He-C 1502.01(u) above that specifies the exclusions from the limited use data set;

(7) Not publish or make public the content of cells that contain counts of patients in statistical tables in which the cell size is more than 0 and less than 5;

(8) Not publish or make public any information that could be used to ascertain the identity of providers of abortion services;

~~(9) Report to the department, within 5 days, any unauthorized use or disclosure of the information, of which the principal investigator becomes aware, that is contrary to the agreement;~~

~~(10) Provide the department with a preview copy of a proposed release at least 15 days prior to any publication or release of any reports or publications containing information derived from the data set for review and verification that the conditions of the agreement have been met;~~

~~(11) Not release any document determined to breach the conditions of the agreement;~~

~~(12) Acknowledge the department as the source of the data in any and all public reports, publications, or presentations generated by the principal investigator from these data;~~

~~(13) Specify that the analyses, conclusions, and recommendations drawn from such data are solely those of the principal investigator and are not necessarily those of any agency of the State of New Hampshire;~~

~~(14) Retain the data only for the period of time necessary to fulfill the requirements of the data request;~~

~~(15) Return the data within 30 days of the scheduled completion date of the project, or destroy the data, so certifying by submitting a written notice to the department, or reapply for approval within 60 days of scheduled completion if the principal investigator determines the end date of the project needs to be extended; and~~

~~(16) Acknowledge that failure to adhere to the data use agreement shall be cause for immediate recall of the data, revocation of permission to use the data, and application of any applicable criminal liability under New Hampshire state law.~~

~~(c) Applications for the release of limited use data sets shall be approved when the department determines that:~~

~~(1) The application submitted is complete pursuant to (a) above and the principal investigator has signed the data use agreement as specified in (b) above;~~

~~(2) Procedures to ensure the confidentiality of any patient and any confidential data are documented;~~

~~(3) The qualifications of the investigator and research staff are documented by:~~

~~a. Training and previous research, including prior publications; and~~

~~b. An affiliation with a university, private research organization, medical center, state agency, or other institution that will provide sufficient research resources; and~~

~~(4) No other state or federal law, or federal regulation, prohibits release of the requested information.~~

~~(d) The department shall provide notification of denial or approval within 30 days of receipt of the application.~~

~~(e) Notification of denial shall include a written statement identifying of the specific criteria that are the basis for denial of the application.~~

~~(f) Studies taking longer than 2 years shall require annual application after the first 2 year period.~~

~~(g) The principal investigator shall comply with the conditions in the data use agreement in (b) above.~~

(h) In the event the department determines that any report or publication referenced in (b) above might lead to direct or indirect identification of patients, employers, or other group purchasers, the department shall provide a written statement to the researcher stating specifically the problematic sections in the publication. The requesting party shall modify the report or publication prior to its release by fully addressing the problematic sections. No cause other than direct or indirect identification of patients, employers or other group purchasers shall be given to prevent publication of information derived from the data.

(i) When multiple reports of a similar nature will be created from the data, upon request the department shall waive the requirement that any subsequent reports or publications be provided to the department prior to release by the requesting party.

(j) Any draft reports or publications supplied to the department shall be treated as confidential and shall not be released by the department.

(k) Information regarding release of limited use data sets and records of the review of publications shall be made available upon request.

He-C 1504.05 Release of Confidential Health Care Research Data Sets. Except as otherwise provided by law, upon the approval of the Comprehensive Health Care Information System privacy review committee established by He-W 950.07, confidential health care research data sets shall be released to principal investigators for the purposes of research under the following conditions:

(a) When the principal investigator submits a completed written application developed by the department that contains the following:

(1) The principal investigator's:

~~a. Name, address, and phone number;~~

~~b. Organizational affiliation;~~

~~c. Professional qualification; and~~

~~d. Name and phone number of principal investigator's contact person, if any;~~

~~(2) The names and qualifications of additional research staff, if any, who will have access to the data;~~

~~(3) A research protocol~~ which contains:

a. A summary of background, purposes, and origin of the research;

b. A statement of the health-related problem or issue to be addressed by the research;

c. The research hypothesis or hypotheses to be tested or the specific statistical quantities or dependencies to be measured; and

d. The research design and methodology which shall include:

1. A clear definition of exactly how the records needed for the research will be selected and how the patients and or employer groups who are the subject of the research are defined;

2. Method of data analysis;

3. The way in which the requested data will be used;

4. The procedures for contacting any persons or facilities named in records, if applicable;

5. The procedures to obtain informed consent from the patients, employer groups or other group purchasers, if applicable;

6. The procedures that will be followed to maintain the confidentiality of any data or copies of records provided to the principal investigator; and

7. The intended research completion date; and

(4) Information about the data set being requested including:

a. The time period of the data requested;

b. The minimum needed specific data items or fields of information required;

c. The minimum needed specificity of those data items;

d. The selection criteria for the minimum needed data records required; and

e. Any special format or layout of data requested by the principal investigator.

(b) The application shall include written evidence of prior consent for its disclosure from the patients who are the subject of the information.

(c) When the data set requested identifies employer or group purchasers, the application shall include written evidence of prior consent for its disclosure from the employer or group purchasers that are the subject of the information.

(d) The principal investigator shall submit a signed data use agreement that specifies that the principal investigator shall:

(1) Use the data for only the purpose specified in the application;

(2) Establish appropriate safeguards to protect the confidentiality of the data and prevent unauthorized use of the data;

(3) Not use or further disclose or sell the data set or statistical tabulations derived from the data set to any person or organization other than as described in the application and as permitted by the data use agreement without the written consent of the department;

(4) Not use or further disclose the information as otherwise required by law;

(5) Not seek to ascertain or disclose the identity of patients or employers or other group purchasers revealed in the data set for any purpose except as approved as part of the study;

(6) Not publish or make public the content of cells that contain counts of patients in statistical tables in which the cell size is more than 0 and less than 5;

(7) Not publish or make public any information that could be used to ascertain the identity of providers of abortion services;

(8) Report to the department, within 5 days, any unauthorized use or disclosure of the information, of which the principal investigator becomes aware, that is contrary to the agreement;

(9) Provide the department with a preview copy of a proposed release at least 15 days prior to any publication or release of any reports or publications containing information derived from the data set for review and verification that the conditions of the agreement have been met;

(10) Not release any document which is deemed determined to breach the conditions of the agreement;

(11) Acknowledge the department as the source of the data in any and all public reports, publications, or presentations generated by the principal investigator from these data;

(12) Specify that the analyses, conclusions, and recommendations drawn from such data are solely those of the principal investigator and are not necessarily those of any agency of the State of New Hampshire;

(13) Retain the data only for the period of time necessary to fulfill the requirements of the data request;

(14) Return the data within 30 days of the scheduled completion date of the project, or destroy the data, so certifying by submitting a written notice to the department, or reapply for approval within 60 days of scheduled completion if the principal investigator determines the end date of the project needs to be extended; and

(15) Acknowledge that failure to adhere to the data use agreement will be cause for immediate recall of the data, revocation of permission to use the data, and application of any applicable criminal liability under New Hampshire state law.

(e) Confidential research data sets shall be released when:

(1) The application submitted is complete pursuant to (a) through (c) above and the principal investigator has signed the data use agreement as specified in (d) above;

(2) Procedures to ensure the confidentiality of patients, employer groups, or other group purchasers are documented;

(3) The study, if carried out according to the application submitted, will be able to answer the research hypothesis as stated in the application;

(4) There is no evidence that the applicant is seeking the requested data for other purposes in addition to research purposes;

(5) The applicant is seeking only the data necessary to fulfill the specific requirements of the research study;

(6) The qualifications of the principal investigator and research staff are documented by:

a. Training and previous research, including prior publications in the proposed or related area; and

b. An affiliation with a university, private research organization, medical center, state agency, or other institution that will provide sufficient research resources;

(7) No other state or federal law or federal regulation prohibits release of the requested information; and

(8) Approval has been obtained from the researcher's affiliated Institutional Review Board operating in accordance with 45 CFR 46, if the researcher intends to contact patients in the study.

(f) Studies taking longer than 2 years shall require annual application after the first 2-year period.

(g) The principal investigator shall comply with the conditions in the data use agreement as described in (d) above.

(h) In the event the department determines that any report or publication resulting from the study, might lead to direct or indirect identification of patients, employers, or other group purchasers unless approved as part of the study design, the department shall provide a written statement to the researcher stating specifically the problematic sections in the publication. The requesting party shall modify the report or publication prior to its release by fully addressing the problematic sections.

(i) When multiple reports of a similar nature will be created from the data, upon request the department shall waive the requirement that any subsequent report or publication be provided to the department prior to release by the requesting party.

(j) Any draft reports or publications reviewed by the department shall be kept confidential and shall not be released by the department.

(k) Information regarding release of limited use data sets and records of the review of publications shall be made available upon request.

He-C 1504.~~06~~05 Fees. Fees for data sets released under this section shall be as follows:

(a) For each public use discharge data sets, the fee shall be $325 per year; and

(b) For each non-public use data set, the fee shall be based on the actual salary, benefits, indirect, administrative, and material and postage costs of providing the data in the format requested as calculated by the department pursuant to RSA 126:30.

He-C 1504.~~07~~ 06 Payment of Fees.

(a) All persons requesting data shall submit payment of fees prior to the release of data with the exception of persons granted an exemption in accordance with He-C 1504.~~08~~07.

(b) Payment shall be made by cash, check or money order payable to "NH DHHS".

He-C 1504.~~08~~07 Exemption from Fees. The following parties shall be exempt from the fees set forth in He-C 1504.~~06~~05:

(a) Those covered by the fee provisions of RSA 151-C:15, I, pursuant to RSA 126:30;

(b) Local and county governments within the state of New Hampshire, including school districts; and

(c) Parties acting under contract on behalf of another entity exempt from paying fees.

He-C 1504.~~09~~08 Exemption from Release Rule. The release of data by the department to its agents shall be exempt from this rule provided agents are contracted and those contracts include signed business associate agreements.

Appendix A

Location of Document to be Incorporated by Reference	Title of Document to be Incorporated by Reference	Cost and How to Obtain Document Incorporated by Reference
He-C 1503.03(a)(1), (b)(1), (c)(1), & He-C 1503.04(a)	"Official UB-O4 Data Specifications Manual," Version 10 (Posted July 2015) by National Uniform Billing Data Element Specifications	National Uniform Billing Committee, American Hospital Association, 155 North Wacker Drive, Chicago, IL 60606, or on line free of charge at: http://www.nubc.org/subscriber.
He-C 1503.03(a)(2), (b)(2), (c)(2), & He-C 1503.04(b).	"1500 Health Insurance Claim Form Reference Instruction Manual," Version 4.0 (Posted July 2016), by the National Uniform Claim Committee (NUCC)	Available from National Uniform Claim Committee, American Medical Association, 330 N. Wabash Ave., Suite 39300, Chicago, IL 60611-5885, or available on line free of charge at: http://www.nucc.org.
He-C 1503.03(d)	ANSI ASC X12N 837i, & ANSI ASC X12N 837p Version 5010	Data Interchange Standards Association, Inc. (DISA), X12.3 Data Element Directory; X12.22 Segment Directory Suite 200, 1800 Diagonal Road, Alexandria, VA 22314-2852, or online at: https://www.revolvy.com/topic/list+of+ISO+639-2+Codes&uid=&fbcomments=1.
He-C 1503.04(a)(22), (b)(15), & (d)(3).	"The Current Procedural Terminology (CPT) Manual"	Available from Order Department, American Medical Association, P.O. Box 930876, Atlanta, GA 31193-0876, or available on line at commerce.ama-assn.org/store, at a cost of $114.95.
He-C 1503.04(b)(15) & He-C 1504.02(t).	Healthcare Common Procedural Coding System (HCPCS) by Centers for Medicare and Medicaid Services (2015)	Available From Centers for Medicare and Medicaid Services, 7500 Security Boulevard, Baltimore, MD 21244-1850; Centers for Medicare and Medicaid Services available on line free of charge at: :https://www.cms.gov/medhcpcsgeninnnfo.
He-C 1503.04(b)(10),(19), (24), (26) 7 He-C	National Provider Identifier, National Plan	NPI Enumerator, P.O. Box 6059, Fargo, ND, 58108-6059; or on line free of charge at:

1504.03(4)-(7).	and Provider Enumeration System (NPPES)	https://npiregistry.coms.hhs.gov.
He-C 1503.11 (a)-(c).	Codes for the Representation of Names of Languages	Library of Congress Network Development and MARC Standards Office, Washington, DC 20540-4402 or on line free of charge at: https://www.loc.gov/standards/iso639-2/php/code/_list.php.

Appendix B

Rule Section	**Statute Implemented**
He-C 1501.01	RSA 126:25, RSA 126:27
He-C 1502.01	RSA 126:25, RSA 126:27, RSA 151:2, 45 CFR 164.514
He-C 1503.01-1503.11	RSA 126:25, 45 CFR 162, RSA 91-A: 10 IV
He-C 1504.01	RSA 126:25; 45 CFR 46; RSA 125:28
He-C 1504.02	RSA 126:28; 45 CFR 46
He-C 1504.03	RSA 126:28; 45 CFR 46, RSA 126:24 -e
He-C 1504.04	RSA 91-A:10; RSA 126:28; 45 CFR 46
He-C 1504.05	RSA 126:30
He-C 1504.06	RSA 126:30
He-C 1504.07	45 CFR 46; RSA 126:30
He-C 1504.08	45 CFR 46