

RULEMAKING NOTICE FORM

Notice Number 2020-10

Rule Number He-C 6910

1. Agency Name & Address:
**Department of Health and Human Services
Division of Economic and Housing Stability
129 Pleasant Street
Concord, NH 03301**

2. RSA Authority: RSA 167:83, I(b);
RSA 167:83, II
3. Federal Authority: _____
4. Type of Action:
Adoption _____
Amendment _____
Repeal _____
Readoption _____
Readoption w/amendment X

5. Short Title: **Employment Related NH Child Care Scholarship Program Eligibility**

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

He-C 6910 establishes the criteria for the 12-month employment related child care scholarship program which enables families to prepare for, secure, or maintain employment, and to support healthy child development for those families who meet and continue to meet the program requirements of He-C 6910. He-C 6910 also establishes the payment amounts for an employment related child care scholarship.

In accordance with 45 CFR 98 the Department must certify that the New Hampshire child care scholarship payment rates are sufficient to ensure equal access for families utilizing child care services comparable to those provided by families not receiving assistance. Per the preamble 81 FR 67512, the payment rates must be established based on the most recent Market Rate Survey (MRS). The Department conducts the federally mandated MRS every 2 years of rates charged by licensed child care centers and licensed child care homes in New Hampshire. The Department’s maximum payment rates for child care services are based on the rates from this survey. This survey was conducted in March 2018.

The Department of Health and Human Services (Department) is proposing to readopt with amendment He-C 6910.

As a result of the MRS, the proposal:

- **Increases the supplemental payment rate for a child experiencing a disability or significant special need(s) to \$100 per week for a full time service level, \$75 per week for a half time service level, and to \$50 per week for a part time service level; and**
- **Increases rates for licensed child care centers and licensed child care homes to the 55th percentile of the most recent MRS age group. The payment rates for license-exempt family child care providers are set at 70% of the licensed family child care home standard rate for each age group. The payment rates for license-exempt centers are set at 50% of the licensed child care center standard rate. The Department proposes to increase rates for infant and toddler age groups to the 60th percentile of the most recent MRS.**

Additional amendments to He-C 6910 include:

- **Updating the rule for better clarity, program integrity, and making minor, substantive and editorial changes throughout;**
- **Changing the term “family income” to “group assistance income” and “financial assistance to needy families (FANF)” to “temporary assistance to needy families (TANF)” throughout;**
- **Adding the definitions of “continued assistance”, “family assistance program recipient”, and “family cap amount”;**
- **Updating the definitions of “authorized service level”, “child care”, “child experiencing significant special needs”, “cost share”, “financial assistance to needy families”, “job search”, and “medical leave”;**
- **Updating various forms previously incorporated by reference and incorporating by reference additional forms;**
- **Updating the non-financial eligibility requirements, to include:**
 - **An exception of residency for a migratory worker’s child who qualifies as homeless because a child is living in circumstances described in the McKinney Vento definition;**
 - **That a child turning 13 years of age within 30 calendar days of the application shall not be eligible;**
 - **Allowing participation in a mental health treatment program or substance misuse treatment program as an approved activity for recipients of the New Hampshire Employment Program (NHEP) or recipients of the Family Assistance Program (FAP);**
 - **Allowing continued assistance for up to 92 calendar days to allow a parent to re-engage when an approved activity terminates;**
 - **That two adults residing in the same household regardless of marital status who share a common child shall be counted as one assistance group;**
 - **That a legal guardian and the legal guardian spouse shall be required to engage in at least one employment related approved activity; and**
 - **An individual registered with a temporary employment agency shall be considered employed as long as the individual earns one payment within 10 calendar days of employment assignment.**
- **Updating verification requirements to include self-attestation for children of migrant workers who qualify as homeless and adding verification requirements for individuals participating in a mental health or substance misuse treatment program;**
- **Adding additional reporting requirements;**
- **Removing He-C 6910.20 on recoupment of payments as it already exists in He-C 6918, “Child Care Billing and Payment Requirements”; and**

- Adding new section He-C 6910.20 on waiver of rules.

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

Groups affected by this rule include families who require child care scholarship and who are either receiving financial assistance from DHHS under the financial assistance to needy families (TANF) program as described in He-W 602.02(a), or whose income is at or below 220% of the federal poverty guidelines, Tier 1, and greater than 220% and less than or equal to 250% of the federal poverty guidelines, Tier 2, as long as a family meets the requirement described in He-C 6910.06(b).

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

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-C 6910.01	RSA 161:2, XII; RSA 167:83, I(b); RSA 167:83, II(o)
He-C 6910.02	RSA 167:77, V(e)
He-C 6910.03	RSA 161:2, XII; RSA 167:58, IV; RSA 167:83, I(b); RSA 167:83, II(o)
He-C 6910.04	RSA 167:79, III(d)–(g); RSA 167:83, II(o)
He-C 6910.05	RSA 161:2, XII; RSA 167:80, IV(b) and (i); RSA 167:82, VI; RSA 167:83, II(o)
He-C 6910.06	RSA 167:83, II(c) and (o)
He-C 6910.07	RSA 161:2, XII; RSA 167:80, IV(b) and (i); RSA 167:82, VI; RSA 167:83, II(o),(q)
He-C 6910.08	RSA 167:85; RSA 167:88; RSA 167:90; RSA 167:91
He-C 6910.09	RSA 167:83, II(c) and (o)
He-C 6910.10	RSA 167:79, V(b); RSA 167:82, VI; RSA 167:83, II, (c),(e),(m)
He-C 6910.11	RSA 167:83, II(b); RSA 167:83, III(h)
He-C 6910.12	RSA 161:2, XII; RSA 167:83, II
He-C 6910.13	RSA 167:83, II(o)
He-C 6910.14	RSA 167:83, II(c) and (o)
He-C 6910.15	RSA 161:2, XII; RSA 167:83, II
He-C 6910.16	RSA 161:2, XII; RSA 167:83, II
He-C 6910.17	RSA 167:83, II(o)
He-C 6910.18	RSA 161:2, XII; RSA 167:83, II(o); RSA 167:83, III(g); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:12
He-C 6910.19	RSA 167:83, II(a); RSA 541-A:31, I and II
He-C 6910.20	RSA 170 – E11, I (m)

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

Name:	Allyson Zinno	Title:	Administrative Rules Coordinator
Address:	Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant Street, 2nd Floor Concord, NH 03301	Phone #:	(603) 271-9604
		Fax#:	(603) 271-5590
		E-mail:	allyson.zinno@dhhs.nh.gov
		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, February 13, 2020**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 6, 2020 at 5:00pm.**

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

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

FIS # 19:226, dated January 2, 2020

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

When compared to the existing rule, the proposed rule will increase state expenditures, benefit state citizens, and have an indeterminable impact on independently-owned businesses.

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

Per 45 CFR 98, the Department of Health and Human Services must certify that the NH Child Care Scholarship payments rates are sufficient to ensure equal access for families utilizing child care services comparable to those provided by families not receiving assistance. Per the preamble 81 FR 67512, the payment rates must be established based on the most recent Market Rate Survey (MRS) completed by the Department. Further, the regulation requires the Department to develop and implement strategies to increase the supply of and to improve the quality of child care services for children with disabilities. Finally, the federal regulation requires the Department to prioritize services for children experiencing homelessness.

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

Among other things, the proposed rule:

1. Increases the supplemental payment rate for a child experiencing significant disability or special need to \$100 per week for a full-time service level, \$75 per week for a half-time service level, and \$50 per week for a part-time service level (at a projected cost of \$235,110 annually in FY 2020/21).
2. Increases the rates for child care centers and licensed child care homes to the 55th percentile of the most recent Market Rate Survey (MRS) age group (projected cost: \$2,161,362 annually in FY 2020/21); sets rates for the license-exempt family child care providers at 70% of the licensed family child care home standard rate for each age group; sets rates for license-exempt centers at 50% of the licensed child care center standard rate; and increases rates for infant and toddler age groups to the 60th percentile of the most recent MRS (at a projected cost of \$58,447 annually in FY 2020/21).

Further, RSA 167:83, II(q) requires the Department to provide assistance to parents and caretaker relatives of children in such families that are recipients of the NH Employment Program or Family Assistance Program participating in a mental health program or substance misuse treatment program. This requirement, attributable to statute, is projected to cost \$2,172,000 annually in FY 2020/21.

A. To State general or State special funds:

The Department projects that the \$2,172,000 per year needed to implement RSA 167:83, II(q) will be an additional cost to the state general funds. Funding for other requirements is contained in the Department's operating budget, and will consist of a combination of federal Title IV-E, federal Temporary Assistance to Needy Families (TANF), and state general funds.

B. To State citizens and political subdivisions:

Eligible families may benefit from increased payment rates that may reduce out-of-pocket expenses for child care. The proposed rules will also allow for additional supports for children in care, as well as for participation in a mental health and/or substance misuse treatment program for recipients.

C. To independently owned businesses:

Independently-owned businesses may benefit from the increase in payment rates, supporting operational costs for child care programs and potentially attracting new providers. There is a potential cost to providers if parents do not reengage after 92 days of continued assistance and the Department terminates child care eligibility.

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.

Readopt with amendment He-P 6910, effective 7-10-17 (Document #12221), to read as follows:

PART He-C 6910 EMPLOYMENT RELATED NH CHILD CARE SCHOLARSHIP PROGRAM ELIGIBILITY

Statutory Authority: RSA 161:2, XII; RSA167:83, I(b); and RSA 167:83, II(o)

He-C 6910.01 Purpose. The purpose of this part is for the department of health and human services (DHHS), through the division ~~for children, youth, and families (DCYF)~~of economic and housing stability (DEHS) to:

(a) Establish the eligibility criteria for 12-month employment related child care scholarship program which enables families to prepare for, secure, or maintain employment, and to support healthy child development for those families who meet and continue to meet the program requirements of He-C 6910; and

(b) Establish the payment amounts for an employment related child care scholarship.

He-C 6910.02 Scope.

(a) This part shall apply to families who require child care scholarship and who are either receiving financial assistance from DHHS under the financial assistance to needy families (~~FANFTANF~~) program as described in He-W 602.02(a), or whose income is at or below 220% of the federal poverty guidelines, Tier 1, and greater than 220% and less than or equal to 250% of the federal poverty guidelines, Tier 2, as long as a family meets the requirement described in He-C 6910.06(b).

(b) The scholarship payments established pursuant to He-C 6910 shall be contingent upon the availability and continued appropriation of sufficient funds for this purpose, and in no event shall DHHS be liable for any payments hereunder in excess of such available appropriated funds.

He-C 6910.03 Definitions.

(a) “Applicant” means a parent, legal guardian, or caretaker relative of the child(ren) who applies for child care scholarship.

(b) “Assistance group” means the individuals who are residing in the same household whose needs and income are considered and combined together when determining eligibility and the amount of assistance for child care.

(c) “Authorized representative” means the person(s) who is designated or authorized by a child care provider to act on behalf of that provider in matters related to billing DHHS for child care services provided and is not the parent of a child in the provider’s care who is receiving child care scholarship.

(d) “Authorized service level” means full time, half time, or part time service level based on the number of hours of child care per week required for an approved employment related activity, ~~ies that include employment, training, education, and job search~~ plus commute time pursuant to in He-C 6910.07(f).

(e) “Caretaker relative” means a specified relative as defined in RSA 167:78, III, namely, “a specified relative, other than a parent, who provides care and parental control to a dependent child.”

(f) “Child care” means the act of providing supervision, food, activity, and rest for a child for any portion of a 24-hour day, in order to promote healthy child development and assist the child’s parent(s), in preparing for, securing, or maintaining, ~~an employment~~ related approved activity, ~~or employment related training or education, or for an approved activity that supports service or case plan goals.~~

(g) “Child care scholarship” means payment to a child care provider of child care services on behalf of a family who meets the eligibility criteria of He-C 6910.

(h) “Child experiencing a disability or significant special need(s)” means a child through the age of 17 who has a verified medical, physical, developmental, educational, or emotional disability or significant special need pursuant to He-C 6910.09(j) requiring additional funds for accommodation or classroom adaptation in the child care setting.

(i) “Children experiencing homelessness” means children who lack a fixed, regular, and adequate nighttime residence as defined in the McKinney-Vento Act which includes:

- (1) Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason, are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations, or are living in emergency or transitional shelters; are abandoned in hospitals;
- (2) Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (3) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; or
- (4) Migratory children as such term is defined in section 1309 of the Elementary and Secondary Education Act of 1995 who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in (1)-(3) above.

(j) “Commute time” means for employment related child care one hour per day in a week, during which the parent(s) travels for active participation to and from an employment related activity.

(k) “Continued assistance” means a period of continued assistance up to 92 calendar days to allow a parent to engage in an approved activity.

~~(l)~~ “Cost share” means a ~~DHHS~~ determined portion of the standard rate charged as a fee to parents for child care services provided based on family size and income pursuant to He-C 6910.18, which may fluctuate during the current eligibility period.

~~(m)~~ “Department” (DHHS) means the department of health and human services for the State of New Hampshire.

~~(n)~~ “District office (DO)” means one of the New Hampshire regional offices where families may apply for child care scholarship provided by DHHS.

(~~o~~) “Eligibility period” means the time for which a family is determined eligible to receive child care scholarship.

(~~p~~) “Employment related activities” means participation in an approved activity that is designed to assist parents to enter, re-enter, or remain in the workforce as described in He-C 6910.07(~~e~~).

(~~q~~) “Enrolled child care provider” means a child care provider who has met the qualifications and requirements found in He-C 6914 and is authorized to receive payment from DHHS for child care services provided. The term includes the definition of “registered provider” as used in RSA 170-E:6-a.

(~~r~~) “Expedited child care” means a rapid eligibility determination for child care scholarship utilizing a child care provider currently enrolled with DHHS for any applicant who meets the definition of homelessness in section 725(2) of the McKinney-Vento Homeless Assistance Act, (“McKinney-Vento Act”) 42 USC 11434a(2) (2011).

(~~s~~) “Family” means a child(ren) and an adult(s) who reside in the same household and who have a birth, foster, step, adoptive, legal guardianship, or caretaker relative relationship.

(t) “Family assistance program recipient” means an individual receiving financial assistance for families with dependent children.

(u) “Family cap amount” means a DHHS determined portion of the standard rate charged as a fee to parents for child care services provided based on family size and income which is determined at initial eligibility or at redetermination pursuant to He-C 6910.18, which once established shall remain the same throughout the current eligibility period.

~~(s) “Financial assistance to needy families (FANF)” means the financial and medical assistance provided under the New Hampshire employment program (NHEP), family assistance program (FAP), families with older children (FWOC) program, and the interim disabled parent (IDP) program.~~

(~~v~~) “Federal poverty guidelines (FPG)” means poverty guidelines, published in the Federal Register at least annually by the secretary of the United States Department of Health and Human Services, which are used as an eligibility criterion for community services block grant programs.

(~~w~~) “Foster Parent” means an individual who has a license or permit for foster family care, pursuant to He-C 6446.

(~~x~~) “Fraud” means “fraud” as defined in RSA 167:58, IV.

(~~y~~) “Full time” means greater than 30 hours of child care per week.

(~~z~~) “Graduated phase out” means a ~~new~~ 12-month eligibility period for child care scholarship when the assistance a family’s group’s income exceeds 220% and is less than or equal to 250% of the federal poverty guidelines (FPG) at redetermination.

(~~aa~~) “Half time” means greater than 15 and equal to or less than 30 hours of child care per week.

(~~ab~~) “Job search” means a 92 calendar day period:

(1) Granted at initial eligibility, during which a parent is actively seeking employment; or

(2) Granted during a 12-month eligibility period when a parent's approved activity terminates, during which allows a parent-is given the opportunity to engage or reengage in an approved activity, employment or employment related training or education when a parent has had a non-temporary cessation of employment, or employment related training or education.

(~~aca~~) “Legal guardian” means an individual, who is given legal authority by a court and charged with the duty to provide care, custody, and supervision of the child(ren).

(~~ada~~) “Licensed” means the child care provider has been issued a child care license to operate by the commissioner of DHHS, in accordance with RSA 170-E or has been issued a license to legally operate as a child care provider in accordance with the child care licensing requirements of a state neighboring New Hampshire.

(~~aea~~) “License-exempt” means a child care provider is not required to be licensed, in accordance with RSA 170-E:3, I (a), (b), (c), (f), (g), and (h), or is not required to be licensed but can legally operate as a child care provider in accordance with the regulations of a state neighboring New Hampshire.

(~~afa~~) “McKinney-Vento Act (McKinney-Vento Act)” means the McKinney-Vento Homeless Assistance Act, 42 USC 11301 (1987).

(~~aga~~) “Medical leave” means an illness, injury, or medical condition which temporarily prohibits the eligible parent from participating in employment, training, ~~or an~~ educational program, mental health treatment program or substance misuse treatment program, for the length of time prescribed in a signed statement from an attending physician, physician assistant, advanced practice registered nurse, or licensed mental health professional. This term includes caring for the other parent of the common child living in the household or another child living in the household.

(~~aha~~) “Monthly gross income” means total monthly monies received before taxes and other deductions are applied.

(~~aiag~~) “NHEP participant” means an individual who is enrolled in the NHEP work program and is receiving ~~FANFTANF~~ financial assistance.

(~~ajah~~) “New Hampshire employment program (NHEP)” means the program administered by DHHS in accordance with RSA 167:78 through RSA 167:92.

(~~aka~~) “Notification” means a written or printed document that advises:

(1) Families of:

- a. The results of eligibility determinations; and
- b. Other changes in child care scholarship; or

(2) Providers of:

- a. Changes to a family's child care scholarship, as applicable;

- b. The maintenance of the provider's enrollment status; and
- c. Other information related to the provider's compliance with these rules.

(~~alaj~~) "Parent" means an individual who has a birth, adoptive, or step-parent relationship to the child(ren), a foster parent as defined in (~~xu~~) above, a legal guardian as defined in (~~ada~~) above, or a caretaker relative as defined in (e) above.

(~~amak~~) "Parent with a disability" means a parent who is unable to participate in employment related activities or unable to care for and supervise his or her child(ren) because of a verified physical or mental condition impairment, disease, or a combination of these conditions.

(~~anat~~) "Part time" means 1 to 15 hours of child care per week.

(~~aoam~~) "Provider" means an individual or a public or private organization supplying child care services to a family and requesting enrollment for financial reimbursement from ~~the~~ DHHS.

(~~apan~~) "Recipient" means a member of a family, who meets eligibility requirements for child care scholarship from DHHS pursuant to He-C 6910.

(~~aqae~~) "Redetermination" means a scheduled review of a parent's eligibility for child care scholarship, and includes verification of all aspects of eligibility.

(~~arap~~) "Satisfactory progress" means meeting the minimum standards set by an organization or agency, or an educational or training facility, which measures a person's:

- (1) Proficiency level in an activity; and
- (2) Ability to complete the activity in a timely manner.

(~~asaq~~) "Self-employed" means an individual who is employed or directly engaged in an income producing trade or business for the purpose of generating income with repetition and continuity of operation as one's occupation including, but not limited to, sales, services, home construction, lawn and landscaping services, hair styling, and other personal services.

(~~ataf~~) "Standard rate" means a DHHS determined rate used to calculate child care scholarship and cost share amount.

(~~au~~) "Temporary assistance to needy families (TANF)" means the financial and medical assistance provided under the New Hampshire employment program (NHEP), family assistance program (FAP), families with older children (FWOC) program, and the interim disabled parent (IDP) program.

(~~ays~~) "Termination" means the discontinuance of child care scholarship received by an assistance group when the conditions of eligibility for receipt of the assistance are no longer met.

(~~awt~~) "Tier 1" means the initial threshold for child care scholarship where the assistance group's family gross income is less than or equal to 220% of FPG.

(ax+) “Tier 2” means the ~~exit~~ threshold for child care scholarship where the assistance group’s family gross income is greater than 220% and less than or equal to 250% of FPG at redetermination, resulting in a 12-month graduated phase out period.

(ay+) “Wait list” means a prioritized list of children eligible for child care scholarship who are waiting for funding to become available to receive child care scholarship.

He-C 6910.04 Application for Child Care Scholarship.

(a) All applicants requesting child care scholarship shall submit to the district office an application for assistance, signed and dated on paper, via telephone or electronically in accordance with He-W 600.

(b) At a minimum, the applicant shall provide the following information within 30 days of the date of application:

(1) For each member of the assistance group:

- a. His or her full name, including maiden name, if applicable, and any other names used previously;
- b. His or her social security number if the applicant chooses to provide it;
- c. His or her current address;
- d. A description of the current household composition, such as whether the family lives independently, or with a relative(s) or others, is homeless, or if the child(ren) living with him or her is a foster child;
- e. The telephone number(s) at which he or she can be reached;
- f. The reason for requesting assistance at the time the application is made; and
- g. The total amount of gross income from all sources, or net income if self-employed as described in He-C 6910.06; and

(2) The date and place of birth of each child in the assistance group for which the applicant is requesting child care scholarship.

(c) The applicant shall participate in the verification and interview process prescribed in He-W 636.

(d) The applicant shall indicate at the time of application the current child care arrangements, if any, including:

- (1) The name of the provider;
- (2) The cost of child care; and
- (3) Whether the provider is licensed or license-exempt.

~~(e) The applicant shall indicate at the time of application any circumstances that he or she anticipates might occur during the next 12 months which could affect eligibility, such as changes in income, living arrangements, expenses, or child care provider(s).~~

(ef) The application for child care scholarship shall be signed, dated, and submitted in accordance with He-W 600.

He-C 6910.05 Application for Expedited Child Care.

(a) An applicant experiencing homelessness as defined in the McKinney-Vento Homeless Assistance Act, section 725(2) of 42 USC 11434a(2) (2011) shall be authorized to receive expedited child care scholarship within 7 calendar days of the application date if the applicant:

- (1) Provides the district office with an application including the parent's full legal name, address, or means of contact, and the parent's signature;
- (2) Identifies a child care provider that is currently enrolled with the DHHS child care scholarship program;
- (3) Has not previously had expedited child care terminated due to failure to provide required verification or has since provided verification and been determined eligible; and
- (4) Is ~~employed, seeking employment, or~~ in an employment related ~~training or educational~~ activity.

(b) Expedited child care shall also be available to an applicant who meets (a)(1)-(4) above and is seeking housing in the same week.

He-C 6910.06 Financial Eligibility Requirements.

(a) To be financially eligible for child care scholarship, a family shall meet at least one of the requirements set forth in in (1)-(4) below:

- (1) Be receiving ~~FANFTANF~~ financial assistance from DHHS, whether participating in NHEP or exempt from participation in NHEP in accordance with He-W 637.04;
- (2) Be receiving ~~FANFTANF~~-related medical assistance as described in RSA 167:82, VI;
- (3) Have applied for ~~FANFTANF~~ financial assistance but not yet been approved and the applicant is participating in NHEP; or
- (4) Meet the gross income limit described in (b) below.

(b) Families shall be determined income eligible for child care at application if their monthly gross income for the appropriate family size does not exceed 220% Tier 1, of the "Poverty Income Guidelines for All States (except Alaska and Hawaii) and the District of Columbia."

(c) All sources of gross income shall be counted when determining financial eligibility and family cost share for child care, except those specified below:

- (1) The income of any grandparent, when 3 generations are living in one household;
 - (2) Child foster care payments;
 - (3) Adoption subsidies;
 - (4) Any educational assistance, student loans, or scholarships used to cover educational expenses, such as tuition and mandatory fees, books, and school related travel;
 - (5) The income of a caretaker relative or a legal guardian and his or her spouse, unless the caretaker relative or legal guardian is also applying for child care assistance for his or her own child(ren), in which case his or her income and the income of his or her spouse shall count in the determination of eligibility for all of the child(ren);
 - (6) Money received from ~~Americorp~~AmeriCorps Volunteers in Service to America (VISTA); and
 - (7) Earned income from a dependent child(ren), as defined in He-W 601.03(e), who is a full time student attending primary or secondary school or equivalent pursuant to RSA 167:80, IV(b).
- (d) For self-employment, countable income to determine eligibility shall be the net monthly income from sales, services, or other business activities, after deducting business expenses.
- (e) Monthly gross income shall be determined in accordance with He-W 744.01 or He-W 744.03.
- (f) Resources, as defined in He-W 601.07(f) including both personal and real property shall not be counted when determining financial eligibility and family cost share for child care scholarship unless the total countable resources exceed one million dollars in assets.
- (g) Fluctuating income shall be identified and calculated as:
- (1) Earned income that is averaged when it varies from month to month such as when an individual works varying hours, overtime, or on a piece work basis;
 - (2) Unearned income that is averaged when it varies from month to month such as child support, alimony, disability payments, or other sources of unearned income due to changes in the frequency or amount of receipt; or
 - (3) Earned income that is annualized when:
 - a. The parent indicates that the current income does not reflect total assistance family incomegroup's income of the next 12-month period;
 - b. The assistance group's family income varies from season to season, such as when an individual works different employment in the winter months compared with the summer months; or
 - c. The parent is self-employed.

(h) Countable income, pursuant to He-C 6910.06(e), shall be determined at the initial application and converted to a monthly amount by:

- (1) Averaging income using 4 current consecutive weeks pursuant to He-W 744.03(e);
- (2) Annualizing the earned income of the previous 12-month period when such income represents a best estimate of future income; or
- (3) Annualizing the projected earnings of the applicant of the next 12-month period as verified according to He-C 6910.09(gf).

(i) Income that is annualized at initial application shall determine the family cap amount~~annual cost share~~ and shall not be recalculated during the 12-month eligibility period except when the applicant experiences a permanent job loss.

He-C 6910.07 Non-Financial Eligibility Requirements.

(a) To be eligible for child care scholarship, the child shall be a member of the assistance group for which the applicant is seeking child care scholarship.

(b) Each child for whom child care scholarship is requested shall be:

- (1) A resident of the state of New Hampshire, except for children of migrant workers who qualify as homeless because they are living in circumstances described in He-C 6910.03(ag);
- (2) A United States (US) citizen or a non-citizen who meets the criteria for non-citizenship as described in He-C 6910.09(c)(2);
- (3) Less than 13 years of age, except when the child meets the criteria described in (d) below; and
- (4) Linked to only one enrolled provider.

(c) A child who turns 13 years of age shall remain eligible until the next redetermination.

(d) A child shall not be eligible for child care scholarship when the child turns 13 years of age within 30 calendar days of the child care application date.

~~(e)~~ A child aged 13 or over shall not be eligible for child care scholarship, except when the child, through the age of 17, is a child experiencing verified disability or significant special needs whose condition limits the child's ability to care for himself or herself, or he or she would cause harm to himself or herself or others without supervision as verified in accordance with He-C 6910.09(j~~h~~)(3).

~~(f)~~ Each applicant requesting child care scholarship shall be engaged in one or more of the following:

- (1) Employment where an applicant shall be receiving any form of earned income or in-kind compensation for his or her work;

(2) Job search where an applicant is:

- a. In compliance with NHEP pursuant to He-W 637.05;
- b. Registered with the New Hampshire department of employment security job match system; or
- c. In compliance with New Hampshire's requirements for receipt of unemployment compensation benefits;

(3) Participating in a training or education program which is preparatory to employment, including any internet training or education, subject to the limitations found in He-C 6910.13(c);

(4) Participating in a basic educational activity as described in He-C 6910.13(e); ~~or~~

(5) Participating in one or more approved NHEP activities indicated on an employability plan as described in He-W 637;~~:-or~~

(6) A recipient of NHEP or FAP and be participating in:

- a. A mental health treatment program;
- b. A substance misuse treatment program; or
- c. Both a. and b.

(~~gf~~) The job search in (~~fe~~)(2) above, shall be authorized for up to 92 calendar days. If job search is the only activity ~~listed in (e)~~ the parent engages in prior to the end of the 92 calendar days, child care will ~~terminate~~close.

(~~hg~~) Child care scholarship shall be available to parents participating in an approved employment related activity when employed, in training or education, or seeking employment and seeking housing in the same week, who are without permanent housing as defined in section 725(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11434a(2) (2011), subject to the verification requirements of He-C 6910.09(s).

(~~ih~~) To be eligible for child care scholarship when both parents reside with the child(ren), the following shall apply:

- (1) Both parents shall comply with (~~fe~~) above; or
- (2) One parent shall comply with (~~fe~~) above and the other shall qualify as a parent with a disability in accordance with He-C 6910.09(~~kj~~).

(j) Two adults residing in the same household regardless of marital status who share a common child shall be counted as one assistance group, along with all other children who have a biological, foster, step, or adoptive relationship with each other and either adult.

(~~k~~) When an individual is employed solely as a license-exempt child care provider, his or her child(ren) shall not be eligible for child care scholarship.

~~(j) For individuals providing care as a license-exempt child care provider in the child's home, if the individual's employer, who is not a license-exempt child care provider, does not permit the individual to care for the individual's own children simultaneously with the employer's children, the individual may be eligible to receive child care scholarship for the care of his or her own children following the submission of verification required in He-C 6910.09(t). An individual may be eligible to receive child care scholarship for the care of his or her own children following the submission of verification required in He-C 6910.09(u) if:~~

~~(1) The individual's employer is not a license-exempt child care provider;~~

~~(2) The individual is providing care as a license-exempt child care provider in the child's home; and~~

~~(3) The employer does not permit the individual to care for the individual's own children simultaneously with the employer's children.~~

(~~m~~) A parent's authorized service level shall be based on the number of hours per week child care is needed as determined by:

(1) The number of hours per week the parent is engaged in an approved employment related activity; and

(2) The number of hours of commute time per week equal to no more than one hour each day multiplied by the number of days in a week that the parent(s) is engaged in an employment related activity.

(~~n~~) For self-employed parents, the authorized service level shall be based on the number of hours per week child care is needed as determined by:

(1) The number of hours the parent(s) reports for self-employment when the parent has been continuously self-employed for less than 2 years; or

(2) Calculating self-employment when the individual has been continuously self-employed for 2 years or more, as follows:

a. Dividing the monthly income reported in He-C 6910.06 by 4.33 and then dividing this amount by the federal minimum wage to establish the average number of hours of employment related activity per week; and

b. The number of hours of commute time per week equal to one hour each day multiplied by the number of days in a week that the parent is in an approved employment related activity.

(~~o~~) Authorization for the authorized service level shall be based on the calculation in (~~m~~) and (~~n~~) above and applied as follows:

- (1) For full time authorized service level, the number of hours shall be greater than 30 hours;
- (2) For half time authorized service level, the number of hours shall be greater than 15 and equal to or less than 30; or
- (3) For part time authorized service level, the number of hours shall be between one and 15 hours.

(p#) For 2 parent households eligible to receive child care scholarship, the authorized service level shall be calculated based on the lowest number of hours that either parent participates in an approved employment-related activity.

(q#) Child care scholarships shall not be paid for a child under the age of 72 months, i.e. 6 years, when cared for in a license-exempt child care center program pursuant to RSA 170-E:2, XI-a.

(r) A legal guardian and the legal guardian spouse shall be required to be engaged in at least one activity described in (f)(1)-(6) above.

(s) An individual registered with a temporary employment agency shall be considered employed as long as the individual earns one payment within 10 calendar days of an employment assignment.

He-C 6910.08 Additional Requirements for Participants of NHEP.

(a) A parent who is participating in NHEP and in compliance with He-W 637 shall be eligible for child care scholarship.

(b) If the parent is not in compliance with the NHEP requirements, ~~the parent shall be granted continued assistance child care eligibility for up to 92 calendar days to engage in a job search.~~

(c) A parent participating in training and education as a part of his or her approved NHEP activities pursuant to He-W 637.22 and He-W 637.23 shall be eligible for child care scholarship for a total of 104 weeks in a lifetime.

He-C 6910.09 Verification Requirements. In order for an application to be approved, the applicant shall supply verification of eligibility requirements as follows:

(a) The name of each member of the assistance group shall be verified by one or more of the following documents:

- (1) The individual's birth certificate;
- (2) The individual's marriage certificate;
- (3) The individual's divorce decree, if the name to be used subsequent to a divorce is changed;
- (4) The individual's driver's license or other identification which contains a picture of the individual; or

(5) If the individual has had a legal name change, the court documentation showing the legal name of the individual and the date the name change took effect.;

(b) The date and place of birth of each child in the assistance group for which the parent is requesting child care scholarship shall be verified by one or more of the following documents:

- (1) The child's birth certificate;
- (2) The child's baptismal certificate; or
- (3) The child's US passport.;

(c) When a child was not born in the US but has either become a US citizen or been lawfully admitted to the US, the child's birth record and one or more of the following documents shall be submitted to verify date and place of birth and citizenship status:

- (1) The child's certificate of citizenship or naturalization; or
- (2) The following US Citizenship and Immigration Services (USCIS) forms or documentation:
 - a. USCIS Form I-551, Permanent Resident card;
 - b. USCIS Form I-327, Re-entry Permit;
 - c. USCIS Form I-94, Arrival Departure Record, stating that the child has been admitted to the US as a refugee under Section 207(c) of the Immigration and Nationality Act;
 - d. USCIS Form I-94, Arrival Departure Record, stating that the child has been admitted to the US as an asylee under Section 208 of the Immigration and Nationality Act; or
 - e. Documentation from USCIS that the child has lawful temporary or permanent resident status under Section 201 or 302 of the Immigration Reform and Control Act.;

(d) The relationship of any adult in the assistance group to the child(ren) in the assistance group shall be verified by one or more of the following:

- (1) The child's birth record containing the name(s) of his or her parent(s);
- (2) The adult's birth record;
- (3) A marriage certificate containing the names of the parties who were married, including any maiden or previous names used;
- (4) Any additional birth or marriage records necessary to show the relationship of the child(ren) to the adult(s) in the assistance group;
- (5) For a legal guardian, the court documentation indicating the relationship of the adult to the child as that of a legal guardian; or

(6) For a caretaker relative, one or more of the following documents:

- a. A court order giving the caretaker relative the duty of care, custody, and supervision of the child;
- b. A document showing power of attorney for the child(ren) by the caretaker relative with whom the child(ren) lives; or
- c. A statement from the child's parent(s) that the caretaker relative is the individual who shall provide care and supervision for the child on his or her behalf.;

(e) To verify a current address, any of the following verifications which show the address of the family shall be acceptable:

- (1) Rental receipts;
- (2) If the home is owned, the deed or mortgage receipts;
- (3) Utility or telephone bills; or
- (4) A statement from the current landlord.;

(f) Self-attestation shall be an acceptable form of verification for children of migrant workers who qualify as homeless because they are living in circumstances described in He-C 6910.03(ag).

(g) Monthly gross income of each member of the assistance group shall be verified in accordance with He-W 744.01 or He-W 744.03 or as follows:

- (1) For self-employment, a parent's current profit and loss statement or the entire IRS tax filing from the previous year, as described in He-C 6910.06(d);
- (2) Any contributions of monies to the assistance group~~family~~ from any source, verified by a statement from the contributor which indicates the amount, frequency, and expected end date of the contribution;
- (3) For earned income that fluctuates month to month according to He-C 6910.06(g)(1), a pay stub or a written statement from the employer stating the monthly amount earned;
- (4) For unearned income that fluctuates according to He-C 6910.06(g)(2), a pay stub, a written statement from the contributor, physical documentation, or a collateral contract;
- ~~(5)~~ For earned income that fluctuates season to season according to He-C 6910.06(g)(3)b-, either the previous year's tax return or a statement from the employer; or
- ~~(6)~~ For income that cannot be verified according to ~~(15)~~~~(5)~~ above, and which is anticipated to fluctuate over the next 12-month period, verification shall consist of a statement from the employer identifying an estimate of future earnings during the upcoming 12-months.

(hg) The applicant shall attest that the assistance group's family resources, including both personal and real property, do not exceed \$1,000,000.00 in assets. No member of the assistance group shall have, nor shall the combined assets of the assistance group be, equal to or greater than \$1,000,000.00.

(ih) A Form 1863 "Child Care Provider Verification," (~~October 2016~~ April 2020) shall be completed, signed, and submitted by the parent and the child care provider which establishes a link between the child and the child care provider.

(ij) The following verification requirements shall apply for a child experiencing a disability or significant special needs requiring additional funds for accommodations or classroom adaption in the child care setting:

(1) The parent shall authorize the release of information to DHHS by completing section III of Form 2690 "Verification for a Child Experiencing a Disability or Significant Special Needs," (~~April 2020~~ July 2015), and by signing and dating the form, affirming the following:

"By signing below, I authorize this verification to be released to the Department of Health and Human Services. I understand that the information will be held in the strictest confidence and that it will be reviewed by, or shared with, authorized Department of Health and Human Services' staff involved in the authorization of Child Care and Development Fund Scholarships"; ~~and~~

(2) The child care provider shall complete section I of Form 2690, "Verification for a Child Experiencing a Disability or Significant Special Needs" (~~April 2020~~ July 2015), including signing and dating the form, certifying the following:

a. "I certify that the child's disability or special need(s) is significant enough that the child requires additional funds for accommodation or classroom adaptation in the child care setting."; ~~And~~

b. "I agree to submit an annual report to DHHS specifying how the monies were spent which include all DHHS requested information necessary for program monitoring";

(3) A licensed professional shall complete section II of Form 2690, "Verification for a Child Experiencing a Disability or Significant Special Needs," (~~April 2020~~ July 2015), including signing and dating the form, certifying that one of the following, is applicable:

a. "I certify that: I am the child's attending physician, physician's assistant, advance practice registered nurse, or licensed mental health professional and am providing ongoing treatment; the child's disability or special need(s) is significant enough that the child requires additional support and/or accommodation in a child care setting; and, if the child is 13 through 17 years of age, the child's condition limits the child's ability to care for himself/herself or he/she would cause harm to himself/herself or others without supervision."; or

b. "I certify that I am a SAU Special Education Director or Area Agency Director and I believe that the child's disability or special need(s) is significant enough that the child requires additional support and/or accommodation in a child care setting."

(k) When a parent in a 2-parent household claims that he or she has a disability, acceptable verification shall be a signed and dated statement from an attending physician, physician assistant, advance practice registered nurse, or licensed mental health professional indicating:

- (1) The medical condition, disease, or disability of the adult;
- (2) The expected duration of the condition, disease, or disability; and
- (3) That the adult is unable to work and to care for and supervise his or her child(ren) because of the condition, disease, or disability.;

(l) For those parents who are NHEP participants but who are in an approved training or educational program, including any internet training or education programs, the acceptable verification shall be a signed and dated statement from the school or training organization indicating:

- (1) ~~That~~ The parent is enrolled in the program;
- (2) The duration of the program; ~~and~~
- (3) The class schedule, including hours of class attendance; and
- (4) The program shall lead to a degree, license, or certificate at the associate's level or less in a specific field of employment.

(m) For ~~those~~ parents who are not receiving ~~FANFTANF~~ financial assistance, but who are in an approved training or educational program, including any internet training, or education program the acceptable verification shall be a signed and dated statement from the school or training organization indicating:

- (1) ~~That~~ The parent is enrolled in the program;
- (2) ~~That~~ The program shall lead to a degree, license or certificate at the associate's level or less in a specific field of employment.;
- (3) The duration of the program; and
- (4) The class schedule, including hours of class attendance.;

(n) For the parents receiving ~~FANFTANF~~ financial assistance and not participating in the NHEP work program, acceptable verification of the training program or course of study, including any internet training or education program, shall be a signed and dated statement from the school or training organization indicating:

- (1) The requirements in (m)(1), (3) and (4) above; and
- (2) That the program shall lead to a degree or certificate at the associate or bachelor's level or less in a specific field of employment.;

(o#) When a parent works at least 4 hours on a night shift between 10:00 p.m. and 6:00 a.m., acceptable verification shall be a signed and dated statement from the parent's employer, or, if self-employed, the parent's customer, stating the hours of the shift that the individual works each week.;

(p#) If at redetermination a parent is experiencing one of the circumstances in He-C 6910.10(o#), the following verification shall be required:

(1) A signed and dated statement from the employer that the parent is still employed and will be able to return to work following the medical leave or seasonal break in employment; or

(2) Proof of registration for the following semester, or a signed and dated statement from the institution where the parent attends the training or educational program, stating that the parent is still enrolled.;

(q#) When a parent is participating in a job search at initial application or at redetermination, acceptable verification shall be:

(1) Proof of receipt of unemployment compensation benefits;

(2) A personal summary page from the NH department of employment security's job match; or

(3) The verifications described in He-W 637.03(g).;

(r#) When a parent has a permanent job loss acceptable verification shall be a signed and dated:

(1) Notice of termination from the employer; and

(2) Other verification from the employer that the person is no longer employed.;

(s#) When a parent applying for expedited child care scholarship is homeless as defined in the McKinney-Vento Homeless Assistance Act, section 725(2) of 42 USC 11434a(2) (2011), acceptable verification shall be a self-declaration from the parent that the family is homeless.;

(t#) When a parent is homeless and ~~either employed, seeking employment, or~~ in an employment related ~~training or educational~~ activity and is seeking housing in the same week, acceptable verification shall be a self-declaration stating that the parent is homeless and seeking housing while ~~employed, seeking employment, or~~ in an employment related ~~training or educational~~ activity.;

(u#) For individuals who are providing care as a license-exempt child care provider in the child's home but whose employment is based on the condition described in He-C 6910.07(lj), the individual shall provide a document signed by his or her employer verifying that the provider is prohibited from caring for his or her own children while caring for the employer's children as a condition of the individual's employment and that the employer is not a license-exempt child care provider.;

(v#) For individuals who did not find a child care provider within 30 days when seeking child care through a child care resource and referral agency pursuant to He-C 6910.10(sq)(1), acceptable verification shall be a letter from the child care resource and referral agency stating that the parent has been working with ~~its staff~~ ~~them~~ and child care has not been identified for a specific child.;

~~(w)~~ When a child or parent has had an in-patient hospital stay within the past 30 days as described in He-C 6910.10~~(sf)~~(2), acceptable verification shall be the discharge statement, hospital record, or a statement from the attending physician; ~~and~~

~~(x)~~ When a parent is engaged in an employment related training or educational activity, as described in He-C 6910.0743~~(fe)~~(3), acceptable verification of satisfactory progress shall be a report card or signed and dated statement from an organization or agency, or the educational or training facility, indicating that the parent is making satisfactory progress as defined in He-C 6910.03~~(ase)~~.

(y) The following verifications requirements shall apply to an individual participating in a mental health or substance misuse treatment program:

(1) The parent shall certify participation and authorize the release of information to DHHS by completing, signing, and dating section I of Form 2691 "Verification for an Individual Participating in a Mental Health or Substance Misuse Treatment Program," (April 2020):

(2) A licensed professional shall certify ongoing treatment is being provided by completing, signing, and dating section II of Form 2691 "Verification for an Individual Participating in a Mental Health or Substance Misuse Treatment Program," (April 2020).

He-C 6910.10 Eligibility Determination and Length of Time.

(a) When an application has been made in accordance with He-C 6910.04 and all required verification has been submitted as described in He-C 6910.09, the District Office staff shall make a determination of eligibility for child care scholarship.

(b) If at the time of the initial application interview all required verifications have not been submitted, the district office staff shall give the applicant notification of all outstanding verification(s).

(c) The notification in (b) above shall state that the applicant shall submit the required verification(s) to the district office staff within 10 calendar days of the date of the notification, or the application shall be denied.

(d) An eligibility determination for child care scholarship shall be made:

(1) Within 30 calendar days of the date of application; or

(2) Within 7 calendar days of the date of application for expedited child care as set forth in He-C 6910.05.

(e) Eligibility for an expedited child care scholarship shall terminate 30 days after the date of application. If the applicant is determined eligible for child care scholarship, the expedited period of time shall be applied toward the 12-month period of eligibility.

(f) The application date or the child care provider link date, whichever is later, shall be used to determine the:

(1) Twelve- month eligibility certification period; and

(2) Effective date of payment for child care.

(gf) Non-financial eligibility for child care scholarship shall be determined as follows:

(1) Determin~~ing~~e the composition of the assistance group which shall include all of the following individuals residing in the same dwelling:

- a. All children under 18 years of age who have a biological, foster, step, or adoptive relationship;
- b. All children up to the age of 20 who have a biological, foster, step, or adoptive relationship if they are attending primary or secondary school or equivalent pursuant to RSA 167:80, IV(b); and
- c. Any adult who has a biological, foster, step, adoptive, caretaker relative, or legal guardianship relationship to any child in a. above~~;~~.

(2) Determin~~ing~~e if the applicant is either:

- a. Engaged in one of the activities listed in He-C 6910.07(~~fe~~); or
- b. Meets the criteria for a parent with a disability as described in He-C 6910.09 (~~kj~~);

(3) Require~~ing~~e that~~;~~ when 2 parents live together in the same assistance group, both shall be engaged in at least one of the activities described in He-C 6910.07(~~fe~~), (~~f~~) or (~~g~~); and

(4) Require~~ing~~e that~~;~~ when an applicant is a NHEP participant, he or she shall be eligible under He-C 6910.08~~;~~.

(hg) Financial eligibility for child care scholarship shall be determined by the district office pursuant to He-C 6910.06(a) as follows:

(1) Determine the family size~~;~~ which shall be the same number as members in the assistance group;

(2) Calculate the monthly gross income of the assistance group by adding together all assistance group members' monthly gross earned and unearned income, except for:

- a. Income specifically excluded in He-C 6910.06(c); and
- b. Self-employment income, which shall be added as net income as described in He-C 6910.06(d); ~~and~~

(3)~~;~~ Compare the result obtained in (2) above, using the appropriate family size as determined in (1) above, to the monthly gross income amount described in He-C 6910.06(b) as follows:

- a. If the assistance group's total monthly gross income does not exceed the monthly gross income amount described in He-C 6910.06(b), then the family shall be determined financially eligible for child care scholarship; or

b. If the assistance group's total monthly gross income does exceed the monthly gross income amount described in He-C 6910.06(b) for the appropriate family size, the family shall be determined not financially eligible for child care scholarship and the application shall be denied.

(~~h~~) If the assistance group meets the non-financial and financial requirements described in (~~g~~) and (~~h~~) above and He-C 6910.06 and He-C 6910.07, then the application shall be approved and the family shall be eligible for child care scholarship.

(~~i~~) Notification shall be mailed to the applicant as described in He-C 6910.12 as soon as an eligibility child care determination is made, but no later than 30 days from the date of the application.

(~~k~~) The eligibility period for child care scholarship shall begin as described in (f) above and on the day the application was received at the district office in paper form, via telephone, e-mail, or through NH Easy-Gateway to Services, NH's online benefit application and management system at <https://nheasy.nh.gov/#/>, if the family was determined eligible;

(~~l~~) Notification shall be mailed to the applicant as described in He-C 6910.12 as soon as an expedited child care eligibility determination is made, but no later than 7 days from the date of the application.

(~~m~~) The eligibility period for child care scholarship shall not exceed 12-months.

(~~n~~) A parent shall receive up to 92 calendar days of job search when a~~When a parent is job searching due to reports~~ a permanent job ~~loss or cessation~~loss, cessation of training ~~, or program, or educational program activity, or stops participating in a mental health or substance misuse treatment program~~the parent shall receive a 92 calendar day job search. If the parent does not engage in one of the activities in He-C 6910.07(~~fe~~)(1), (3), (4), ~~or (5), or (6) prior to the end of the 92 calendar days~~, child care will close at the end of 92 calendar days.

(~~o~~) A parent ~~Eligibility~~ shall be considered employed, in a training or educational program, or participating in a mental health or substance misuse treatment program ~~continue~~ during the current 12-month eligibility period ~~s~~ as long as the parent(s) ~~is considered employed or in a training or educational program even while the parent~~ is:

- (1) On a medical leave due to his or her own health or caring for the other parent of the common child living in the household or another child living in the household~~another family member in the household~~;
- (2) Experiencing a seasonal break in employment according to regular industry work seasons;
- (3) On a student holiday or break from a training or educational activity; or and
- (4) Experiencing any other reduction in work, training or education hours as long as the parent(s) is still working or attending a training or educational program.

(~~p~~) ~~The eligibility period for expedited child care shall not exceed 30 calendar days after the date of the application. For expedited child care, the eligibility period shall:~~

(1) Continue if verification is provided within 30 calendar days and eligibility is determined; or

(2) Terminate on day 30 if verification is not provided within 30 calendar days.

(~~q~~) A child shall be excluded from the payment for child care scholarship if he or she does not meet any one of the following:

(1) The citizenship criteria of He-C 6910.09- (c);

(2) The age criteria of He-C 6910.07(b)(3)(c);

(3) ~~A~~The child experiencing a verified disability or significant special need criteria of He-C 6910.07(~~e~~); or

(4) No payment was made on the child's behalf for child care services rendered in the previous ~~6090~~ days.;

(~~r~~) The family shall have 30 days from the date in (j) above to arrange for child care with an enrolled provider and complete and return a Form 1863, titled "Child Care Provider Verification," (~~October 2016~~April 2020) pursuant to He-C 6914.

(~~s~~) If the family fails to comply with (~~r~~) above, child care eligibility shall be terminated except when DHHS has authorized one 30-day extension for one of the following circumstances:

(1) The family is unable to find child care within 30 days with assistance from a child care resource and referral agency

(2) The parent or child has an in-patient hospital stay during the 30-day period;

(3) The information or data contained in Form 1863 was incorrect or no data has been entered by DHHS establishing a child care link;

(4) There was an error made in determining child care eligibility; or

(5) The family's chosen child care provider has completed the enrollment requirements in accordance with He-C 6914.04(~~n~~) within 30 days, but the provider enrollment determination has not been made according to He-C 6914.04(~~o~~).

(~~t~~) Prior to the end of the eligibility period, the family shall request a redetermination of eligibility in accordance with He-C 6910.15 in order to continue to receive child care scholarship.

(u) If the parent is no longer participating in any combination of He-C 6910.07 (f)(1)-(6), the parent shall be granted continued assistance for up to 92 calendar days. Child care shall terminate if the parent does not reengage in He-C 6910.07 (f)(1)-(6).

(v) Continued assistance is only granted when employment, training, educational program, or mental health or substance misuse treatment program is terminated.

He-C 6910.11 Child Care Assistance Wait List.

(a) When annual departmental cost projections reflect that available funds will be over-expended for the current fiscal year, a wait list shall be established consisting of all families applying for or receiving child care scholarship for the provision of additional child care scholarships.

(b) The following children shall be exempt from the wait list in (a) above:

(1) Children whose parent applies for employment related child care scholarship within 92 calendar days of the child's preventive or protective services closing;

(2) Children in families currently receiving ~~FANFTANF~~ benefits or children whose parent applies for employment related child care scholarship within 92 calendar days of the parent's ~~FANFTANF~~ closing; and

(3) Children currently experiencing homelessness as defined in He-C 6910.03(i) or children whose parent(s) apply for employment related child care scholarship within 92 calendar days of finding housing after experiencing homelessness.

(c) The department shall not pay for child care services provided to a child while he or she is on the wait list.

(d) A family shall comply with all eligibility requirements and be determined eligible in accordance with He-C 6910.06, or He-C 6910.07, and He-C 6910.08 before being placed on the wait list.

(e) A family whose ~~has a child(ren)~~ is on the a wait list shall be subject to redetermination of child care scholarship every 12-months.

(f) A family whose a child(ren) is on the wait list shall report the following:

_____ (1) Start of employment;

_____ (2) Permanent loss of employment;

_____ (3) Start of training or educational program;

_____ (4) Cessation of training or education program;

_____ (5) Start of mental health or substance misuse treatment program;

_____ (6) End of mental health or substance misuse treatment program;

_____ (7) If the assistance group's gross income exceeds 220% of federal poverty guidelines; or

_____ (8) If the assistance group's income increases to an amount exceeding 85% of SMIL.

~~(f) A family shall report the start or permanent loss of a job, the start or cessation of employment related training or educational activity, or if the family's gross income exceeds 220% of federal poverty guidelines while on the wait list.~~

(g) If a family is determined ineligible or fails to maintain eligibility status, the child(ren) shall be removed from the wait list and, child care eligibility shall be terminated.

(h) If a child has been removed from the wait list, pursuant to (g) above, the family shall re-apply, be determined eligible for child care scholarship, and be added to the child care scholarship wait list. The new application date shall determine the child's position on the wait list.

(i) The wait list shall be prioritized into the following groups:

(1) The first priority group shall include:

- a. Children in families with monthly gross income at or under 100% of the federal poverty level; and
- b. Siblings of children who are members of a currently eligible family with an approved provider and are actively receiving assistance; and

(2) The second priority group shall include all other children determined eligible for child care scholarship who do not meet the criteria of the first priority group in (1) above.

(j) Eligible children shall be added to the wait list according to the date on the application submitted according to He-C 6910.04(ef).

(k) As funds become available, funds shall be released to offer child care scholarship to children on the wait list in priority order, as follows:

(1) According to the date of a family's signed and dated application submission; and

(2) Alternating between:

- a. Two children from the first priority group in (i)(1) above; and
- b. One child from the second priority group in (i)(2) above.

(l) When child care scholarship becomes available to a child on the wait list, families shall receive notification stating the following:

- (1) The date that one or more of their children has been released from the wait list;
- (2) The date in (1) above shall be the date that funds are available for payment; and
- (3) No payment shall be made for child care services received prior to the date in (k) above.

(m) The family shall have 30 days from the date in (l)(1) above to arrange for child care with an enrolled child care provider and return the provider verification form identified in He-C 6910.09(ih) to DHHS.

(n) If the family fails to comply with (l)(1) above, child care eligibility shall be terminated, except for the following circumstances:

- (1) The family is unable to find child care within 30 days with assistance from a child care resource and referral agency;
 - (2) The parent or child has an in-patient hospital stay during the 30-day period; or
 - (3) The information or data contained in Form 1863 "Child Care Provider Verification" (~~October 2016~~ April 2020) was incorrectly entered, or no data was entered by DHHS establishing a child care link;
 - (4) There was an error made in the DHHS determination of child care eligibility; or
 - (5) The family's chosen child care provider has completed the enrollment requirements in accordance with He-C 6914.04~~(n)~~ within 30 days, but the provider enrollment determination has not been made according to He-C 6914.04~~(n)~~.
- (o) When a single parent in the military is receiving child care scholarship and the parent is placed on orders or deployed for a period longer than 30 days, child care scholarship shall continue until:
- (1) The parent's child care scholarship is terminated and the parent appoints a legal guardian or caretaker relative for his or her child(ren);
 - (2) The legal guardian or caretaker relative applies for child care scholarship and the child is placed on the wait list until a determination is made on the legal guardian's or caretaker relative's eligibility to receive child care scholarship; and
 - (3) The legal guardian or caretaker relative is found eligible to receive child care scholarship, and the child is released from the wait list.
- (p) When the single parent returns from orders or deployment and assumes guardianship of his or her child, the child if on a wait list, shall be released from the wait list when the following are completed:
- (1) The legal guardian's or caretaker relative's child care scholarship is terminated;
 - (2) The parent reapplies to receive child care scholarship, and the child is placed on the wait list until a determination is made on the parent's eligibility to receive assistance; and
 - (3) The single parent is found eligible to receive child care scholarship at the time the child is released from the wait list.

He-C 6910.12 Notification to Applicants, Recipients, and Providers.

- (a) A family shall receive notification whenever child care scholarship is denied including the reason for the denial.
- (b) A family and provider shall receive notification whenever child care scholarship is approved, increased, decreased, redetermined, terminated, when a child is added to or released from the wait list, or when DHHS establishes or ends the link between the child and provider that controls payments.
- (c) Notifications to families and providers shall contain the following information, as applicable:

- (1) The reason for notification including one or more of the following:
 - a. A child care scholarship approval;
 - b. A cost share increase or decrease;
 - c. A redetermination of eligibility;
 - d. A termination;
 - e. An addition to the wait list;
 - f. A release from wait list; or
 - g. Information relative to whether the child's link to the child care provider is opening or closing;

- (2) ~~D~~Decisions impacting on-going eligibility including one or more of the following:
 - a. Initiation of job search activity; and
 - b. Initiation of a graduated phase out;
 - ~~b. At 72 days from the start of the job search, information relative to the end of the job search;~~
 - ~~c. At 45 days of no billing from the provider, information relative to the end of the child care link due to 90 days of no billing from the provider;;~~
 - ~~d. At 84 weeks of training used, information relative to the close of the lifetime limit of 104 weeks for employment related training and educational activities;~~
 - e. Initiation of a graduated phase out; and
 - ~~f. At the 10th month, information relative to the end of GPO;~~

- (3) The eligibility period, for an approval or redetermination;

- (4) The proposed effective date of the decrease in assistance or termination;

- (5) The proposed effective date at redetermination of a graduated phase out or a change in cost share;

- (6) If the family is determined eligible, each eligible family member's name and DHHS recipient identification number, which is a uniquely assigned number for each assistance group member;

- (7) The family cost share based on the percent of the assistance family monthly group's monthly gross income and household size per He-C 6910.-18;

- (8) Authorized service level, full time, half time, or part time for the child(ren);
- (9) The right to appeal in accordance with He-C 6910.19 if the family is aggrieved by the eligibility decision;
- (10) The DHHS decision to seek recoupment of an overpayment from either the parent, the provider or both; and
- (11) Funds are now available and the child is now released from the wait list.

(d) Notifications to families in (b) above shall include the following additional information, as applicable:

- (1) The maximum income limit for the family size;
- (2) The total monthly gross income amount for the assistance group; and
- (3) The income computation used to determine the eligibility decision.

(e) Courtesy letters impacting on-going eligibility shall include one or more of the following:

- (1) At 72 days from the start of the job search, information relative to the end of the job search;
- (2) At 30 days of no billing from the provider, information relative to the end of the child care link due to 60 days of no billing from the provider; and
- (3) At 84 weeks of training used, information relative to the close of the lifetime limit of 104 weeks for employment related training and educational activities.

(fe) When a termination is the result of the parent's family's failure to complete the redetermination process, the family shall not receive notification in accordance with this section.

He-C 6910.13 Limitation of Child Care Scholarship in Certain Situations. Insofar as funding and resources allow, child care scholarship shall continue if the family meets the program requirements of He-C 6910, except as follows:

(a) For families for which a job search activity is approved for one or more parents the following shall apply:

- (1) Each parent shall be allowed a maximum of 92 calendar days of child care scholarship in order to engage in job search or engage in job search and seek housing in the same week;
- (2) Child care scholarship shall terminate at the end of 92 calendar days if the parent or parents in job search has not engaged in one of the activities in He-C 6910.07 (f),(1),(3),(4),(5), or (6).secured employment or entered an approved training or employment related educational program;
- (3) A parent shall engage in employment, an employment related training or educational program, NHEP, ~~or~~ basic education, or participating in a mental health or substance misuse

treatment program activity before a new job search shall be granted as a new activity or 6 months shall lapse between job search activities; and

(4) If both parents are engaged in a job search, but they began job search on different dates, child care scholarship shall terminate on the date which is the end of the earlier 92 calendar day job search period, if one or both parents have not engaged in one of the activities in He-C 6910.07 (f).(1).(3).(4).(5). or (6)~~secured an employment, employment related training or educational activity~~ during the job search.;

(b) A parent participating in NHEP shall be subject to the limitations identified in He-C 6910.08.;

(c) A parent who is not receiving FANFTANF financial assistance shall be eligible for child care scholarship during the training program or course of study when the training or educational program or course of study:

- (1) Prepares the parent for employment;
- (2) Leads to a degree or certificate in a specific field of employment;
- (3) Does not exceed 104 weeks of child care scholarship payment in a lifetime;
- (4) Is not a single course apart from a degree or certificate program; and
- (5) The program ~~shall~~ leads to a degree or certificate at the associate's level or lower.;

(d) For the parent receiving FANFTANF financial assistance and not participating in the NHEP work program, the training program or course of study:

- (1) Shall comply with the requirements in (c)(1) through (4) above; and
- (2) May result in a degree or certificate at the associate's or bachelor's level.;

(e) Families in which a parent is engaged in basic and alternative educational activities, which lead to a high school diploma or equivalent, or increase literacy levels, shall not be subject to the 104 week lifetime limit for training and educational programs, contingent upon the parent's ongoing satisfactory progress as defined in He-C 6910.03(~~asq~~) in one of the following programs:

- (1) High school diploma program;
- (2) High School Equivalency Testing (HiSET) program;
- (3) Remedial or basic education program; or
- (4) English as a second language.;

(f) Families not receiving FANFTANF financial assistance who are participating in ~~work~~ studywork-study or internship shall:

- (1) Be considered to be employed; and

- (2) Have any income received from the ~~work-study~~ or internship counted as part of the ~~assistance group~~'s monthly gross earned income in the determination of assistance in accordance with He-C 6910.09(f);
- (g) ~~DHHS shall not pay c~~Child care scholarship ~~shall not be paid by DHHS~~ when a parent is participating in a pre-requisite course in preparation for a post-secondary education or training program except in the case of a nursing program, in which case the prerequisite courses shall be limited to 2 and shall count towards the 104 week lifetime limit;
- (h) If the provider's link with a specific child is terminated due to non-payment for the dates of child care services rendered within the past ~~6090~~ days, the department shall send notification informing the parent of the termination of the provider's link between the child and the provider;
- (i) When the provider has not billed for services rendered within the past ~~6090~~ days, the parent shall submit the new provider verification Form 1863 "Child Care Provider Verification" (~~April 2020~~~~October 2016~~) identified in He-C 6910.09(h) within 10 days of the date of the notification in (i) above; ~~and~~
- (j) If the family fails to comply with (i) above, child care scholarship shall be terminated.

He-C 6910.14 Reporting Changes During the 12-Month Eligibility Period.

(a) During any 12-month eligibility period, Tier 1 or Tier 2, a parent shall report and verify changes in any of the following circumstances ~~below~~ to the district office staff within 10 calendar days of the date when the change occurs:

- (1) The assistance group's household income increases to an amount exceeding 85% of SMI;
- (2) There is a change in the child care provider or child care provider location who is providing child care services;
- (3) There is a permanent loss or start of employment;
- (4) A parent begins or ends a training or educational program; ~~or~~
- (5) There is a change in the assistance group's;
- (6) There is a change in the assistance group's household assets such that their cumulative value is in excess of one million dollars;
- (7) A parent begins or ends a mental health or substance misuse treatment program;
- (8) A parent moves into the household;
- (9) An individual residing in the household becomes a parent of a child;
- (10) There is a change of address;
- (11) A parents adopts a child during the 12-month eligibility certification period; or

(13) A parent registered with a temporary employment agency is no long receiving payment.

(b) A parent shall not be eligible for continued assistance if the parent fails to comply with (a) above, child care scholarship will terminate with no advanced notice period.

(cb) Within 10 calendar days of the reported change, DHHS shall:

(1) Review whether the assistance group continues to be eligible once a change in circumstances as described in (a) above has been reported and verified subject to He-C 6910.09; and

(2) Send notification to the parent(s) and child care provider if the reported change results in a decrease, increase, or termination of child care scholarship as described in He-C 6910.12.

(de) Termination of eligibility that results from a change in family circumstances shall be effective 10 calendar days from the date of the notification, unless the parent(s) requests a continuance of child care scholarship pending the outcome of an appeal in accordance with He-C 6910.19.

(ed) Termination of child care scholarship eligibility that results from a change in assistance group family income exceeding 85% of SMI shall be effective on the date of the notification from DHHS.

(fe) A family shall report any decrease in income during the 12-month eligibility period, for Tier 1 or Tier 2 eligibility, and have the cost share recalculated for the remainder for the eligibility period.

He-C 6910.15 Redetermination of Eligibility.

(a) Eligibility for child care scholarship shall terminate at the end of the eligibility period unless the parent has requested and completed a redetermination in accordance with He-W 606.100 or He-W 606.101 no later than the last day of the prior year's application month.

(b) The purpose of the redetermination shall be to verify and update the information and documentation provided on the application or at the most recent redetermination in an effort to determine current child care eligibility.

(c) A redetermination shall be conducted in the same manner as an application in accordance with He-C 6910.04, He-C 6910.06 and He-C 6910.09, except:

(1) Verification of information regarding assistance group members, such as name, address, birth information, and citizenship, shall not be required unless changes in assistance group composition or address have occurred since application or the most recent redetermination;

(2) Verification of current child care provider on Form 1863 "Child Care Provider Verification" (April 2020~~October 2016~~) shall not be required if no information on the previously submitted form has changed; or

(3) For a child experiencing verified disability or significant special needs, verification on Form 2690 "Verification for a Child Experiencing Significant Special Needs" (April 2020~~July 2015~~) shall not be required if the condition is considered chronic and non-changing as indicated by the attending physician, physician assistant, advance practice registered nurse, or licensed

mental health professional at the time of application or when verification of the verified disability or significant special need(s) was previously submitted on Form 2690 "Verification for a Child Experiencing a Disability or Significant Special Needs" (~~April 2020~~July 2015).

(d) At the redetermination interview the district office shall give the applicant a list of any outstanding verifications required to determine child care eligibility.

(e) ~~If a parent is approved for Ccontinued-child care eligibility in accordance with He-C 6910.10(o), child care scholarship shall continue for another 12-months, be determined in accordance with He-C 6910.10 and the eligibility period shall continue for another 12 months.~~

(f) If a parent is approved for continued assistance in accordance He-C 6910.10(u), in the final quarter of the 12-month eligibility period, the continued assistance takes precedence over the new 12-month eligibility period.

(g) If a parent is approved for job search in the final quarter of the 12-month eligibility period, the 92-calendar day job search takes precedence over the new 12-month eligibility period.

~~(hf)~~ The redetermination shall be completed even when a parent is experiencing one of the circumstances in He-C 6910.10(~~oh~~).

~~(ig)~~ Any parent, who fails to complete the redetermination shall have his or her child care scholarship terminate at the end of the 12-month eligibility certification period.

~~(jh)~~ If at redetermination it is determined that the family does not meet the initial eligibility threshold, Tier 1, due to an increase in income greater than 220% but equal to or less than 250% of the federal poverty guidelines, the parent shall receive ~~a~~ 12-month graduated phase out eligibility period, Tier 2.

~~(ki)~~ If at any time during the graduated phase out, the period for Tier 2, a family reports income that decreases below 221% of the FPG, the family eligibility level returns to Tier 1.

~~(lj)~~ If at any time during graduated phase out, Tier 2, the assistance group's family income exceeds 85% of state median income (SMI), child care scholarship eligibility shall terminate.

~~(mk)~~ If at redetermination the assistance group's family's income exceeds 250% FPG, child care scholarship eligibility shall terminate~~end~~.

(n) If at redetermination the assistance group's income increases to an amount exceeding 85% of SMI scholarship eligibility shall terminate.

~~(ol)~~ If at redetermination it is determined that the assistance group's family income has decreased, the cost share shall be recalculated.

~~(pm)~~ The family shall receive notification regarding the redetermination of eligibility decision in accordance with He-C 6910.12.

(~~q#~~) If the family is determined to be no longer eligible, child care scholarship shall ~~terminate~~ on the date specified on the notification, unless continuation of child care scholarship is requested pending the outcome of an appeal in accordance with He-C 6910.19.

(~~r#~~) If a family requests a redetermination after the end of the family's eligibility period, the request shall be treated as a new application in accordance with He-C 6910.04, and, if found eligible, a new eligibility period shall begin on the day the application was received in the ~~d~~District ~~o~~Office and shall be subject to the wait list pursuant to He-C 6910.11.

(~~s#~~) If at the time of redetermination it is reported by the family that a new provider is providing child care services, that provider shall be enrolled in accordance with He-C 6914 before payment can be made to the provider.

(t) The application date or the child care provider link date, whichever is later, shall be used to determine the:

(1) Twelve month eligibility certification period; and

(2) Effective date of payment for child care.

He-C 6910.16 Service Level Determination for Child Care Scholarship Payments.

(a) The child care authorized service level shall be authorized at initial eligibility and at redetermination and limited only to the hours that the parent is participating in one or more of the following activities:

- (1) At work;
- (2) Looking for work;
- (3) Looking for work and housing in the same week as describe in He-C 6910.07(~~h#~~);
- (4) In training or attending class, including online~~internet~~ training;
- (5) In a work study, subject to the limitation in He-C 6910.13(f) for non-~~FANFTANF~~ recipients;
- (6) Required to participate in a NHEP activity as described in He-W 637;
- (7) Performing duties for AmeriCorps VISTA;
- (8) In a mental health treatment program or substance misuse treatment program and a recipient of NHEP or FAP;
- (~~9#~~) Commuting equal to one hour per day in one or more approved employment related activities not to exceed one hour per day when those commutes are related to (1) through (~~8#~~) above;

(109) Studying, not to exceed the number of classroom hours spent in a week, and only if billed within the same week as those classroom hours; or

(110) Resting, not to exceed the number of hours worked, if the parent works any 4 hours of the day from 10:00 p.m. to 6:00 a.m. and the child would otherwise be without care and supervision: ~~..-of~~

(b) The authorized service level shall remain unchanged during any 12-month eligibility period unless the parent reports a change in employment related activities that increases the authorized service level.

(c) The authorized service level shall remain the same as the authorized service level prior to the parent experiencing one of the circumstances in He-C 6910.10(~~of~~) unless the parent requests otherwise;

(d) In a job search period following the permanent loss of a job, ~~or~~ end of a training or educational activity, or end of participation in a mental health or substance misuse treatment program the authorized service level shall remain the same as the authorized service level prior to the start of job search.

He-C 6910.17 Child Care Scholarship Standard Rate Methodology.

(a) The full time child care weekly standard rates shall be established by utilizing a federally required market rate survey (MRS) of New Hampshire licensed child care center and licensed family child care home rates conducted every 2 years.

~~(b) Weekly standard rates shall be established for licensed child care centers and licensed family child care homes at the 50th percentile of the most recent MRS for each age category as established by DHHS.~~

(b) Weekly standard rates shall be established for licensed child care centers and licensed family child care homes at:

(1) For birth through 35 months, the 60th percentile of the most recent MRS for each age category as established by DHHS; or

(2) The 55th percentile of the most recent MRS for each age category as established by DHHS.

(c) A weekly standard rate for license-exempt child care home providers shall be established at 70% of the licensed family child care home standard rate for each age category.

(d) A weekly standard rate for license-exempt child care centers shall be established at 50% of the licensed child care center standard rate.

(e) Child care scholarship payment to the child care provider shall be the amount remaining after comparing the provider's charge for the service to the DHHS weekly standard rate, then subtracting the family's cost share from whichever is the lower rate.

(f) The weekly standard rate for licensed and license-exempt child care centers and license and license-exempt family homes shall be proportioned from the full time weekly standard rate for half time and part time child care.

(g) In addition to the standard rates above, a supplemental payment of ~~\$10050.00~~ full time, ~~\$7530.00~~ half time, and ~~\$5015.00~~ part time per week shall be paid for a child experiencing a disability or significant special needs subject to the verification described in He-C 6910.09(j).

(h) The supplemental payment in (g) above shall be effective the Monday following the approval date on Form 2690 “Verification for a Child Experiencing a Disability or Significant Special Needs” (~~July 2015~~April 2020).

(i) When a child’s age in months reaches the beginning of a new age category, that is, 0-17, 18-35, 36-78, or 79-155 months, for payment, the payment rate shall be changed effective the Monday following the change in age category.

(j) Child care scholarship payments established pursuant to He-C 6910 are contingent upon the availability and continued appropriation of sufficient funds for this purpose, and in no event shall DHHS be liable for any payments hereunder in excess of such available appropriated funds.

He-C 6910.18 Cost Share Determination.

(a) A family’s child care scholarship family cap amount and cost share shall be determined as a percent of the family’s monthly gross income adjusted for family size shown. The family cost share is shown in Table 6910.1 as follows:

- (1) Families whose monthly gross income is less than or equal to 100% of the FPG described in He-C 6910.06(b) shall be eligible for step 1, Tier 1;
 - (2) Families whose monthly gross income is greater than 100% and less than or equal to 120% of the FPG as described in He-C 6910.06(b), shall be eligible for step 2, Tier 1;
 - (3) Families whose monthly gross income is greater than 120% and less than or equal to 140% of the FPG as described in He-C 6910.06(b) shall be eligible for step 3, Tier 1;
 - (4) Families whose monthly gross income is greater than 140% and less than or equal to 160% of the FPG as described in He-C 6910.06(b) shall be eligible for step 4, Tier 1;
 - (5) Families whose monthly gross income is greater than 160% and less than or equal to 190% of the FPG as described in He-C 6910.06(b) shall be eligible for step 5, Tier 1;
 - (6) Families whose monthly gross income is greater than 190% and less than or equal to 220% of the FPG as described in He-C 6910.06(b) shall be eligible for step 6, Tier 1; and
 - (7) Families whose monthly gross income is between 221% and 250% of the FPG according to the “Poverty Income Guidelines for All States except Alaska and Hawaii and the District of Columbia” published annually in the federal register at 81 FR 4036 (January 25, 2016) as described in He-C 6910.06(b) shall be eligible for a graduated phase out at step 7, Tier .2
- (b) If at initial eligibility or redetermination, an assistance group’s family’s monthly gross income is less than or equal to 220% FPG as described in He-C 6910.06(b), the family’s cost share shall be determined at steps 1-6 and considered in Tier 1. Families shall not be determined initially eligible at step 7.

(c) If at redetermination the monthly ~~assistance group~~family gross income exceeds the initial eligibility threshold of (a)(1)-(6) above, Tier 1 eligibility, and is less than or equal to 250% of FPG, the family shall be eligible for ~~one~~ 12-month graduated phase out period, Tier 2, at step 7.

~~(d) The family cap amount and cost share shall be calculated by taking the assistance group's monthly gross income, adjusted for family size, multiplied by the cost share percent associated with the step assigned to the family from Table 6910.1 and divided by 4.33.~~

~~(e) Cost share shall not increase during any 12-month eligibility certification period shall increase or decrease but not exceed the family cap amount determined at initial eligibility, 12-month eligibility period,~~ whether Tier 1 or Tier 2.

(f) Cost share shall decrease as a result of any decrease in income during a 12-month eligibility period, unless income was annualized at initial eligibility or redetermination.

(g) Changes in the monthly gross income limit used to calculate eligibility shall be effective on the first day of July following publication of the annual update of the federal poverty guidelines in the Federal Register.

~~(g) Family cost share shall be calculated by taking the family's monthly gross income, adjusted for family size, multiplied by the cost share percent associated with the step assigned to the family from Table 6910.1 and divided by 4.33.~~

~~(h) Family cost share shall be recalculated to a rate no higher than the original cost share determined at the beginning of the current eligibility period.~~

(i) A family may report any decrease in income during the 12-month eligibility period, for Tier 1 or Tier 2, and have the cost share recalculated for the remainder of the eligibility period.

Table 6910.1 Eligibility and Family Cost share (Based on Percent of Family Income)

Step	Federal Poverty Guidelines	Family Cost Share Assigned to Family
1 Tier 1	Less than 100% FPG	4.75%
2 Tier 1	>100% ≤120%	7.50%
3 Tier 1	>120% ≤ 140%	10.00%
4 Tier 1	>140% ≤ 160%	12.50%
5 Tier 1	>160% ≤ 190%	14.00%
6 Tier 1	>190% ≤ 220%	17.00%
7 Tier 2, Graduated Phase Out	>220% ≤ 250%	20.00%

(j) Families authorized for graduated phase out shall be assigned step 7 for the 12-month graduated phase out period.

(k) The family cost share assigned to the family shall be divided equally among all eligible children enrolled with DHHS enrolled child care providers.

(l) The cost share per child shall be applicable to only one DHHS enrolled child care provider.

~~(1m)~~ The family shall identify one DHHS enrolled child care provider per child to be reimbursed by DHHS pursuant to He-C 6910.07(b)(4).

~~(mm)~~ If the family utilizes more than one child care provider per child:

(1) DHHS shall only pay for ~~the~~ one child care provider per child; and

(2) The family shall be responsible for the total cost of care for additional child care providers.

He-C 6910.19 Appeals.

(a) A family may appeal within 30 calendar days of the date on the notification of an eligibility decision to reduce, deny, or terminate child care scholarship in accordance with He-C 200.

(b) If a family files an appeal in accordance with He-C 200 within 15 calendar days of the date of the notification and requests continuation of child care scholarship, then child care scholarship shall continue at the established payment rate.

(c) If the decision on the appeal upholds the DHHS proposed action, then child care scholarship shall be denied, decreased, or terminated effective the date indicated on the original notification of the denial, decrease, or termination, except when the termination is a result of the parent's failure to complete the redetermination process in accordance with He-C 6910.15 and in which case the effective date shall be the closure date identified on the notification of redetermination.

(d) If the family opted to continue to receive child care scholarship as provided under (b) above, any overpayment shall be repaid in accordance with He-C ~~6910.0820~~.

(e) If the decision on the appeal does not uphold the DHHS proposed action:

(1) Eligibility shall be established as provided for in the appeal decision and eligibility shall be effective as described in He-C 6910.10 if the notification proposed a denial of the application; or

(2) The family shall continue to receive child care scholarship as provided for in the appeal decision, if the notification proposed a decrease or termination of child care scholarship.

~~He-C 6910.20 Recoupment of Overpayments~~

~~(a) An overpayment shall have occurred under one of the following conditions:~~

~~(1) When a family requests continuation of child care scholarship pending the outcome of an appeal and the appeal decision upholds the DHHS proposed action; or~~

~~(2) For any other reason that a provider received an incorrect higher amount of payment than he or she should have received.~~

~~(b) When an overpayment has occurred, DHHS shall determine the cause in accordance with (c), (e), (h), and (j) below.~~

~~——(c) The overpayment shall be solely the fault of the provider when the parent is in compliance with the provisions of He-C 6910 and the provider has been paid for services:~~

~~(1) Not rendered; or~~

~~(2) That were not in compliance with He-C 6914 and the provider agreement.~~

~~——(d) If the overpayment has been determined to be solely the fault of the provider, the provider shall receive a notification that an overpayment has occurred and that repayment shall be made in accordance with (k) below:~~

~~——(e) The overpayment shall be solely the fault of the parent if:~~

~~(1) The provider is in compliance with He-C 6914 and the provider agreement;~~

~~(2) The parent has not complied with the provisions of He-C 6910; and~~

~~(3) The provider has no knowledge that the parent was out of compliance with the provisions of He-C 6910.~~

~~——(f) If an overpayment has been determined to be solely the fault of the parent, the parent shall receive notification that an overpayment has occurred and payments shall be recouped in accordance with RSA 167:17-a.~~

~~——(g) The overpayment shall be the fault of both the parent and the provider when:~~

~~(1) Both parties are out of compliance with He-C 6910; or~~

~~(2) Both parties were in collusion, meaning they agreed to actions with the understanding that their actions constituted a violation of the provisions of these rules.~~

~~——(h) If the overpayment is determined to be the fault of both the parent and the provider, notification shall be sent to both parties:~~

~~——(i) If the overpayment is determined to be the fault of the parent in accordance with (e) above, or the fault of both the provider and the parent in accordance with (g) above, DHHS shall initiate further action such as recoupment of payment from the parent.~~

~~——(j) If the parent has opted to continue to receive child care scholarship pending the outcome of the appeal and the appeal decision upholds the DHHS proposed action as in (a)(1) above, the parent shall be the cause of the overpayment and shall be responsible for the repayment.~~

~~——(k) Within 30 calendar days of notification in accordance with (d) above, the provider shall agree to do one of the following:~~

~~(1) Repay the overpayment in full;~~

~~(2) Choose to repay at a rate no lower than 10 percent of the full amount owed per month until the overpayment is repaid in full whether the provider is currently enrolled or no longer enrolled; or~~

~~(3) For a currently enrolled provider, choose to have the total amount withheld from future child care scholarship payments to the provider, beginning with the next scheduled payment after agreement has been reached or after the 30 days has elapsed, whichever occurs first, until the overpayment is repaid in full.~~

~~—— (1) If the provider fails to comply with (k) above, then the overpayment shall be recouped in full beginning with the next scheduled child care scholarship payment to the provider after the 30 calendar days has elapsed, or for as long as is necessary to recoup the overpayment in full.~~

He-C 6910.20 Waiver of rules.

(a) A parent who requests a waiver of a requirement in He-C 6910 shall submit the request in writing to DHHS and include the following information:

(1) The parents, name, address, telephone number, and case number, if applicable;

(2) The specific reference to the section of the rule for which a waiver is being requested;

(3) An explanation of why a waiver is necessary and the length of time for which the waiver is being requested;

(4) The number and age range of children who will be affected by the waiver;

(5) A written plan to achieve compliance with the rule or an explanation on how the parent will satisfy the intent of the rule, if the waiver is granted; and

(6) The signature of the parent.

(b) A waiver shall be granted to the parent if:

(1) The department concludes that authorizing deviation from compliance with the rule from which the waiver is sought does not contradict the intent of the rule or conflict with statute; and

(2) The alternative proposed ensures that the object or intent of the rule will be accomplished.

(c) When a waiver is approved, the parent's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which waiver was sought.

(d) The department shall not approve any request for a waiver of any of the provisions relevant to state or federal law or any rules of other state agencies which are referred to in this chapter.

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

(f) Waiver shall be granted in writing for a specific duration not to exceed 12 months from the date the waiver was granted.

Appendix

Rule	Specific State or Federal Statutes or Regulations the Rule Implements
He-C 6910.01	RSA 161:2, XII; RSA 167:83, I(b); RSA 167:83, II(o)
He-C 6910.02	RSA 167:77, V(e)
He-C 6910.03	RSA 161:2, XII; RSA 167:58, IV; RSA 167:83, I(b); RSA 167:83, II(o)
He-C 6910.04	RSA 167:79, III(d)–(g); RSA 167:83, II(o)
He-C 6910.05	RSA 161:2, XII; RSA 167:80, IV(b) and (i); RSA 167:82, VI; RSA 167:83, II(o)
He-C 6910.06	RSA 167:83, II(c) and (o)
He-C 6910.07	RSA 161:2, XII; RSA 167:80, IV(b) and (i); RSA 167:82, VI; RSA 167:83, II(o),(q)
He-C 6910.08	RSA 167:85; RSA 167:88; RSA 167:90; RSA 167:91
He-C 6910.09	RSA 167:83, II(c) and (o)
He-C 6910.10	RSA 167:79, V(b); RSA 167:82, VI; RSA 167:83, II, (c),(e),(m)
He-C 6910.11	RSA 167:83, II(b); RSA 167:83, III(h)
He-C 6910.12	RSA 161:2, XII; RSA 167:83, II
He-C 6910.13	RSA 167:83, II(o)
He-C 6910.14	RSA 167:83, II(c) and (o)
He-C 6910.15	RSA 161:2, XII; RSA 167:83, II
He-C 6910.16	RSA 161:2, XII; RSA 167:83, II
He-C 6910.17	RSA 167:83, II(o)
He-C 6910.18	RSA 161:2, XII; RSA 167:83, II(o); RSA 167:83, III(g); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:12
He-C 6910.19	RSA 167:83, II(a); RSA 541-A:31, I and II
He-C 6910.20	RSA 170 – E11, I (m)