

RULEMAKING NOTICE FORM

Notice Number 2020-12

Rule Number He-C 6914

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 **X**

Amendment _____

Repeal _____

Readoption **X**

Readoption w/amendment **X**

5. Short Title: **Child Care Provider Enrollment Requirements**

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

He-C 6914 identifies the requirements to become a child care provider of licensed and license-exempt child care services for employment related child care within the New Hampshire child care scholarship program for the Department of Health and Human Services (Department).

The Department is proposing to readopt with amendment the existing sections of He-C 6914 and adopt new sections, He-C 6914.10 and He-C 6914.11.

The proposal includes:

- **Updating the rule for better clarity, program integrity, and making minor, substantive and editorial changes throughout;**
- **Removing preventive and protective child care enrollment requirements as they will be added into the current He-C 6912;**
- **Adding the definitions of “child care provider”, “conflict of interest”, “employee”, “good standing”, and “license-exempt in home provider”;**
- **Updating the definitions of “caretaker relative”, “child care”, and “license exempt”;**
- **Removing the definitions of “Division for Children, Youth, and Families (DCYF)”, “founded”, “N-form”, “preventative child care”, “protective child care”, and “provider”;**
- **Adding the requirement that child care providers must maintain liability insurance or provide a disclosure to parents that the program is uninsured pursuant to RSA 170-E:6-b;**
- **Adding the requirement that each licensed child care provider and its employees must create an account in the NH Professional Registry;**
- **Adding that the child care providers caring for related children or children in the child’s own home must submit to the Department a health and safety certification form, in lieu of an annual monitoring visit;**
- **Updating the enrollment process, by making substantive and editorial changes;**

- Adding that the child care provider or authorized representative shall provide proof that the child care provider or authorized representative has taken and retaken, when necessary, the Department’s New Hampshire child care scholarship training;
- Updating the requirements for providers to maintain enrollment;
- Updating the employment related child care renewal of enrollment requirements by making substantive and editorial changes; and
- Updating the rule by adding sections on confidentiality and waiver of rule requirements.

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

Groups affected by this rule include licensed and license-exempt child care providers who receive financial reimbursement from the department of health and human services (DHHS) for those families utilizing employment related, preventive or protective child care services.

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 6914.01	RSA 161:2, XII; RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.02	RSA 161:2, XII; RSA 167:83, II(o); RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.03	RSA 161:2, XII; RSA 167:58, IV; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.04	RSA 161:2, XII ; RSA 167:83, II(a)(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, VIII, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.05	RSA 161:2, XII ; RSA 167:83, II(a), (o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, VIII, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.06	RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.07	RSA 161:2, XV; RSA 167:17-b, I(a); RSA 167:17-c; RSA 167:58, IV; RSA 167:61-a, I(a)-(c) and (e); RSA 167:83, II(k); RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.08	RSA 167:83, II(a); RSA 170-E:11; RSA 170-G:4, VIII; RSA 170-G:4, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.09	RSA 167:83, II(a)
He-C 6914.10	RSA 170 – E:11, II; and RSA 170-G:8-a
He-C 6914.11	RSA 170 – E:11, 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 # 19:228, dated January 2, 2020

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

When compared to the existing rules, the proposed rules may have an indeterminable impact on independently-owned businesses.

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

No federal mandate, no impact on state funds.

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

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

Waivers granted to childcare providers may result in a small administrative cost to said providers, depending on the number of waivers that will be prepared and submitted to the Department of Health and Human Services. The need for computer access to receive training available online may likewise result in an indeterminable cost.

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.

PART He-C 6914 CHILD CARE PROVIDER ENROLLMENT REQUIREMENTS

Readopt He-C 6914.01, effective 7-10-17 (Document #12223), cited and to read as follows:

He-C 6914.01 Purpose. The purpose of this part is to identify the requirements to become a child care provider of licensed and license-exempt child care services for the department of health and human services (DHHS).

Readopt with amendment He-C 6914.02 and He-C 6914.03, effective 7-10-17 (Document #12223), to read as follows:

He-C 6914.02 Scope. This part shall apply to licensed and license-exempt child care providers who receive financial reimbursement from the ~~department of health and human services (DHHS)~~ for those families utilizing employment related, preventive or protective child care services.

He-C 6914.03 Definitions.

(a) “Agency” means the board of directors, executive director, and employees of an organization that is incorporated and recognized by the NH secretary of state.

(b) “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.”

~~Caretaker relative” means a relative who is not the biological parent of the child(ren), but is providing care and supervision of the child(ren) in the assistance group.~~

(c) “Case plan” means the division for children, youth and families (DCYF) written plan for the child and the family, which outlines how services will be provided pursuant to RSA 170-G:4, III and 42 U.S.C. 671, Part E-federal payments for foster care and adoption assistance 42 U.S.C. 671(a)(16) and 42 U.S.C. 675(5)(a)-(d) state plan for foster care and adoption assistance.

(d) “Child care” means the act of providing safe and healthy care, including 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~~ maintaining an employment related activity, employment or employment related education or training, for an approved activity that supports service or case plan goals.

(e) “Child care provider” means a provider of non-residential child care services, including center-based, family-based, and in-home child care services, for compensation who or that is legally operating under state law, and complies with applicable state and local requirements for the provision of child care services.

(fe) “Child care scholarship” means payment to a child care provider on behalf of a family who meets the eligibility criteria of He-C 6910, or He-C 6912.

(gf) “Commissioner” means the commissioner of the New Hampshire DHHS ~~department of health and human~~ services or designee.

(h) “Conflict of interest” means “conflict of interest” as defined in RSA 21-G:21, II.

(gi) “Department (DHHS)” means the department of health and human services of the state of New Hampshire.

~~(h) “Division for children, youth and families (DCYF)” means the organizational unit of the department of health and human services that provides services to children and youth and families referred by courts pursuant to RSA 169-B, RSA 169-C, RSA 169-D, RSA 170-B, RSA 170-C and RSA 463.~~

~~(j) “Employee” means any individual who is employed by a child care provider for compensation or anyone whose activities involve the care or supervision of children for a child care provider or have unsupervised access to children.~~

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

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

~~(m) “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.~~

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

~~(o) “Founded” means a report of abuse or neglect where the department has determined that there is a preponderance of the evidence to believe that a child has been abused or neglected.~~

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

~~(q) “Good standing” means licensed child care providers are not in violation of He-C 4002.~~

~~(r) “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).~~

~~(s) “Licensed” means a child care provider has been issued a 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 licensing requirements of a state neighboring New Hampshire.~~

~~(t) “License-exempt facility based program” means ” a license-exempt child care provider pursuant to RSA 170-E:3, I (f) and (g).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.~~

~~(u) “License – exempt in home provider” means a person who is:~~

~~(1) Providing child care in a private home;~~

~~(2) Exempt from licensure pursuant to RSA 170-E:3; and~~

~~(3) One of the following program types:~~

~~a. “Relative provider” where “the only children in care are the provider’s own children, children related to the provider, and children residing with, the provider” pursuant to, RSA 170-E:3(1); or~~

~~b. “Friend or neighbor provider” where “any number of the provider’s own children, whether related biologically or through adoption, and up to 3 additional children are cared for regularly for any part of the day, but less than 24 hours, pursuant to RSA 170-E:3.~~

~~(r) “N form” means the electronic web-based platform utilized by the State of New Hampshire for business owners to complete and submit applications for provider enrollment and certification.~~

~~(us) “NH Bridges” means the automated case management, information, tracking, and reimbursement system used by DHHS, the division for children, youth and families.~~

~~(vt) “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 child care provider’s enrollment status; and~~
- ~~c. Other information related to the child care provider’s compliance with these rules.~~

~~(wv) “Parent” means an individual who has a birth, adoptive, or step-parent relationship to the child(ren), a foster parent as defined in (nt) above, a legal guardian as defined in (qe) above, or a caretaker relative as defined in (b) above.~~

~~(v) “Preventive child care” means child care authorized by the comprehensive family support agencies to prevent child abuse or neglect, and to give the parent an opportunity to participate in programs designed to teach positive parenting skills and address concerns that could lead to child abuse or neglect.~~

~~(w) “Protective child care” means child care authorized by DCYF while there is an open assessment or a founded case of child abuse or neglect in order to assist the parent, according to (u) above, in maintaining employment or when child care is in the best interest of the child or to provide an opportunity to address the concerns that lead to abuse or neglect.~~

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

~~(xy) “Serious injury” means any injury that occurs to a child while receiving child care services from a licensed or license-exempt child care provider that requires medical treatment by a physician or other health care professional, hospitalization, or CPR performed on the child while the child is in care.~~

Readopt with amendment He-C 6914.04, effective 7-10-17 (Document #12223), as amended effective 5-24-18 (Document # 12536), to read as follows:

He-C 6914.04 Employment Related Child Care Provider Qualifications and Requirements for Enrollment.

(a) To be eligible to be enrolled, a child care provider shall meet the following qualifications:

(1) Be 18 years of age or older;

(2) Meet the definition of licensed pursuant to He-C 6914.03(~~rup~~) or the definition of license-exempt pursuant to He-C 6914.03(~~svq~~) and (tw);

(3) Maintain liability insurance or provide a disclosure to parents that the program is uninsured pursuant to RSA 170-E:6-b;

~~(43)~~ Review and comply with the statutes regarding confidentiality, including RSA 169-B:35, RSA 169-C:25, RSA 169-D:25, RSA 170-B:23, RSA 170-C:14, and RSA 170-G:8-a;

~~(54)~~ The child care provider and his or her employees shall not have a conflict of interest; ~~For the purposes of this rule, conflict of interest means any circumstance, situation, or financial interest which has the potential to cause a private interest to directly or indirectly affect, influence, or interfere with the performance of the provider or the employee's duties as a child care provider for DCYF;~~

~~(65)~~ Not be the parent of a child for whom he or she is providing care unless the child is receiving protective child care provided by a licensed foster parent as approved by DHHS. ~~DCYF supervisor and in compliance with He-C 6918.04(i);~~

~~(76)~~ Not be a member of the same residence as the parent or child(ren) receiving child care scholarship unless:

a. The child(ren) is in foster care and receiving protective child care scholarship;

~~b. The provider meets the requirements of He-C 6918.04(i) as approved by a DCYF supervisor; and~~

be. Where the "residence" is a dwelling which:

1. Has a separate bathroom and kitchen;

2. Has a separate entrance and mailing address; and

3. For which there are independent living expenses including one or more of the following:

(i) Electricity billing statement for the address identified in b. above;

(ii) Gas or oil billing statement for the address identified in b. above; or

(iii) A lease agreement stating that any of above costs are included in the payment of rent;

~~(87)~~ If license-exempt shall:

a. If home based:

1. Submit to an annual announced monitoring visit as defined in He-C 6916.03(1) prior to DHHS enrollment; and

2. Comply with all the minimum standards for health and safety as required by He-C 6916; or

b. If facility based:

1. Submit to an annual announced monitoring visit as defined in He-C 6917.03(n); and

2. Comply with the minimum standards for health and safety as required by He-C 6917.

(98) Not have had any permit or license issued through DHHS's child care licensing unit revoked; and

(109) If licensed, have a valid New Hampshire child care license or valid permit to operate in accordance with He-C 4002, and be in good standing.

(b) In addition to being qualified under He-C 6914.04(a) above, a child care provider seeking to be enrolled shall submit to DHHS the following documentation for each child care location:

(1) If a licensed child care provider, a copy of the provider's current child care license issued by DHHS's child care licensing unit, "State of NH Alternate W-9 Form," (October 2016), Form 1862 "Child Care Provider Enrollment," (~~April 2020~~~~October 2016~~), and Form 1860 "Child Care Provider Agreement," (~~April 2020~~~~October 2016~~);

(2) If a license-exempt family child care provider, a completed, signed, and notarized Form 2503 "DCYF Central Registry Name Search Authorization," (October 2016), Form 2505 "A Background Check Information and Authorization," (February 2017), "State of NH Alternate W-9 Form," (October 2016), Form 1862 "Child Care Provider Enrollment," (~~April 2020~~~~October 2016~~), and Form 1860 "Child Care Provider Agreement," (~~October 2016~~~~April 2020~~) once every 3 years; or

(3) If a license-exempt center child care provider as defined in RSA 170-E:3, I(a), (b), (f), and (g) a completed, signed and notarized Form 2503 "DCYF Central Registry Name Search Authorization," (October 2016), Form 2505 "A Background Check Information and Authorization," (February 2017), "Alternate W-9 Form," (October 2016), Form 1862 "Child Care Provider Enrollment," (~~April 2020~~~~October 2016~~), and Form 1860 "Child Care Provider Agreement," (~~October 2016~~~~April 2020~~) once every 3 years; ~~and~~

(c) Each licensed and license-exempt child care provider and their employees shall create an account in the "NH Professional Registry" at: <https://nhportal.naccraware.net/nh/> and shall submit proof the provider and employee has completed the mandatory DHHS NH child care scholarship program training.

(de) All license-exempt child care providers shall complete and submit, at the time of the live scan fingerprint appointment, notarized Form DSSP372 "New Hampshire Health and Human Services Criminal History Record Information Authorization," (10/1/16) once every ~~5-3~~ years authorizing ~~DCYF-DHHS~~ to receive fingerprint and criminal background checks for the provider and all household members ~~of employees~~ as identified in He-C 6920.04(a):

(1) For a license-exempt family provider, the child care provider and all household members when child care is provided in the child care provider's own home;

(2) For a license-exempt family provider, the child care provider only, when child care is provided in the child's own home; or

(3) For license-exempt center child providers, the provider and all employees.

(e4) Each license-exempt child care provider and each employee, ~~providing supervision of children or required to meet staff to child ratios,~~ shall submit proof according to (~~kh~~) below that the provider and

employee has completed a minimum of 6 hours of training in all required health and safety topics listed in ~~(d)(1)-(11)~~ below:

- (1) Prevention and control of infectious diseases;
- (2) Prevention of sudden infant death syndrome and use of safe sleeping practices;
- (3) Administration of medication, consistent with standards for parental consent;
- (4) Prevention of and response to emergencies due to food and allergic reactions;
- (5) Building and physical premises safety, including identification of and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic;
- (6) Prevention of shaken baby syndrome and abusive head trauma;
- (7) Recognizing and reporting child abuse and neglect;
- (8) Emergency preparedness and response planning ~~for emergencies resulting from a natural disaster, or a man-caused event such as violence at a child care facility within the meaning of those terms set forth in section 602(a)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 USC 5195a(a)(1));~~
- (9) Handling and storage of hazardous materials and the appropriate disposal of biocontaminants;
- (10) For providers offering transportation, appropriate precautions in transporting children; and
- (11) Child development, birth through 12 years.

(f) A license exempt child care provider and each employee working for programs operating 4 months or less, such as a summer or recreational program, who has completed the hHealth and sSafety requirements listed in He-C 6914.04(~~ed~~)(1)-(11) must complete a minimum of 2 hours of professional development in any of the health and safety topics listed in He-C 6914.04(~~ed~~)(1)-(11).

(g) Child care programs that serve only children attending part day kindergarten or full-day public school shall be exempt from He-C 6914.04 (e)(2) and (6).

(he) Each license-exempt child care provider and employee providing supervision of children or required to meet staff to child ratios, shall submit proof according to (kh) below to DHHS that the provider and each employee has current certification in:

- (1) Pediatric cardiopulmonary resuscitation (CPR) which shall include instruction in CPR and foreign body airway obstruction management for infants and children by the American Red Cross, American Heart Association, Emergency Care and Safety Institute, National Safety Council, or other nationally recognized organization; and
- (2) Pediatric first aid.

(i) CPR and first aid training as specified in (h)(1) and (h)(2) above may be taken via correspondence or online, provided a skill test is performed in person prior to becoming certified.

(if) Each license-exempt provider and employee shall obtain documentation of successful completion of the training in (ed) above that includes the following:

- (1) The title of the training completed;
- (2) The name of the organization offering the training;
- (3) The name of the trainer, if applicable;
- (4) The name of the employee completing the training;
- (5) The date on which the training was completed; and
- (6) The duration of the training.

~~(g) Each license exempt child care provider and employee shall create an account in the “NH Professional Registry” at: <https://nhportal.naccrraware.net/nh/>;~~

~~(k) Each license-exempt child care provider and employee shall upload documentation in (e) and (h) above to the “NH Professional Registry” located at: <https://nhportal.naccrraware.net/nh/>;~~

~~(i) Each currently enrolled license exempt child care provider and employee shall complete the required health and safety training and certification in (d) and (e) above by September 30, 2017;~~

~~(j) After September 30, 2017, e~~Each license-exempt child care provider and employee, shall complete the required health and safety training and certification in (e) and (h) as follows:

- (1) Each newly enrolling license-exempt child care provider and employee shall complete required training prior to enrollment;
- (2) Each new employee of a currently enrolled license-exempt center provider shall complete the required training within 90 days from the start of employment; and
- (3) Each new employee of a currently enrolled license-exempt center child care provider initially hired for 4 months or less or hired in a license-exempt center offering child care services for 4 months or less, such as a summer or recreational program, shall complete the required training within 2 weeks of the start of employment.

~~(m) Schedule an annual announced monitoring visit no later than 2 weeks after receiving contact from DHHS to determine compliance with He-C 6916 and He-C 6917,~~

~~(n) In lieu of (m) above, Form 2692 “Health and Safety Self-Certification” shall be required for (1) or (2) below :~~

~~(1) Child(ren) cared for in the child’s home with no additional children not related to the child(ren); or~~

~~(2) Child(ren) cared for by a relative with no additional children not related to the child(ren) or provider.~~

~~(k) License exempt child care providers and employees, as of September 30, 2017, in addition to completing the training listed in (d) above, shall complete 4 hours annually of on-going professional development training, of which 2 hours shall be in the topics as listed in He C 6914.04(d) and 2 hours of which shall be in the topics listed in He C 6910.05(a)(1).~~

~~(o) The child care provider’s shall complete and submit to DHHS all forms and attachments specified in this section-. The enrollment process shall not be considered complete until all of the~~

~~information requested has been received, including any signatures required on such forms and the DHHS announced monitoring visit has been conducted by CCLU. enrollment process shall begin on the date DCYF receives the first of the forms listed in (b) above.~~

~~(p~~m~~) If any required form is incomplete, documentation missing, or the DHHS announced monitoring visit is not conducted, DHHS shall return all submitted documents to the child care provider and the enrollment process shall begin again. A new enrollment process shall be initiated by the child care provider:~~

~~(q) The enrollment date shall be effective the date the DHHS announced monitoring visit was conducted and deemed to meet the requirements of He-C 6916 or He-C 6917.~~

~~(1) If all forms and required documentation in (a) (h) above are not submitted within 90 days of receipt of the first form; or~~

~~(2) Following a denial of enrollment.~~

~~(r~~n~~) The child care provider shall submit the applicable forms and documentation listed in this section by mail to: (b) above either:~~

~~(1) Electronically through N form, if available at <https://business.nh.gov/bos/default.aspx>; or~~

~~(2) By mail to:~~

Department of Health and Human Services

~~Bureau of Child Development and Head Start Collaboration~~ Child Development Bureau

129 Pleasant Street

Concord, NH 03301

~~(s~~e~~) DHHS shall review all background checks received for child care providers, employees and household members. If a criminal background check shows the existence of a finding or a conviction then DHHS shall conduct an investigation pursuant to He-C 6920.07 to determine whether the individual poses a threat to the safety of children pursuant to RSA 170-E:7 and whether the enrollment should be denied.~~

~~(t~~p~~) The forms and documents in (r~~n~~) above and the results of the background determination in (s~~e~~) above shall be reviewed by DHHS to determine whether the provider meets all of the qualifications and requirements for enrollment under He-C 6914.~~

~~(u~~e~~) The enrollment process shall be complete as of the date DHHS makes the determination in (t~~p~~) above and sends the written notification of the provider's approval or denial of enrollment. A child care provider shall not be eligible to receive payment prior to the date indicated in the written notification.~~

~~(v~~f~~) If approved, enrollment shall continue for a period of 3 years from the date on the written verification.~~

~~(w~~s~~) All forms and documentation applicable to the child care provider shall be submitted according to Table 6914.1 below:~~

Table 6914.1

Forms and Documentation Required for Enrollment

Form or Document	Employment Related Child Care		Preventive and Protective Child Care	
	Licensed	License-Exempt	Licensed	License-Exempt
Copy of current N.H. child care license	X		X	
Form 1860 “Child Care Provider Agreement” (April 2020 October 2016)	X	X	X	X
Form 1862 “Child Care Provider Enrollment Form” (April 2020 October 2016)	X	X	X	X
“State of NH Alternate W-9 Form” (October 2016)	X	X	X	X
“Form 2503 DCYF Central Registry Name Search Authorization” (October 2016)	*	X	*	X
Form 2505 “Background Check Information and Authorization” (February 2017)	*	X	*	X
DSS P372 “NH Health and Human Services Criminal History Record Information Authorization” (10/1/16)	*	X	*	X
Health and Safety Training Documentation	*	X	*	X
First Aid Certification for Pediatric	*	X	*	X
Pediatric CPR Certification	*	X	*	X

(~~x†~~) An asterisk shown in Table 6914.1 shall mean that for the providers submitting a copy of a current N.H. child care license during enrollment, the form or document indicated by the “*” has been provided during the child care licensing process under He-C 4002, and is not required to be resubmitted during the enrollment process.

(~~y‡~~) An “X” shown in Table 6914.1 shall mean that the provider shall submit the required form or document indicated by the “X” during the enrollment process.

(~~z‡~~) DHHS shall assign an enrolled child care provider a unique resource identification number for each child care location to be used for child care scholarship payment.

(~~aa‡~~) An enrolled child care provider shall notify DHHS in writing within 10 calendar days of any change in the information provided on the enrollment forms, background check or criminal history record information provided in Table 6914.1, except as stated in (~~afb~~) below.

(~~ab‡~~) A child care provider who has changed or obtained a new tax identification number shall report the new tax identification number to DHHS as required in (~~aa‡~~) above; and submit a copy of the

Form 1862, "Child Care Provider Enrollment Form" (October 2016) and "Alt W-9 Form, "~~(April 2020)~~October 2016);

(~~acy~~) After DHHS receives the information and forms documenting a change as required in (~~abw~~) ~~and (x)~~ above, DHHS shall assign the provider a new resource identification number as described in (aa) above.

(~~adz~~) If a child care provider has had his or her child care license under He-C 4002 denied, or suspended, ~~then~~ DHHS shall review the documentation of the license denial or suspension from the DHHS child care licensing unit ~~of the license denial or suspension~~, to determine if the child care provider meets the qualifications of a license-exempt provider in accordance with He-C 6914 and RSA 170-E:12.

(~~aea~~) An enrolled child care provider shall be a vendor of child care services and shall not be considered an employee of DHHS.

(~~afab~~) All enrolled child care providers of child care scholarship shall notify DHHS within 2 calendar days if the location of child care services changes.

(~~agae~~) If a license-exempt child care provider changes the location of child care services from the child's own home, to the provider's private home, DHHS shall not make payment until background checks required by He-C 6920.04 are completed and received for all household members.

Readopt with amendment He-C 6914.05 through He-C 6914.07, effective 7-10-17 (Document #12223), to read as follows:

He-C 6914.05 Employment Related Child Care - Maintaining Enrollment.

(a) In order to maintain enrollment license-exempt child care providers and employees providing supervision of children or required to meet staff to child ratios shall:

- (1) Be qualified as stated in He-C 6914.04(a);
- (2) Comply with all the requirements of enrollment in He-C 6914.04;
- (3) Complete a minimum of 2 hours of annual professional development in at least one of the training topics listed below and upload documentation to the NH Professional Registry:
 - a. Child development;
 - b. Health and safety or fire safety;
 - c. Caring for children with exceptionalities;
 - d. Nutrition;
 - e. Any child care related courses sponsored or funded by the department;
 - f. Indoor and outdoor learning environments;
 - g. Behavior guidance;
 - h. Leadership, child care administration, or mentoring;
 - i. Financial management;
 - j. Working with families;

k. Legal issues in child care; ~~and~~

l. Child abuse and neglect; and

m. Trauma-informed care;

(4) Complete a minimum of 2 hours of annual professional development in any of the health and safety topics listed in He-C 6914.04(~~ed~~)(1)-(11) and upload the documentation to the NH Professional Registry;

~~(5+2)~~ Complete the professional development specified in (a)(3) and (4) above during each 12 month period not to exceed the DHHS annual monitoring visit date; and from the date of the provider's DHHS enrollment, if enrolled after October 1, 2017; and

(6) In lieu of He-C 6914.05(3),(4), programs operating 4 months or less shall complete a minimum of 2 hours of professional development in any of the health and safety topics listed in He-C 6914.04(e)(1)-(11);

(7) Completed trainings, workshops, technical assistance, or college courses are allowed as professional development;

~~(85)~~ Complete and maintain current pediatric first aid and CPR certifications as required by He-C 6914.04(~~he~~);

~~(96)~~ Review and comply with the child abuse and neglect reporting requirements of RSA 169-C:29-31;

~~(107)~~ Review the definition of serious injury He-C 6914.03(~~yx~~) and report any serious injury or death that takes place in the child care setting during the child care provider's hours of operation as follows:

a. In the event of a serious injury a license-exempt provider shall:

(i) Notify the parent(s) immediately;

(ii) Notify the department within 48 hours; and

(iii) Provide a written report of the nature and circumstances of the serious injury to DHHS within 7 days; and

b. If a child dies while in the care of a license-exempt child care provider, the provider shall:

(i) Notify emergency personnel and the child's parent(s) immediately;

(ii) Notify the department of the death within 24 hours; and

(iii) Provide the department with a written report detailing the circumstances which lead up to the death within 72 hours; ~~and~~

~~(118)~~ In addition to the reporting requirements in ~~(107)~~ a. and b. above, the license-exempt child care provider shall upon request provide the department with any other available information regarding the serious injury or death.

~~(129)~~ Comply with the requirement of an annual announced monitoring visit by DHHS pursuant to He-C 6916 and He-C 6917, except for He-C 6914.04(n) (1) or (2); and

~~(1340)~~ Schedule an annual announced monitoring visit not later than 2 weeks after receiving contact from DHHS to determine compliance with He-C 6916 and He-C 6917, except for He-C 6914.04(n) (1) or (2);

~~(11)~~ Comply with (a)(3) and (4) above by March 30, 2019 if the child care provider was enrolled with DHHS prior to October 1, 2017. Thereafter, the annual professional development shall be completed annually by March 30th.

~~(12)~~ Complete the professional development specified in (a)(3) and (4) above during each 12 month period from the date of the provider's DHHS enrollment, if enrolled after October 1, 2017; and

~~(13)~~ Require all child care employees hired after the DHHS provider enrollment date to complete the professional development specified in (a)(3) and (4) above by the end of each 12 month period based on the individual's date of hire.

(b) In order to maintain enrollment, licensed child care providers shall:

(1) Be qualified to receive NH child care scholarship, as described in, He-C 6914.04(a);

(2) Comply with all requirements of enrollment in He-C 6914;

(3) Maintain a current New Hampshire child care license, and be in good standing;

(4) Provide DHHS with a copy of any new or renewed NH child care license issued within 10 days of issuance or receipt.

(c) All enrolled child care providers of child care scholarship shall notify DHHS within 2 calendar days if the location of child care services changes and complete and submit the following:

(1) If a licensed child care provider, a copy of the provider's current child care license issued by DHHS's child care licensing unit, "State of NH Alternate W-9 Form" (October 2016), Form 1862 "Child Care Provider Enrollment" (April 2020); or

(2) If a license-exempt child care provider, schedule an annual announced monitoring visit no later than 2 weeks after receiving contact from DHHS to determine compliance with He-C 6916 and He-C 6917; "State of NH Alternate W-9 Form," (October 2016), Form 1862 "Child Care Provider Enrollment," (April 2020).

He-C 6914.06 Employment Related Child Care Renewal of Enrollment.

(a) Enrolled child care providers shall renew their enrollment every 3 years by completing, dating, signing and submitting to DHHS the forms and documents listed below:

(1) For licensed providers:

a. Have a valid New Hampshire child care license or valid permit to operate in accordance with He-C 4002, and be in good standing; and

b. A copy of any new or renewed child care license issued within 10 days of issuance or receipt; and

cb. Form 1860 “Child Care Provider Agreement,” (~~April 2020~~October 2016) as listed in Table 6914.1; ~~and~~

(2) For license-exempt providers ~~provide DHHS with:~~

a. A Form 2503 “DCYF Central Registry Name Search Authorization,” (October 2016) for the child care provider, all employees, or household members;

b. An updated Form 2505 “Background Check Information and Authorization,” (February 2017); ~~and~~

c. A Form 1860 “Child Care Provider Agreement;” (~~April 2020~~October 2016); ~~and~~

d. That meet requirements pursuant to He-C 6914.04 (n) a Form 2692 “Health and Safety Self-Certification”.. ~~and~~

(3) Provide proof the child care provider or an authorized representative has retaken the mandatory DHHS NH child care scholarship training.

(b) In addition to (a)(2) above, license-exempt providers shall be in compliance with He-C 6914.05(a).

(c) Renewal of enrollment shall remain open ~~when~~until all required forms, records and checks are received by DHHS ~~if the child care provider submitted all of the required forms~~ on or before the enrollment end date.

(d) Renewal of enrollment shall close if all required forms are not received by DHHS prior to the enrollment end date.

(e) Renewal of enrollment shall be completed as of the date DHHS makes the determination and sends written notification of the provider’s approval of re-enrollment.

He-C 6914.07 Access to Child Care Settings.

(a) An enrolled child care provider shall allow a parent access to his or her child(ren) at all times while the child(ren) is in the child care provider’s care, unless allowing access is contrary to a court order or a court-ordered parenting plan.

(b) An enrolled child care provider shall upon request, share information about a child’s needs and progress with the parent or authorized DHHS staff, unless sharing information with the parent is contrary to a court order.

(c) An enrolled child care provider shall allow authorized DHHS staff to visit, during the time a child receives child care, to observe the child to ensure the health ~~and~~ safety of the child in the child care setting.

(d) An enrolled child care provider shall allow authorized DHHS staff to visit during operating hours when DCYF has received a complaint about a child's health ~~or~~ safety in the child care setting.

Readopt with amendment He-C 6914.08, effective 7-10-17 (Document #12223), as amended effective 5-24-18 (Document #12536), to read as follows:

He-C 6914.08 Denial, Disqualification and Termination of Provider Enrollments.

(a) Licensed and license-exempt child care providers shall be denied enrollment or re-enrollment if:

(1) A license-exempt child care provider fails to meet all the applicable requirements of He-C 6914.04, ~~He-C 6914.05,~~ He-C 6914.06 and He-C 6920; ~~or~~

(2) A licensed child care provider fails to meet all of the applicable requirements of He-C 6914.04, ~~He-C 6914.05~~ and He-C 6914.06; ~~or~~

~~(3) A child care provider fails to comply with He-C 6914.04(i) and He-C 6914.06(d) (f).~~

(b) Enrollment of licensed and license-exempt child care providers shall be terminated if:

(1) The child care provider requests to have his or her enrollment terminated;

(2) An enrolled child care provider is not providing child care and has not received child care payment from DHHS for the previous 12 consecutive months;

(3) An enrolled child care provider does not comply with He-C 6912, He-C 6914, He-C 6916, He-C 6917, He-C 6918, ~~and~~ He-C 6920; or

(4) An enrolled child care provider has cared for a child in a manner which endangers/endangered the health, safety or welfare of the child(ren), in violation of RSA 170-E:4, II.

(c) Licensed and license-exempt child care providers shall be disqualified from enrollment if:

(1) The enrolled child care ~~scholarship~~ provider is convicted of fraud by the court pursuant to RSA 167:17-b;

(2) The enrolled child care ~~scholarship~~ provider does not meet the criteria in (c)(1) above, but has been found to have committed fraud by an investigation conducted by DHHS pursuant to RSA 161:2, XV;

(3) DHHS determines ~~that~~ the health or safety of a child is endangered as a result of:

a. The licensed child care provider's care, as described in RSA 170-E:4, II, RSA 170-E:7, He-C 4002.09 ~~(i)(1) through (11) (j)(2)-(4)~~; or

b. The license-exempt child care provider's care as described in RSA 170-E:4, II and the provider fails to comply with the requirements of He-C 6920.08, and RSA 170:3-a ;

(4) The child care provider is licensed, and the child care license or permit was denied or revoked prior to or during the enrollment period;

(5) There has been a disciplinary action taken by a licensing body in any state;

(6) The child care provider has provided false or misleading statements to DHHS relating to the requirements in He-C 6914;

(7) At any time the child care provider has failed to disclose that any person in the household has been convicted of a crime identified by the background checks or found to have committed child abuse or neglect pursuant to RSA 169-C; or He-C 4002.09, ~~and He-C 6920.04;~~

(8) The child care provider has provided false or misleading billing documentation, pursuant to He-C 6918.06; or

(9) The child care provider has failed to comply with any of the elements of the provider agreement Form 1860, "Child Care Provider Agreement," (~~April 2020~~~~October 2016~~) as required by He-C 6914.04, He-C 6914.05 or He-C 6914.06 as applicable.

(d) The child care provider shall be disqualified immediately from enrollment and receive no state funds under the child care scholarship program for a period of not less than 5 years, if any of the following have occurred:

(1) The child care provider has committed fraud, as defined in He-C 6914.03(~~no~~) in any program administered by DHHS;

(2) The child care provider has not been convicted of fraud, but DHHS has found the provider has misrepresented information, or made repeated billing errors and failed to comply with any corrective action relating to the billing errors;

(3) The child care provider has had his or her child care license or permit revoked pursuant to RSA 170-E:12, V;

(4) After an investigation by DHHS pursuant to He-C 6920.07, the provider has been found to be in violation of RSA 170-E:12, V;

(5) The child care provider has billed for child care services provided by another provider or person; or

(6) The child care provider has billed for child care services while not in compliance with child care licensing requirements of He-C 4002.

(e) The opportunity for informal dispute resolution described by He-C 4002.11 shall not apply to any provider who has been disqualified due to fraud as described in (c) above.

(f) The child care provider who has been disqualified in accordance with (d) above shall be sent a written letter from DHHS regarding the disqualification as follows:

(1) The letter shall be sent via certified mail to the provider informing him or her of the date of the disqualification;

(2) The letter shall include the reason(s) for the disqualification; and

(3) The letter shall include information about the provider's right to appeal the disqualification in accordance with He-C 200.

(g) DHHS shall notify any parent, ~~comprehensive family support agency, or CPSW~~ who is utilizing a provider authorized for payment for child care services pursuant to ~~He-C 6912 and~~ He-C 6910 who has been disqualified by DHHS, ~~that:~~

~~(1) The child care provider fails to meet the minimum requirements to be enrolled as a child care provider;~~

~~(2) Payment to the child care provider shall be denied;~~

~~(3) The information obtained by DHHS from or about the child care provider is confidential and shall not be made available for a parent's review; and~~

~~(4) Other child care arrangements may be made by contacting a child care resource and referral agency.~~

Readopt He-C 6914.09, effective 7-10-17 (Document #12223), to read as follows:

He-C 6914.09 Appeals.

(a) A child care provider may appeal a decision made by DHHS within 30 calendar days of the receipt of the notification when:

- (1) The application for enrollment has been denied;
- (2) Payments have been withheld;
- (3) Enrollment has been terminated or not renewed; or
- (4) The child care provider has been disqualified.

(b) The request for an appeal shall be made in accordance with He-C 200.

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

(d) If the child care provider opted to continue to receive child care scholarship payment during an appeal, and the decision is upheld by the hearings officer, the provider shall repay to DHHS any payment made after the effective date on the letter notifying the provider of his or her non-renewal or termination.

(e) If the hearings officer finds in favor of the child care provider, then the non-renewal or termination shall not take effect.

Adopt He-C 6914.10 and He-C 6914.11 to read as follows:

He-C 6914.10 Confidentiality.

(a) Except for law enforcement agencies or in an administrative proceeding against the applicant or enrolled providers, the department shall keep confidential any information collected during an investigation, unless it receives an order to release, destroy, or take any action relating to the information from a court of competent jurisdiction.

(b) A child care provider shall keep confidential all records required by the department pertaining to the admission, progress, health, and discharge of children under their care and all facts learned about children and their families with the following exceptions:

- (1) A child care provider shall allow the department access to all records that providers are required by department rule or state statute to keep, and to such records as necessary for the department to determine staffing patterns and staff attendance; and

(2) A child care provider shall release information regarding a specific child only as directed by a parent of that child, or upon receipt of written authorization to release such information, signed by that child's parent.

(c) A child care provider shall discuss or share information regarding the admission, progress, behavior, health, or discharge of a child with the child's parent(s) in a manner that protects and maintains confidentiality for both the child and the child's parent(s).

He-C 6914.11 Waiver request.

(a) A child care provider whom requests a waiver of a requirement in He-C 6914 shall submit a written request to DHHS, which includes the following information:

(1) The child care program name, address, phone number, and Bridges resource ID number assigned by the department;

(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, the length of time for which the waiver is requested, and any effect the granting of the waiver will have on the health or safety of the children in the program;

(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 explaining how the provider will satisfy the intent of the rule, if the waiver is granted;

(6) The signature of the enrolled child care provider; and

(7) The signature of the parent or copy of a notice which has been shown to, or mailed to each parent, explaining the waiver request and informing the parent that they may call the department if they have any concerns about the requested waiver.

(b) A waiver shall be granted to the child care provider 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 program's subsequent compliance with the alternatives approved in the waiver shall be considered equivalent to complying with the rule from which a 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) A waiver request shall be denied when any of the following occurs:

- (1) The department finds that approval of the requested waiver will jeopardize the health or safety of children;
- (2) The department finds that approval of the requested waiver will impair the program's ability to adequately care for children;
- (3) The departments finds that approval of the requested waiver will impair the operations of the program; or

(f) A 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 6914.01	RSA 161:2, XII; RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.02	RSA 161:2, XII; RSA 167:83, II(o); RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.03	RSA 161:2, XII; RSA 167:58, IV; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.04	RSA 161:2, XII ; RSA 167:83, II(a)(o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, VIII, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.05	RSA 161:2, XII ; RSA 167:83, II(a), (o); RSA 170-E:3-a; RSA 170-E:4, II; RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, VIII, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.06	RSA 170-E:11; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.07	RSA 161:2, XV; RSA 167:17-b, I(a); RSA 167:17-c; RSA 167:58, IV; RSA 167:61-a, I(a)-(c) and (e); RSA 167:83, II(k); RSA 170-E:7; RSA 170-E:11; RSA 170-E:12; RSA 170-G:4, XVIII; and RSA 170-G:5
He-C 6914.08	RSA 167:83, II(a); RSA 170-E:11; RSA 170-G:4, VIII; RSA 170-G:4, XVIII; RSA 170-G:5; and RSA 541-A:31, I and II
He-C 6914.09	RSA 167:83, II(a)
He-C 6914.10	RSA 170-E:11, II; RSA 170-G:8-a
He-C 6914.11	RSA 170-E:11, I (m)