

RULEMAKING NOTICE FORM

Notice Number 2018-143 Rule Number He-E 804

1. Agency Name & Address: Dept. of Health & Human Services 129 Pleasant Street Concord, NH 03301	2. RSA Authority:	<u>RSA 161:4-a, X</u>
	3. Federal Authority:	<u>42 USC 1396r</u>
	4. Type of Action:	
	Adoption	_____
	Amendment	_____
	Repeal	_____
	Readoption	<u> X</u>
	Readoption w/amendment	<u> X</u>

5. Short Title: **Nursing Assistant Training Reimbursement**

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

Nursing Assistant Training Reimbursement is a longstanding federal workforce initiative, aimed at incentivizing individuals trained as nursing assistants to secure employment in nursing facilities. He-E 804 describes the process for reimbursement, from NH Medicaid funds, for the expenses incurred by individuals when taking a NH Board of Nursing-approved nursing assistant training course and state competency examination, and then becoming employed in a licensed NH nursing facility. Changes are proposed to He-E 804.03 on application requirements for clarity and the removal of a requirement for a photocopy of a cancelled check.

Most of He-E 804 is scheduled to expire on 8-25-2018 but is subject to extension pursuant to RSA 541-A:14-a.

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

Groups affected by this rule include individuals seeking reimbursement under Medicaid for approved nursing assistant training courses and state competency examinations.

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

RULE	STATUTE/FEDERAL REGULATION TO BE IMPLEMENTED
He-E 804.01	RSA 161:4-a, IX
He-E 804.02	RSA 161:4-a, IX and 42 USC 1396r
He-E 804.03	RSA 161:4-a, IX and 42 USC 1396r
He-E 804.04	RSA 161:4-a, IX

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

Name:	Allyson Zinno	Title:	Rules Coordinator
Address:	Dept. of Health and Human Services Administrative Rules Unit 129 Pleasant St. Concord, NH 03301	Phone #:	271-9604
		Fax#:	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, October 4, 2018**

Fax

E-mail

Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, September 27, 2018 at 1:00 PM**

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

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

FIS # 18:143, dated August 6, 2018

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

There is no difference in cost when comparing the proposed rule to the existing rule.

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

No federal mandate, no impact on state funds.

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

A. To State general or State special funds:

None

B. To State citizens and political subdivisions:

None

C. To Independently owned businesses:

None

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution:

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

PART He-E 804 NURSING ASSISTANT TRAINING REIMBURSEMENT

Readopt He-E 804.01 and He-E 804.02, effective 8-25-10 (Document #9769-A), to read as follows:

He-E 804.01 Definitions.

(a) “Approved nursing assistant training program (training program)” means a program of study in New Hampshire, which includes training or competency testing, that has been approved by the New Hampshire board of nursing pursuant to RSA 326-B and Nur 704.

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

(c) “Nursing assistant (NA)” means an individual who is registered by the New Hampshire board of nursing pursuant to Nur 704.

(d) “Nursing facility (NF)” means an institution or a distinct part of an institution, licensed by the department in accordance with RSA 151 as a nursing facility, that provides one or more of the following as defined in Section 1919(a) of the Social Security Act and is not primarily for the care and treatment of mental diseases:

(1) Skilled nursing care and related services for residents who require medical or nursing care;

(2) Rehabilitation services for the rehabilitation of injured, disabled, or sick individuals; or

(3) On a regular basis, health-related care and services to individuals who because of their mental or physical condition require care and services above the level of room and board which can be made available to them only through an institution.

(e) “Third parties” means a person or persons other than the applicant.

He-E 804.02 Requirements, Conditions, and Limitations. The department shall reimburse for the costs of nursing assistant training or competency testing subject to the following requirements, conditions and limitations:

(a) Costs shall have been incurred for an approved nursing assistant training program;

(b) Costs shall have been actually paid by the NA from his or her own personal funds;

(c) Individuals shall have begun employment as an NA in a licensed nursing facility within 12 months of completing the training program, including passing the competency testing; and

(d) The application requirements in He-E 804.03 have been met.

Readopt with amendment He-E 804.03, effective 8-25-10 (Document #9769-B), to read as follows:

He-E 804.03 Application Requirements.

(a) The NA shall complete an application, Form 292 “Application for Reimbursement for Nursing Assistant Training and Competency Testing,” in full that includes the following:

- (1) The NA’s contact information, including:
 - a. Name, current mailing address, and telephone number; and
 - b. Date of birth;
- (2) The name of the nursing facility where the NA is or was employed;
- (3) The amount requested for training program reimbursement;
- (4) The start and completion dates of the training program or the date of the competency test;
- (5) The name of the agency or entity that provided the training program;
- (6) A disclosure statement indicating whether full or partial payment for the training program has already been made to the NA or to the training site by another individual or entity on behalf of the NA and, if applicable, the amount paid by that source;
- (7) The NA’s original signature as the applicant and the date of signature; and
- (8) An attached, legible receipt from the agency that provided the training or competency testing, or the entity that processed the payment, that documents proof of payment by the NA attachment that documents proof of payment, which shall consist of:
 - a. The receipt shall contain the NA’s name, the title or description of the NA training program taken, and the amount(s) that the NA paid for the training program or competency testing.
 - ~~a. A legible receipt or statement from the agency or entity that provided the training program that is written on the agency’s stationery, contains the NA’s name, describes the NA training program taken, and states the amount(s) that the NA paid for the training program; or~~
 - ~~b. A photocopy of both sides of a canceled check or checks that documents payment made to the agency or entity that provided the training.~~

(b) The NA shall submit the documentation required in (a) above to the administrator of the employing nursing facility.

(c) The nursing facility administrator shall complete the following on the application:

(1) The name, phone number, and license number of the nursing facility;

(2) The date that the applicant was hired as an NA;

(3) Whether the applicant began employment as an NA in the nursing facility; and is currently or was formerly employed at the nursing facility; and

(4) The nursing facility administrator's printed name and dated signature.

(d) The nursing facility administrator shall forward the application to the NH board of nursing.

(e) The NH board of nursing nurse aide registry shall:

(1) Certify, by dated signature on the application, that records indicate that the named NA has successfully completed an approved NH training program or competency testing within 12 months prior to the date of hire, and that the NA has been duly certified and registered by the NH board of nursing nurse aide registry, by providing the NA's registry number; and

(2) Submit the completed application to the department.

Readopt He-E 804.04, effective 8-25-10 (Document #9769-A), to read as follows:

He-E 804.04 Payment. Upon receipt of a completed application and determination that the requirements in He-E 804.02 and 804.03 have been met, the department shall make payment to the NA as follows:

(a) Payment shall be made from the Medicaid administrative account in a lump sum, one-time payment;

(b) Payment shall be mailed to the NA at his or her address;

(c) Payment shall be limited to the actual costs incurred and paid by the NA for the NA training program minus any amounts paid by a third party or other amounts incurred including, but not limited to, clothing, ancillary items, and criminal record background checks; and

(d) Reimbursement shall not be made to third parties who claim to have paid some or all of an NA's training program costs.

APPENDIX

RULE	STATUTE/FEDERAL REGULATION TO BE IMPLEMENTED
He-E 804.01	RSA 161:4-a, IX
He-E 804.02	RSA 161:4-a, IX and 42 USC 1396r
He-E 804.03	RSA 161:4-a, IX and 42 USC 1396r
He-E 804.04	RSA 161:4-a, IX