

RULEMAKING NOTICE FORM

Notice Number 2017-98 Rule Number He-M 408

<p>1. Agency Name & Address:</p> <p>Dept. of Health & Human Services Division of Behavioral Health Bureau of Mental Health Services 105 Pleasant Street-Main Building Concord, NH 03301</p>	<p>2. RSA Authority: <u>RSA 135-C:5, I; RSA 135-C:61, III</u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment <u>X</u></p>
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5. Short Title: **Clinical Records**

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

The Department of Health and Human Services proposes to readopt with amendment He-M 408 which is scheduled to expire July 9, 2017, but is subject to extension pursuant to RSA 541-A:14-a. He-M 408 describes the required components of clinical records maintained by the community mental health programs, including: intake and demographic data, medications, individual service plans (ISP), dates and circumstances relating to the transfer or discharge of the individual, and record retention periods required for community mental health programs providing services to individuals eligible to receive state-funded services pursuant to RSA 135-C:13 and He-M 401. The proposed amendment to the rules will update definitions consistent with the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) (October 1, 2016), and amend terms consistent with other administrative rules, such as replacing the term “consumer” with the term “individual” throughout the rules. He-M 408.11 is updated to clarify the difference between transfer of services within a community mental health center and discharge from services. The cost of obtaining a hard copy of the clinical record in excess of 25 pages, is specified in the propose rule He-M 408.03(d).

The proposal also updates confidentiality references to include the Health Insurance Portability and Accountability Act (HIPAA) 45 CFR Part 160, Subpart A&E of 45 CFR Part 164.

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

Those affected by the rules include community mental health providers and persons applying for or receiving services from a community mental health center.

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

Rule	State or Federal Statute the Rule Implements
He-M 408.01 – 408.14	RSA 135-C:5, I(e), RSA 135-C:61, III

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

Name: **Catherine Bernhard** Title: **Rules Coordinator**
Address: **Dept. of Health and Human Services** Phone #: **271-9374**
Administrative Rules Unit Fax#: **271-5590**
129 Pleasant St. E-mail: catherine.bernhard@dhhs.nh.us
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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: **Monday, August 28, 2017.**

Fax E-mail Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Monday, August 21, 2017 at 10:00 a.m.**

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

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

FIS # 17:091, dated 6/30/17

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 result in indeterminable costs to state citizens.

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

There is a federal requirement within the State Medicaid Manual section 4221 related to the provisions within He-M 408.03. This requirement does not impact 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:

The proposed rule, He-M 408.03(d), adds language specifying the cost of obtaining copies of the clinical record. Citizens or an individual representing a citizen, requesting copies consisting of more than 25 pages will pay up to \$0.25 for each page in excess of 25 pages. There will be no cost or benefit to political subdivisions.

C. To Independently owned businesses:

None.

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

The proposed rule creates a new program or responsibility, and expand and 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-M 408, effective 7-9-09 (Document 9512), to read as follows:

PART He-M 408 CLINICAL RECORDS

Statutory Authority: New Hampshire RSA 135-C:5, I(e); RSA 135-C:61, III

He-M 408.01 Purpose. These rules establish the required components of the clinical records maintained by community mental health programs and their subcontracted service providers for persons eligible to receive state-funded services pursuant to RSA 135-C:13 and He-M 401 and identify the contents of those components.

He-M 408.02 Definitions. The words and phrases used in these rules shall mean the following:

(a) “Case manager” means the person employed by the community mental health program who provides targeted case management services in accordance with He-M 426.

(b) “Clinical record” means the cumulative documents, collected and preserved, containing information relative to the care and treatment of each individual-~~consumer~~.

(c) “Commissioner” means the commissioner of the department of health and human services, or his or her designee.

(d) “Community mental health program (CMHP)” means a program operated by the state, city, town, or county, or a community-based New Hampshire nonprofit corporation for the purpose of planning, establishing, and administering an array of community-based, mental health services pursuant to He-M 403 and as defined in RSA 135-C:2, IV.

~~(e) “Consumer” means any person eligible pursuant to RSA 135-C:13 and He-M 401 to receive state-funded services in the state mental health services system.~~

~~(f)~~ (e) “Credentials” means the abbreviation of one’s academic degree and title as it pertains to the person’s role in providing services to ~~a consumer~~an individual.

~~(g)~~ (f) “Department” means the department of health and human services.

~~(h)~~ (g) “Electronic clinical record” means the cumulative documents collected and preserved by the CMHP and containing information relative to the health record of ~~a consumer’s~~an individual’s care and treatment in digital format.

~~(i)~~ (h) “Electronic prescribing” means a prescriber’s ability to electronically send an accurate, error-free, and understandable prescription directly to a pharmacy from the point-of-care.

~~(j)~~ (i) “Electronic signature” means a computer data compilation of any symbol or series of symbols executed, adopted, or authorized by an individual to be the legally binding equivalent of the individual’s handwritten signature.

~~(k)~~ (j) “Facility” means New Hampshire hospital or a community receiving facility designated pursuant to RSA 135-C:26 and He-M 405, or an acute psychiatric residential treatment program.

(k) “Family member” means the parent, foster parent, legal guardian, child, brother, sister, spouse, significant other, grandparent, grandchild, stepparent, aunt, uncle, or first cousin of the ~~consumer~~individual.

(l) “Goals” means long-term, observable, desired accomplishments or changes to be achieved by ~~a consumer~~an individual.

(m) “Guardian” means a guardian, or a temporary guardian, of the person appointed pursuant to RSA 463 or RSA 464-A or the parent of ~~a consumer~~an individual under the age of 18 whose parental rights have not been terminated or limited by law.

(n) “Individual” means a person who is receiving or applying for a service from a program or community residence.

(o) “Individual service plan (ISP)” means a written document that:

(1) Is developed annually as the result of a service planning process pursuant to He-M 401; and

(2) Includes the identification of the individual’s:

a. ~~The consumer’s goals~~ Goals and objectives;

b. ~~The consumer’s treatments~~ Treatments and services; and

c. Criteria for achieving the stated goals.

(p) “Licensed practitioner of the healing arts” means a person who meets the qualifications and provides psychotherapy or other services identified pursuant to He-M 426.

(q) “Medical necessity” means that the services and supports provided to ~~a consumer~~an individual are:

(1) Consistent with the generally accepted clinical practice for diagnosis and treatment of the symptoms of mental illness or serious emotional disturbance;

(2) The most efficient and economical that can be safely provided, as prescribed by a physician; and

(3) Not solely for the convenience of the ~~consumer~~individual or the providers.

(r) “Mental illness” means a condition of a person ~~18 years or older~~, who is determined severely mentally disabled in accordance with He-M 401 and who has at least one of the following psychiatric disorders classified in the Diagnostic and Statistical Manual of Mental Disorders, ~~Fourth Edition, Text Revision~~ (DSM-~~IV-TR~~5), ~~July 2000~~:

(1) Schizophrenia Spectrum and other Psychotic Disorders except for the following:

a. Schizotypal personality disorder;

b. Substance or medication induced psychotic disorder; and

c. Psychotic disorder due to another medical condition:

(2) Bipolar and related disorders except for the following:

a. Substance or medication induced bipolar and related disorder; and

b. Bipolar disorder and related disorder due to another medical condition;

(3) Depressive disorders except for the following:

a. Disruptive mood dysregulation disorder;

b. Premenstrual dysphoric disorder;

c. Substance or medication induced depressive disorder; and

d. Depressive disorder due to another medical condition;

(4) Borderline personality disorder;

(5) Panic disorder;

(6) Obsessive compulsive disorder;

(7) Post-traumatic stress disorder;

(8) Bulimia nervosa;

(9) Anorexia nervosa;

(10) Other specific feeding or eating disorders;

(11) Unspecified feeding or eating disorders; and

(12) Major neurocognitive disorders where psychiatric symptom clusters cause significant functional impairment and one or more of the following symptom categories are the focus of psychiatric treatment:

a. Anxiety;

b. Depression;

c. Delusions; and

d. Hallucinations.

~~(1) Schizophrenia and other psychotic disorders;~~

~~(2) Mood disorders;~~

~~(3) Borderline personality disorder;~~

~~(4) Post-traumatic stress disorder;~~

~~(5) Obsessive compulsive disorder;~~

~~(6) Eating disorder;~~

~~(7) Dementia, where the psychiatric symptoms cause the functional impairments and one or more of the following co-morbid symptoms exist:~~

~~a. Anxiety;~~

~~b. Depression;~~

~~c. Delusions;~~

~~d. Hallucinations; or~~

~~e. Paranoia; or~~

~~(8) Panic disorder.~~

(s) “Objectives” means short-term, desired accomplishments designed to assist the ~~consumer~~ individual in achieving the long-term goals identified on the individual service plan.

(t) “Person-centered” means that ~~consumers~~ individuals of mental health services are the center of the system of care, and ~~consumers’~~ their needs and direction drive the care and services provided.

(u) “Rehabilitation” means the reinstatement of a former level of functioning or achieving a higher level of functioning than existed on admission to a program or residence through the provision of therapy, education and activities as specified in the individual service plan.

(v) “Residential program” means a non-facility based residence for the care and treatment of people with a mental illness.

(w) “Serious emotional disturbance” means severe mental disability in persons from birth to age 18 who currently, or at any time within the past year, have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet diagnostic criteria specified with the DSM-5, that resulted in functional impairment, which substantially interfered with or limited the child’s role or functioning in the family, school, or community activities. This definition excludes substance abuse disorders and conditions “due to another medical condition” or “substance/medication induced” disorders. ~~under the age of 18, and includes psychiatric disorders classified as axis I disorders or an axis II borderline personality disorder in the DSM-IV-TR with the exception of substance abuse disorders and V-codes, which are conditions not attributable to a mental disorder.~~

(x) “Service planning process” means the annual review conducted in accordance to He-M 401 ~~with consumers, providers and family, when appropriate,~~ to develop or revise an individual service plan.

(y) “Suspension” means a time limited, specific withholding of any available service(s) from ~~a consumer~~ an individual for well-defined and documented reasons and pursuant to He-M 401.

(z) “Termination” means the cessation for an indefinite period of all services to ~~a consumer~~ an individual in accordance with He-M 401.

(aa) "Treatment" means the examination, assessment, diagnosis, training, rehabilitation therapy, pharmaceuticals and other services provided to ~~consumers~~ individuals within the mental health service system, excluding examination or diagnosis for the purpose of determining the need for involuntary emergency admissions pursuant to RSA 135-C:27-33 or involuntary admissions pursuant to RSA 135-C:34-54.

He-M 408.03 Establishment of the Clinical Record.

(a) Each community mental health and residential program shall have a written clinical records policy that:

- (1) Outlines the content, maintenance, and monitoring requirements for its clinical records in both paper and electronic formats;
- (2) Addresses the completeness, accuracy, and timeliness of documentation;
- (3) Addresses confidentiality;
- (4) Stipulates how and when ~~consumers~~ individuals may access their own records;
- (5) Addresses electronic signatures; and
- (6) Addresses electronic prescribing procedures.

(b) Every ~~consumer~~ individual shall have a clinical record that meets the requirements of He-M 408 and the program's policy.

(c) The clinical record shall be:

- (1) Accessible to staff providing services;
- (2) Accessible to the ~~consumer~~ individual or the parent or guardian if the ~~consumer~~ individual is a minor or legally incompetent, unless otherwise prohibited by law; and
- (3) Available for supervisory and quality assurance activities conducted by the CMHP or the department of health and human services' bureau of ~~behavioral health~~ mental health services.

(d) If an individual, his or her guardian, an attorney or other advocate representing the individual, after review of the record, requests copies of the record, such copies in paper format, shall be made available free of charge for the first 25 pages and not more than 25 cents per page thereafter; or, if available, copies of records electronically stored and produced, shall be made available free of charge for the first 25 pages and at actual cost per page thereafter. The individual, his or her guardian, attorney or other advocate representing the individual may choose whether to receive the record in paper form, or if available in electronic form. ~~Information within the clinical record, including statistical data, shall be available for prompt retrieval in hard copy, as needed.~~

(e) Each documentation in the clinical record of a CMHP service shall include:

- (1) The signature of the service provider;

(2) The service provider's credentials;

(3) The legible name of the service provider including a typed name, name stamp, or printed name within proximity of the credentials and signature of the service provider;

(4) The date of service; and

(5) The date of documentation.

(f) Documentation shall not be altered or changed by erasure or masking, such as through the use of liquid correction fluid. Corrections shall be made by drawing a line through the mistake. All corrections shall be signed and dated by the person making the change. Corrections to entries made in the electronic medical record must clearly show the correction that was made, the date, time and name of the person making the correction.

(g) Service documentation shall be completed prior to the service being billed.

(h) The ~~consumer~~ individual or guardian shall document informed consent for all planned services except as otherwise prohibited by law or where emergency treatment is indicated pursuant to RSA 135:21-b.

(i) Clinical records shall be retained by a program or facility for 7 years after closure of a record for an adult and for 7 years beyond the age of 18 for a child.

(j) Subcontracted service providers shall comply with all the provisions of He-M 408.

He-M 408.04 Clinical Record Components.

(a) The clinical record shall be designed to:

(1) Document the medical necessity for services provided;

(2) Document the response to and effectiveness of services;

(3) Document the extent of coordination of care by system-wide providers and, when appropriate, with providers outside the mental health system; and

(4) Provide documentation substantiating the delivery and appropriateness of services as required by He-M 401 and He-M 426.

(b) The clinical record shall include, at a minimum, the following components:

(1) Intake and assessment information in accordance with He-M 408.06;

(2) Demographic data in accordance with He-M 408.05;

(3) Annual notification of ~~consumer~~ an individual's rights in accordance with He-M 309;

(4) Documentation of eligibility determination in accordance with He-M 401;

- (5) ~~Consumer~~Individual service planning documentation pursuant to He-M 401;
- (6) Individual service plan;
- (7) Documentation of service delivery and outcomes;
- (8) Suspension, transfer, and discharge notes, if applicable;
- (9) Documentation of ISP reviews;
- (10) Medication orders, laboratory results, and general health information;
- (11) Pertinent legal data;
- (12) Admission and discharge reports from mental health facilities and from other providers, when applicable; and
- (13) Targeted ~~C~~ase management assessment and care plan pursuant to He-M 426, which shall include documentation of the following, when applicable:
 - a. Identification of the ~~consumer's~~individual's targeted case management needs;
 - b. The referral and monitoring activities to be provided; and
 - c. An ~~consumer's~~individual's refusal to receive specific services in the care plan.

He-M 408.05 Application and Demographic Data.

- (a) Pursuant to He-M 401, an application for services shall be completed and signed by the ~~consumer~~individual or guardian at or before the intake interview.
- (b) The following demographic data shall be collected and documented:
 - (1) Name, address, and telephone number of the ~~consumer~~individual or applicant;
 - (2) Date of application for services;
 - (3) Date of birth of the ~~consumer~~individual or applicant;
 - (4) Name, address, and telephone number of guardian, if applicable;
 - (5) Financial information including:
 - a. Insurance;
 - b. Private resources; and
 - c. Eligibility determinations for financial assistance from programs such as Supplemental Security Income, Aid to the Permanently and Totally Disabled, Medicare, Medicaid, and food stamps;

- (6) Emergency contact information;
- (7) Educational history;
- (8) Marital or civil union status;
- (9) Living situation;
- (10) Employment status and history;
- (11) Race, ethnicity, and primary language;
- (12) Gender;
- (13) Gender identification; and
- (14) Current legal involvement, such as:
 - a. Probation or parole;
 - b. Conditional discharge;
 - c. Guardianship; and
 - d. Any other court ordered involvement.

(c) Demographic data shall be reviewed and signed by the individual at least annually and kept current at all times.

~~(d) Demographic data shall be signed and dated by the person gathering the information.~~

He-M 408.06 Intake Assessment.

(a) The CMHP shall complete and document an intake assessment for each ~~consumer~~individual.

(b) The intake assessment shall:

- (1) Include medical, psychiatric, and social information;
- (2) Include historical and current information and assessments; and
- (3) Serve as a basis for ISP development.

(c) The components of an intake assessment shall include, at a minimum;

(1) Medical information including:

- a. A statement of the ~~consumer's~~individual's general physical health status;
- b. Medical history, including current weight, height, blood pressure, pulse, and smoking status;

- c. When applicable, medical diagnoses, and the results of any medical or neurological screenings, examinations, or tests; and
- d. The name and contact information for the ~~consumer's~~individual's primary care physician;

(2) Psychiatric information including:

- a. History of mental illness or serious emotional disturbance, including onset and severity;
- b. Previous services and treatments, including medications and hospitalizations;
- c. ~~Consumer~~Individual's strengths;
- d. Illness self-management skills;
- e. Precipitating events for current psychiatric symptoms, as applicable;
- f. Documentation of the medical necessity for services;
- g. Current diagnosis;
- h. Medication orders;
- i. Current medications;
- j. Results of formalized psychiatric and/or psychological tests, if applicable;
- k. Mental status examination results; and
- l. Diagnostic formulation by a psychiatrist or other licensed practitioner of the healing arts under the auspices of a psychiatrist licensed to practice in the State of New Hampshire; and

(3) Social information including:

- a. Developmental history;
- b. Educational history and current status, if applicable;
- c. Family history and current family status;
- d. History of childhood abuse and neglect;
- e. History of trauma, including domestic violence;
- f. Results of a substance use screening tool;
- g. Employment history including work skills and types, and lengths of employment;

- h. Military history and veterans status, if applicable;
- i. Current living situation including type of environment and nature of relationship with any room/house mates or family;
- j. Social and leisure time activities and skills;
- k. Ability to develop and maintain friendships;
- l. Involvement with or history of involvement with other social service agencies or the criminal justice system;
- m. Guardianship, if applicable; and
- n. Other legal documents.

(d) Intake assessments that are completed to function as the initial ISP shall include the initial services to be provided and a physician's signature.

(e) The intake assessment and updates shall be signed and dated by the person completing the assessment.

He-M 408.07 Medication Orders.

(a) A complete list of all prescribed medications, laboratory testing and, when applicable, dietary and other ~~consumer~~-specific orders shall be maintained in the clinical record on the medication order sheet, and shall be visible and available within the electronic medical record.

(b) Medication order sheets or progress notes shall specify, at a minimum:

- (1) Date ordered;
- (2) Name, credentials, and signature of prescriber;
- (3) Medication name;
- (4) Medication dosage;
- (5) Amount dispensed;
- (6) ~~Consumer~~ An individual's allergies;
- ~~(2) Medication name;~~
- ~~(3) Medication dosage;~~
- (4) Route of medication administration;
- (5) Medication frequency;

~~(9)(6)~~ Medication start and stop dates;

(10) Date medication expired or was discontinued;

(11) Special instructions, if any;

(12) Reason for pro re nata medication; and

~~(7)(13)~~ Whether or not the ~~consumer~~-individual has the cognitive ability to self-administer or control access to their medications, or both.

(c) At a minimum, a copy of each medication prescription shall be maintained in the clinical record for ~~consumers~~-individuals who self-administer and control access to the ~~consumer's~~-individual's own medications.

(d) Each time a medication is added or deleted or when a dosage is adjusted, the prescriber shall document the change, the reason for the change, and the ~~consumer's~~-individual's ability to understand and follow the new orders.

He-M 408.08 Individual Service Plan.

(a) The ISP shall be developed in accordance with He-M 401 and documented and maintained within the clinical record.

(b) The ISP shall be a comprehensive document which identifies:

(1) ~~Consumer~~-Individual strengths, problems, and functional impairments due to the mental illness;

(2) The treatment and rehabilitative goals and objectives; and

(3) The services to be provided.

(c) The ISP shall be person-centered and written in a style and language that is understandable to the ~~consumer~~-individual and other non-professionals.

(d) The ISP shall include:

(1) The effective date of the plan;

(2) ~~Consumer~~-Individual strengths;

(3) Family strengths, as applicable;

(4) The level and nature of family involvement;

(5) Numbered goals and objectives;

(6) Specific completion criteria for each objective;

- (7) The specific rehabilitative services and modalities to be used to achieve the desired goals and objectives;
 - (8) The start and anticipated completion dates for each objective;
 - (9) The specific services for each objective;
 - (10) The frequency, duration, and purpose of each service;
 - (11) The discipline of personnel that will provide each service;
 - (12) A list of names of participants including their titles and/or relationship to the ~~consumer~~individual;
 - (13) A crisis plan as defined in He-M 401, and
 - (14) A projected schedule for completing reevaluations of the ~~consumer's~~individual's condition and updating the ISP.
- (e) For those ~~consumers~~individuals whose ISPs indicate residential or supported housing services, plans shall include specific, measurable objectives to be achieved through the provision of these services.
- (f) For those ~~consumers~~individuals whose ISPs indicate employment, an employment goal shall be indicated.
- (g) For those ~~consumers~~individuals whose ISPs indicate wellness management, wellness goals and objectives shall be indicated.
- (h) Prior to the implementation of the plan, a psychiatrist's signature shall be required to indicate the medical necessity of the services to be provided.
- (i) For ~~consumers~~individuals whose ISPs indicate "medication monitoring only" services, the physician shall enter in the ISP, at least quarterly, a comprehensive statement, indicating:
- (1) The continued medical necessity of "medication monitoring only" services; or
 - (2) The need for additional services, and the initiation of the ISP planning processes as outlined in He-M 401.
- (j) The clinical record shall include documentation indicating that the choices regarding the development of the ISP were explained to the ~~consumer~~individual or guardian pursuant to He-M 401.
- (k) The clinical record shall include documentation of the decision of the ~~consumer~~individual or guardian regarding the method of ISP development pursuant to He-M 401.
- (l) The clinical record shall include the signature of the ~~consumer~~individual or guardian indicating:
- (1) Involvement in the ISP development;

(2) The receipt of a written copy of the ISP;

(3) The explanation of the rights of the ~~consumer~~ individual in accordance with He-M 309; and

(4) The receipt of a written copy of ~~consumer~~ the individual's rights.

(m) Documentation of any amendments to the ISP shall include the signature of the ~~consumer~~ individual and the physician.

(n) Documentation of the addition of new services to the ISP shall include the signature of a physician prior to the services being provided or billed.

He-M 408.09 Documentation of Service Delivery.

(a) Progress notes shall be written for each:

(1) Therapeutic face-to-face encounter;

(2) Contact related to a crisis or change in health status; and

(3) Activity related to assessment, monitoring, or referral.

(b) Progress notes shall document:

(1) The therapeutic services provided;

(2) The objective(s) in the ISP for which the service was provided;

(3) The ~~consumer's~~ individual's response to the service including progress towards objectives;

(4) The date the service was provided;

(5) The start and stop time of the service provided;

(6) The setting where the service was provided; and

(7) The signature, credentials, and title of the person providing services.

He-M 408.10 ISP Reviews.

(a) Timeframes identified in this section shall not replace any more frequent timeframes for reviews required by insurers or other agency or federal regulations.

(b) For each ~~consumer~~ individual, the CMHP shall conduct and document a quarterly ISP review at least every 90 days from the effective date of the ISP.

(c) The quarterly review shall be based on the ~~consumer's~~ individual's current status and progress, or lack thereof, in achieving the goals and objectives identified in the ISP, as documented in the progress notes for the reporting quarter.

(d) Documentation of the quarterly review shall include:

- (1) The time period covered by the review;
- (2) Description of the ~~consumer's~~ individual's current functional impairments due to mental illness;
- (3) Any other clinically relevant information regarding changes in status during the reporting quarter;
- (4) Services received during the reporting quarter;
- (5) The ~~consumer's~~ individual's progress toward achieving ISP goals and objectives during the reporting quarter and the reasons for failure, if any, to meet the goals or objectives;
- (6) Changes in the ISP during the reporting quarter;
- (7) A statement and a dated, physician's signature indicating participation in the quarterly review and the medical necessity of services to be provided;
- (8) The date the documentation was completed and the signature and title of the person documenting the review; and
- (9) Indication of ~~consumer~~individual/family/guardian participation in the review including signatures and dates whenever possible.

(e) All signatures required in (d) above, shall be obtained within 90 days of the date of the completion of the quarterly review.

(f) The CMHP shall conduct and document the annual ISP as the fourth quarterly review in accordance with the requirements in He-M 408.08 and (d) above.

He-M 408.11 Service Suspension and Termination Notes.

(a) All suspensions and terminations shall comply with the procedures identified in He-M 401.

(b) Whenever ~~a consumer~~an individual has been suspended or terminated from a program or service, a note shall be entered into the clinical record and include:

- (1) If a suspension of services, the effective date and length of the suspension of services;
- (2) If a termination of services, the effective date of the termination of services;
- (3) The reason(s) for the suspension or termination;
- (4) The approval of the appropriate CMHP personnel; and
- (5) Documentation that notification of the suspension or termination has been provided to the ~~consumer~~individual.

He-M 408.12 Discharge ~~and~~ Transfer Notes.

(a) For the purposes of this rule, transfer shall mean when an individual moves from one treatment team to another within the same CMHP.

(b) For the purposes of this rule, discharge shall mean when an individual discontinues treatment at a CMHP.

(c) A discharge/transfer note shall be entered into the clinical record:

(1) Within 15 days after ~~a consumer's~~an individual's discharge~~/or~~ transfer from a program;
or

(2) No later than the date of the next scheduled quarterly review.

(b) The discharge~~/or~~ transfer note shall consist of a summary which includes, at a minimum:

(1) The reasons for admission;

(2) Progress made by the ~~consumer~~individual while in the program;

(3) The ~~consumer's~~individual's diagnosis;

(4) The ~~consumer's~~individual's physical and mental status at time of discharge or transfer;

(5) A brief service history and medication history;

(6) A listing of the ~~consumer's~~individual's current medication(s);

(7) The treating clinicians' recommendations for further services and treatment including referrals, if indicated;

(8) The reason(s) for discharge or transfer;

(9) A statement that notification of the discharge or transfer was given to the ~~consumer~~individual; and

(10) The prognosis.

(c) Discharge and transfer notes shall be available to other service providers with the permission of the ~~consumer~~individual.

(d) The discharge due to the death of ~~a consumer~~an individual shall be documented and include:

(1) The cause of death, when known;

(2) The date and time of death; and

(3) Results of an autopsy, when available.

He-M 408.13 Confidentiality.

(a) Each agency and facility, other than state facilities, shall develop and implement a policy regarding the confidentiality, storage, and disposal of clinical records and the circumstances under which information may be released.

(b) Confidentiality policies shall conform with He-M 309.

(c) The ~~consumer's~~ individual's written authorization for the release of information shall be maintained in the clinical record.

He-M 408.14 Waivers.

(a) A CMHP may request a waiver of specific procedures outlined in this part, in writing, from the department.

(b) A request for a waiver shall include:

- (1) A specific reference to the section of the rule for which a waiver is being sought;
- (2) A full description of why a waiver is necessary; and
- (3) A full explanation of alternative provisions or procedures proposed by the CMHP.

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

(d) A request for a waiver shall be granted after the commissioner or his or her designee determines that the alternative proposed by the CMHP meets the objective or intent of the rule and:

- (1) Does not negatively impact the health or safety of recipients; and
- (2) Does not affect the quality of CMHP services.

(e) Upon receipt of approval of a waiver request, the CMHP's subsequent compliance with the alternative provisions or procedures approved in the waiver shall be considered compliance with the rule for which the waiver was sought.

(f) Waivers shall be granted in writing for a specific duration not to exceed 5 years except as in (g) below.

(g) Those waivers which relate to the following shall be effective for the CMHP's current certification period only:

- (1) Fire safety; or
- (2) Other issues relative to ~~consumer~~ health, safety or welfare of the individual that require periodic reassessment.

(h) A CMHP may request a renewal of a waiver from the department. Such request shall be made at least 30 days prior to the expiration of a current waiver.

Rule	State or Federal Statute the Rule Implements
He-M 408.01 – 408.14	RSA 135-C:5, I(e), RSA 135-C:61, III