

INTERIM RULEMAKING NOTICE FORM

Proposed Interim Rule Number 2018-15 Rule Number He-M 523

<p>1. Agency Name &amp; Address:</p> <p><b>NH Dept. of Health &amp; Human Services Bureau of Special Medical Services 97 Pleasant Street, Thayer Building Concord, NH 03301</b></p> <p>5. Filing Date: <b>5/25/2018</b></p>	<p>2. RSA Authority: <b>RSA 161:4-a, IX; RSA 126-G:5</b></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption _____</p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption <u>X</u> _____</p> <p>Readoption w/amendment _____</p>
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6. Short Title: **Family Support Services**

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

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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. Summary explaining the effect of the rule:  
**He-M 523 sets forth a framework for family support services for children, young adults, and their families who have chronic health conditions. It also specifies the eligibility requirements for family support services and for agencies providing services. As required by RSA 126-G:5, the proposed rule specifies eligibility requirements, defines the services to be provided, and the manner of providing services.**

**He-M 523 is scheduled to expire on June 18, 2018. Pursuant to RSA 541-A:19, I(d), the readoption as an interim rule of He-M 523 is necessary to prevent the expiration of this rule before their subsequent readoption through regular rulemaking. The proposed interim rule remains unchanged from the existing rule.**

9. Listing of people, enterprises, and government agencies affected by the rule:

**Children, young adults, and families who have a child with a chronic health condition, as well as local family support councils and the agencies providing family support services.**

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement.

<b>Rule</b>	<b>Specific State or Federal Statutes the Rule Implements</b>
He-M 523.01 – He-M 523.05	RSA 126-G:3; 161:2,I
He-M 523.06 – He-M 523.08	RSA 126-G:4; 161:2,I
He-M 523.09 – He-M 523.13	RSA 126-G:3; 161:2,I

11. Summary of the effect upon the state if the rule were not adopted:

**If this proposed interim rule is not adopted, the Department would lack the necessary mechanism to properly administer this program.**

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules:

**June 15, 2018**

13. The fiscal impact statement prepared by the Legislative Budget Assistant

**Not applicable.**

CHAPTER He-M 500 DEVELOPMENTAL SERVICES

**Readopt He-M 523, effective 6-18-10 (document #9728) to read as follows:**

PART He-M 523 FAMILY SUPPORT SERVICES TO CHILDREN AND YOUNG ADULTS WITH CHRONIC HEALTH CONDITIONS

He-M 523.01 Purpose.

(a) The purpose of these rules is to establish a framework that provides supports for the needs of young adults and families who have a child with a chronic health condition. This framework will allow decisions regarding family support services to be made with consideration for the unique needs and characteristics of each young adult and family.

(b) As each young adult's and family's circumstances and needs vary, the purpose of family support services is to assist young adults and families of children with chronic health conditions to advocate, access resources, navigate systems and build competence to manage their own or their children's chronic illnesses through family directed education, support and encouragement.

He-M 523.02 Definitions.

(a) "Action plan" means a written plan for providing supports and services to an eligible young adult or family.

(b) "Bureau" means the bureau of developmental services of the department of health and human services.

(c) "Bureau administrator" means the chief administrator of the bureau of developmental services.

(d) "Chronic health condition" means a physical condition that:

(1) Will last or is expected to last for 12 months or longer;

(2) Meets one or both of the following criteria:

a. Significantly affects the individual's ability to function on a daily basis:

1. In the areas of emotional, social, or physical development; or

2. In his or her family, school, or community; or

b. Requires more frequent and intensive medical care from primary care and specialty providers than is typically required for well child and acute illness visits; and

(3) Is not excluded pursuant to He-M 523.03 (c).

(e) "Department" means the New Hampshire department of health and human services.

(f) "Family" means the biological, adoptive, or foster parents or legal guardians of a child aged 0 to 21 who has a chronic health condition.

(g) "Family support services" means those activities and interventions that:

(1) Are identified by a young adult or family in the action plan;

(2) Are provided for, or on behalf of, that young adult or family through the PIH family council, the PIH coordinator, SMS, or the lead agency; and

(3) Assist that young adult or family as primary caregiver of a child with a chronic health condition.

(h) “Lead agency” means an entity awarded a contract by special medical services (SMS) to provide Partners in Health services to young adults and families living in a designated region.

(i) “Partners in Health (PIH)” means a New Hampshire community-based program of family support for young adults and families.

(j) “Special medical services (SMS)” means the administrative section of the bureau of developmental services that supervises Partners In Health.

(k) “Young adult” means a person who has a chronic health condition and is eligible for services described in He-M 523.05, and is:

(1) 18 to 21 years of age; or

(2) A minor who has been legally emancipated.

He-M 523.03 Eligibility.

(a) An applicant shall be eligible for services described in He-M 523.05 if the applicant is a family as defined in He-M 523.02(f) or a young adult as defined in He-M 523.02(k).

(b) For the purposes of establishing eligibility, an applicant shall provide documentation from a licensed physician, advanced practice registered nurse, or doctor of osteopathy indicating that the person’s chronic health condition meets the specific criteria in He-M 523.02(d).

(c) An applicant who meets the criteria of a chronic health condition as defined in He-M 523.02(d) shall not be eligible to receive services under He-M 523 if the condition is:

(1) A developmental disability when:

a. The disability meets the definition in RSA 171-A:2, V; and

b. The person receives services pursuant to He-M 503.07 through He-M 503.11;

(2) A mental illness when the illness:

a. Meets the definition in RSA 135-C:2, X; or

b. Meets the definition of serious emotional disturbance in He-M 401.02 (u);

(3) A dental condition; or

(4) Obesity, which means a body mass index equal to or greater than the gender- and age-specific 95th percentile from the Centers for Disease Control and Prevention growth charts.

(d) If an individual has a developmental disability, and he or she is receiving services pursuant to He-M 503.07 through He-M 503.11, that individual shall not receive services under He-M 523.

(e) A young adult or family shall receive family support services from the region for which they reside.

He-M 523.04 Determination of Eligibility.

(a) The medical documentation provided pursuant to He-M 523.03 (b), and any other information provided by the applicant concerning the applicant's unconfirmed chronic health condition, shall be the basis for determination of eligibility for services.

(b) A PIH coordinator shall review the medical documentation received regarding an applicant and, within 15 business days after the receipt of the documentation, confirm the applicant has a chronic health condition as defined by He-M 523.02(d).

(c) In cases where the information regarding eligibility is inconclusive, a SMS clinician shall make the determination of an applicant's eligibility.

(d) If the information required to determine eligibility cannot be obtained or it is anticipated that the person will not be determined eligible in consultation with SMS within the timelines stated in (b) above, the PIH coordinator shall:

- (1) Request an extension from the applicant, in writing, stating the reason for the delay; and
- (2) Obtain the approval in writing from the applicant.

(e) Extensions approved in writing by the applicant in (d) above shall not exceed 30 business days after the receipt of the documentation.

(f) If the PIH coordinator's request for an extension pursuant to (d) above is denied by the applicant, the PIH coordinator shall determine the applicant to be ineligible for services. The young adult or family may reapply for services pursuant to (k) below.

(g) The PIH coordinator shall authorize services to be provided prior to the completion of the eligibility determination process if such services are necessary to protect the health or safety of an applicant who the PIH coordinator believes is likely to be eligible, based upon available information.

(h) Within 5 business days of the determination of a family's or a young adult's eligibility, a PIH coordinator shall send notice to each applicant that includes the determination of eligibility.

(i) Preliminary planning to determine the services needed shall occur with the young adult or family when the application is submitted or no later than 5 business days from the notification of eligibility.

(j) Within 5 business days of determination of an applicant's ineligibility, a PIH coordinator shall convey to the applicant a written decision that describes the specific legal and factual basis for the denial, including specific citation of the applicable law or department rule, and advise the applicant in writing and verbally of the appeal rights under He-M 523.12.

(k) Following denial of eligibility, the individual, family, as applicable, may reapply for services if new information regarding the diagnosis or of the health condition becomes available or if the timelines are not met in accordance with (f) above.

(l) The determination of eligibility by one PIH coordinator shall be accepted by every lead agency of the state.

(m) On an annual basis, the PIH coordinator shall re-determine the eligibility of a young adult or family through the review of the young adult's or family's action plan.

(n) Young adults and families shall make the necessary medical and other forms of documentation concerning the chronic health condition available upon request from the PIH coordinator, SMS or the lead agency.

He-M 523.05 Family Support Services.

(a) Family support services shall:

- (1) Assist young adults to identify and assess their own needs and care;
- (2) Assist families to identify and assess the care of their children who have chronic health conditions;
- (3) Aid young adults to care for their chronic health conditions;
- (4) Aid families to care for their children who have chronic health conditions;
- (5) Assist young adults to access the financial, educational, training, and other resources and services needed to monitor, assess, and respond to their own health care needs; and
- (6) Assist families to access the financial, educational, training, and other resources and services needed to monitor, assess and respond to their children's chronic health condition; and
- (7) Assist young adults and families in obtaining services such as applying for grants and locating donations of goods.

(b) Family support services shall include financial assistance based on the young adult's or family's needs and the availability of funds.

(c) The PIH family council shall establish the method of provision of financial assistance, including limits on the use of PIH family support services funding, in accordance with He-M 523.07.

He-M 523.06 Responsibilities of Lead Agency.

(a) Each lead agency shall:

- (1) Have a contract with SMS to provide PIH services within a designated region(s);
- (2) Provide community outreach and education to promote PIH throughout the region(s);
- (3) Review PIH services to ensure that services are provided to a young adult or family in home and community settings and are based on a young adult's or family's needs, interest, competencies, and lifestyles; and
- (4) Designate, with input from the family council, a PIH coordinator(s) for each designated region, but a person may serve as a coordinator for more than one region.

(b) The lead agency shall comply with SMS quality assurance activities, including:

- (1) Conducting and reviewing member satisfaction surveys;
- (2) Reviewing personnel files of any staff funded through the contract for completeness; and

- (3) Participating in quality improvement reviews conducted by the SMS including:
  - a. Reviewing the records of young adults and families; and
  - b. Reviewing the lead agency's compliance with this section.

He-M 523.07 PIH Family Council.

- (a) A PIH family council shall be established within each designated region.
- (b) A PIH family council shall be composed of a minimum of 5 members, all of whom shall be, or have been, young adults or family members.
- (c) Each PIH family council shall adopt internal policies for, at a minimum, the following:
  - (1) Membership, recruitment, rotation, and requirements for service on the council;
  - (2) Determining the chairperson and other officers;
  - (3) Providing all PIH family council members orientation and training appropriate to performing their assigned functions;
  - (4) Distributing family support funds and other resources made available for family support activities; and
  - (5) Monitoring services and supports provided to young adults and families in accordance with He-M 523.08.
- (d) When distributing funds, each PIH family council shall consider the following:
  - (1) The needs of the young adult or family related to chronic health condition;
  - (2) The level of funding and community resources available to the young adults and family;
  - (3) Maintenance of sufficient funds to a given budget cycle; and
  - (4) The needs within the region, as established by the regional family support plan in He-M 523.08(b).
- (e) The PIH family council shall ensure that a young adult or family has accessed all other available funding and community resources prior to being a recipient of family support services funding.

He-M 523.08 Collaboration Between Lead Agencies and PIH Family Councils.

- (a) Lead agencies and PIH family councils shall work together to support the mission of the PIH program by coordinating planning activities with one another, and with other community agencies, to maximize supports, services, and funding.
- (b) Specifically, lead agencies and PIH family councils shall work collaboratively to:
  - (1) Determine and agree upon the 2 parties' relationship, roles, and responsibilities;
  - (2) Develop and agree upon a method of conflict resolution, including the provision that in cases of without resolution SMS shall be the final arbiter regarding He-M 523 applicability; and
  - (3) Develop and implement a biennial regional family support plan.

- (c) At a minimum, the regional family support plan for each region shall:
- (1) Specify the methods used to identify needs of young adults and families in the region;
  - (2) Identify the needs of young adults and families residing in the region;
  - (3) Identify the resources available to support young adults and families in the region;
  - (4) Identify community agencies that serve children and young adults with chronic health conditions;
  - (5) Prioritize identified needs based on the information obtained in (1) through (4) above; and
  - (6) Develop strategies to address priorities.

He-M 523.09 PIH Coordinator Duties and Qualifications.

- (a) Each lead agency shall have at least one person designated as a PIH coordinator.
- (b) A PIH coordinator's duties and qualifications shall be identified by a job description designed jointly by the PIH family council and lead agency and in accordance with (c) and (d) below.
- (c) A PIH coordinator shall have at least an associate's degree from an accredited program in a field of study related to health or social services with at least one year's corresponding experience.
- (d) A PIH coordinator shall:
- (1) Review and communicate eligibility for services to applicants as specified in He-M 523.03 and He-M 523.04;
  - (2) Provide, or assist young adults and families in acquiring, family support services;
  - (3) Coordinate the establishment and operations of the PIH family council;
  - (4) Provide information to the PIH family council regarding family supports to assist the council to:
    - a. Understand young adults' and families' needs;
    - b. Act on those needs; and
    - c. Monitor the services and supports provided;
  - (5) Provide information and referral consultation to those staff providing family support under He-M 519, upon request of the area agency support coordinator, or the young adult or family;
  - (6) Solicit financial support for young adults and families from community groups, foundations, and other sources to augment state funding as needed;
  - (7) Develop an action plan with each young adult and family that includes:
    - a. A young adult or family profile; and
    - b. A prioritization of needs and goals to be addressed, including:
      1. Timelines;
      2. Methods for achieving goals;

3. Criteria for completion; and

c. Planning for health care transitions;

(8) Maintain records regarding supports and services provided for young adults and families; and

(9) Facilitate the distribution of family support funds under the direction of the PIH family council.

(e) Family support services provided by the PIH coordinator shall:

(1) Be initiated through an action plan; and

(2) Include the following:

a. Documentation of all contacts with the child or his/her family or the young adult;

b. Determination of the young adult's or the family's satisfaction with services; and

(3) Involve coordination and monitoring of family support services.

(f) A PIH coordinator shall assist a young adult and family to access other appropriate and available community resources prior to using PIH family support services funds.

He-M 523.10 Voluntary Withdrawal from Services.

(a) A young adult or family may withdraw voluntarily from services at any time.

(b) The PIH coordinator shall document the withdrawal in the record.

(c) A young adult or family who has withdrawn from services may reapply for services at any time.

He-M 523.11 Designation of Region Boundaries.

(a) An eligible young adult or family may request to SMS to receive services from a region other than the one in which they reside.

(b) A lead agency may request from SMS, with the approval of the eligible young adult or family, that the young adult or family receive services from another region other than the one in which they reside.

(c) Requests made in (a) and (b) above shall be submitted in writing to SMS and include supporting information that explains why the family is better served by another region.

(d) A lead agency shall be awarded a contract to service one of more of the regions listed in Table 523-1:

Table 523-1. TOWNS AND CITIES BY NUMERICAL DESIGNATION AND REGION

Region I

403 Berlin	412 Dixville	422 Milan	431 Stewartstown
405 Carroll	413 Dummer	424 Northumberland	432 Stratford
406 Clarksville	414 Errol	427 Pittsburg	435 Wentworth
407 Colebrook	416 Gorham	428 Randolph	
408 Columbia	418 Jefferson	429 Shelburne	436 Whitefield
409 Dalton	420 Lancaster	430 Stark	

Region II

001 Acworth	005 Croydon	009 Lempster	013 Sunapee
002 Charlestown	006 Goshen	010 Newport	014 Unity
003 Claremont	007 Grantham	011 Plainfield	015 Washington
004 Cornish	008 Langdon	012 Springfield	

Region III

501 Alexandria	507 Bristol	516 Groton	533 Plymouth
101 Alton	508 Campton	519 Hebron	534 Rumney
502 Ashland	104 Center Harbor	520 Holderness	110 Sanbornton
102 Barnstead	512 Ellsworth	107 Laconia	535 Thornton
103 Belmont	105 Gilford	108 Meredith	111 Tilton
506 Bridgewater	106 Gilmanton	109 New Hampton	

Region IV

701 Allenstown	709 Danbury	716 Hopkinton	723 Salisbury
702 Andover	606 Deering	717 Loudon	724 Sutton
703 Boscawen	710 Dunbarton	718 Newbury	725 Warner
704 Bow	711 Epsom	719 New London	629 Weare
705 Bradford	712 Franklin	720 Northfield	726 Webster
706 Canterbury	713 Henniker	721 Pembroke	727 Wilmot
707 Chichester	714 Hill	722 Pittsfield	631 Windsor
708 Concord	612 Hillsboro		

Region V

301 Alstead	610 Greenville	312 Nelson	317 Sullivan
602 Antrim	611 Hancock	624 New Ipswich	318 Surry
604 Bennington	306 Harrisville	626 Peterborough	319 Swanzey
302 Chesterfield	307 Hinsdale	313 Richmond	628 Temple
303 Dublin	308 Jaffrey	314 Rindge	320 Troy
304 Fitzwilliam	309 Keene	315 Roxbury	321 Walpole
607 Frankestown	616 Lyndeborough	627 Sharon	322 Westmoreland
305 Gilsum	310 Marlborough	316 Stoddard	323 Winchester
609 Greenfield	311 Marlow		

Region VI

601 Amherst	614 Hudson	619 Merrimack	622 Nashua
605 Brookline	615 Litchfield	620 Milford	630 Wilton
613 Hollis	618 Mason	621 Mont Vernon	

Region VII

802 Auburn	804 Candia	715 Hooksett	617 Manchester
603 Bedford	608 Goffstown	819 Londonderry	623 New Boston

Region VIII

803 Brentwood	813 Greenland	821 Newfields	829 Portsmouth
807 Deerfield	815 Hampton	822 Newington	830 Raymond
809 East Kingston	816 Hampton Falls	823 Newmarket	831 Rye
810 Epping	817 Kensington	825 North Hampton	834 Seabrook
811 Exeter	818 Kingston	826 Northwood	835 South Hampton
812 Fremont	820 New Castle	827 Nottingham	836 Stratham

Region IX

901 Barrington	905 Lee	908 Milton	911 Rollinsford
902 Dover	906 Madbury	914 New Durham	912 Somersworth
903 Durham	907 Middleton	910 Rochester	913 Strafford
904 Farmington			

Region X

801 Atkinson	808 Derry	625 Pelham	833 Sandown
805 Chester	814 Hampstead	828 Plaistow	837 Windham
806 Danville	824 Newton	832 Salem	

Region XI

201 Albany	206 Eaton	211 Madison	215 Tamworth
202 Bartlett	207 Effingham	212 Moultonboro	216 Tuftonboro
203 Brookfield	208 Freedom	213 Ossipee	217 Wakefield
204 Chatham	209 Hart's Location	214 Sandwich	218 Wolfeboro
205 Conway	210 Jackson		

Region XII

509 Canaan	515 Grafton	522 Lebanon	530 Orange
510 Dorchester	517 Hanover	528 Lyme	531 Orford
513 Enfield	538 Wentworth		

Region XIII

503 Bath	518 Haverhill	526 Livermore	540 Sugar Hill
504 Benton	521 Landaff	527 Lyman	536 Warren
505 Bethlehem	523 Lincoln	529 Monroe	537 Waterville
511 Easton	524 Lisbon	532 Piermont	539 Woodstock
514 Franconia	525 Littleton		

He-M 523.12 Appeals.

(a) Pursuant to He-M 202 or He-C 200, a young adult or family may choose to pursue informal resolution to resolve any disagreement with a lead agency or, within 30 business days of a lead agency decision, may choose to file an appeal.

(b) A young adult or family may appeal any determination, action, or inaction by a lead agency.

(c) Appeals shall be submitted, in writing, to the bureau administrator in care of the department’s office of client and legal services.

(d) Appeals may be filed verbally, if the family or young adult is unable to convey the appeal in writing.

(e) The young adult or family may choose to participate in a hearing or independent review, as provided in He-C 200. The burden shall be as provided by He-C 203.14.

(f) If a hearing is requested, the following actions shall occur:

- (1) If the young adult or family is currently receiving supports and services, those supports and services shall be continued until a decision has been made;
- (2) If the bureau’s decision is upheld, funding shall cease 60 days from the date of the decision.
- (3) If the young adult or family member is appealing a denial of eligibility for supports and services, no family support services shall be provided until a decision is made to reverse the denial; and
- (4) If the bureau’s decision is reversed, family support services shall commence as soon as practicable.

He-M 523.13 Waivers.

(a) A lead agency, PIH family council, family, or young adult may request a waiver of specific procedures outlined in He-M 503 using the form titled “NH Special Medical Services –Waiver of Services.”

(b) A completed waiver request form shall be signed by the young adult, family, lead agency, or PIH family council representative indicating agreement with the request.

(c) The request for waiver shall be reviewed and granted by the commissioner of the department or his or her designee, within 30 days of receipt of the request, if the alternative proposed by the lead agency, PIH family council, family or young adult, meet the objective or intent of the rule and it:

- (1) Does not negatively impact the health or safety of the family or young adult(s); and
- (2) Does not affect the quality of services to a family or young adult.

(d) A waiver request shall be submitted to:

Department of Health and Human Services  
Special Medical Services  
State Office Park South  
129 Pleasant Street, Thayer Building  
Concord, NH 03301

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

(f) The determination on the request for a waiver shall be made within 30 days of the receipt of the request.

(g) Waivers shall be granted in writing and remain in effect for the duration of the service.

(h) Any waiver shall end with the closure of the related program or service.

APPENDIX

<b>Rule</b>	<b>Specific State or Federal Statutes or Regulations which the Rule Implements</b>
He-M 523.01 - 523.05	RSA 126-G:3; 161:2, I
He-M 523.06 - 523.08	RSA 126-G:4; 161:2, I
He-M 523.09 - 523.13	RSA 126-G:3; 161:2, I