

Readopt with amendment He-W 837, effective 2-23-19 (Document #12733, Interim), cited and to read as follows:

CHAPTER He-W 800 ELIGIBILITY FOR MEDICAL ASSISTANCE

PART He-W 837 GRANITE ADVANTAGE HEALTH CARE PROGRAM

He-W 837.01 Definitions.

- (a) “Beneficiary” means an individual determined eligible for the granite advantage health care program.
- (b) “Commissioner” means the commissioner of the NH department of health and human services, or his or her designee.
- (c) “Community engagement requirement” means a condition of continuing eligibility for the granite advantage health care program that requires beneficiaries to engage in 100 hours per calendar month in one or more community engagement activities.
- (d) “Cure” means meeting the community engagement requirement by making up deficit hours, demonstrating good cause for deficit hours, or providing certification of an exemption status.
- (e) “Dating violence” means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.
- (f) “Deficit hours” means the number of hours below 100 hours that the beneficiary did not participate in community engagement activities in a calendar month.
- (g) “Department” means the New Hampshire department of health and human services.
- (h) “Disability” means disability as defined by the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act, or Section 1557 of the Patient Protection and Affordable Care Act.
- (i) “Disenrollment” means the termination of medicaid eligibility at the annual redetermination of a suspended beneficiary.
- (j) “Domestic violence” means domestic violence as defined in RSA 631:2-b.
- (k) “Granite advantage health care program (granite advantage)” means the granite advantage health care program established under RSA 126-AA which provides medicaid coverage to adults eligible under Title XIX of the Social Security Act 1902(a)(10)(A)(i)(VIII).
- (l) “Good cause” means circumstances that prevented the beneficiary from meeting the community engagement requirement pursuant to He-W 837.10.
- (m) “Homeless” means a situation in which an individual lacks a fixed, regular, and adequate nighttime residence such as living in a publicly or privately operated shelter, or living in a public or private location not meant for human habitation, and includes a situation in which an individual is in peril of losing his or her primary residence, no subsequent residence has been identified, and the individual lacks support networks to obtain permanent housing.

(n) “Immediate family member” means a spouse, child(ren), mother-in-law, father-in-law, parent(s), step-parent(s), step-child(ren), step-brother(s), step-sister(s), grandparent(s), grandchild(ren), brother(s), sister(s), legal guardian(s), daughter(s)-in-law, son(s)-in-law, brother(s)-in-law, sister(s)-in-law, and foster child(ren).

(o) “Licensed medical professional” means a physician, an advanced practice registered nurse (APRN), a behavioral health professional who is able to determine eligibility for community mental health services pursuant to He-M 401.04, a physician assistant, a licensed alcohol and drug counselor (LADC), a master of licensed alcohol and drug counselor (MLADC), nurse case manager, or a board-certified psychologist.

(p) “Medicaid” means the Title XIX program administered by the department, which makes medical assistance available to eligible individuals.

(q) “Medically frail” means a beneficiary, as defined in 42 CFR 440.315(f), with a disabling mental disorder, chronic substance use disorder (SUD), serious and complex medical condition, or a physical, intellectual, or developmental disability that significantly impairs the ability to perform one or more activities of daily living as certified by a licensed medical professional.

(r) “Noncompliant” means a status where a beneficiary failed to meet the 100 hour per calendar month community engagement requirement in a single month.

(s) “Redetermination” means the annual medicaid eligibility renewal process required by 42 CFR 435.916, He-W 606, and He-W 684.

(t) “Stalking” means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person’s individual safety or the safety of others or suffer substantial emotional distress.

(u) “Sexual assault” means sexual assault as defined in RSA 632-A:4.

(v) “Voluntary” means a community engagement status in which a beneficiary is not required to participate in the community engagement requirement but chooses to do so.

He-W 837.02 Community Engagement Requirement.

(a) Unless exempted under He-W 837.03 below or able to demonstrate good cause under He-W 837.10, beneficiaries shall engage in 100 hours per calendar month in one or more of the community engagement activities listed in He-W 837.05 below.

(b) A beneficiary shall have until the first full month following 75 calendar days from the date of the eligibility determination or the expiration of an exemption to come into compliance with the community engagement requirement.

He-W 837.03 Exemptions.

(a) Beneficiaries meeting at least one of the following conditions shall be exempted from the community engagement requirement:

(1) Beneficiaries who are unable to participate due to illness, incapacity, or treatment, as certified by a licensed medical professional. This exemption shall include the beneficiary’s

participation in inpatient and residential outpatient SUD treatment or intensive outpatient SUD services that is consistent with Levels 2.1 and above as found in the American Society of Addiction Medicine (ASAM) Criteria: Treatment Criteria for Substance-Related, Addictive, and Co-Occurring Conditions, Third Edition (2013), henceforth referred to as “ASAM Criteria 2013”, available as noted in Appendix A;

- (2) Beneficiaries who are participating in a state-certified drug court program;
- (3) A custodial parent or caretaker as defined in RSA 167:82, II(g) where the required care is considered necessary by a licensed medical professional;
- (4) A custodial parent or caretaker of a dependent child under 6 years of age provided that the exemption shall only apply to one parent or caretaker of a common child or children in the case of a 2-parent household;
- (5) A custodial parent or caretaker of a child with developmental disabilities who is residing with the parent or caretaker;
- (6) Pregnant women as defined in 42 CFR 435.4;
- (7) Beneficiaries with a disability who are unable to comply with the community engagement requirement due to disability-related reasons;
- (8) Beneficiaries residing with an immediate family member who has a disability and is unable to meet the community engagement requirement for reasons related to the family member’s disability;
- (9) Beneficiaries who experience a hospitalization or serious illness;
- (10) Beneficiaries residing with an immediate family member who experiences a hospitalization or serious illness; or
- (11) Beneficiaries who are medically frail, as certified by a licensed medical professional.

(b) Beneficiaries meeting at least one of the conditions in (a)(1) – (11) above shall complete the required form for the condition as specified for the condition in accordance with He-W 837.04 below.

(c) Beneficiaries who fall in at least one of the following categories, based on the information available in the department’s eligibility system(s), shall be exempted from the community engagement requirement and shall not have to supply additional information to the department:

- (1) Beneficiaries who are approved by the department for aid to the permanently and totally disabled (APTD), aid to the needy blind (ANB), medicaid for employed adults with disabilities (MEAD), nursing facility, home and community based services (HCBS), or home care for children with severe disabilities through age 20 (HC-CSD);
- (2) Beneficiaries who are receiving supplemental security income (SSI), social security disability income (SSDI), railroad disability, or veteran disability benefits;
- (3) Beneficiaries who are pregnant as defined in 42 CFR 435.4, and whose pregnancy status is indicated in the department’s eligibility system(s);

- (4) A beneficiary who is a custodial parent or caretaker for a dependent child under 6 provided that the exemption shall only apply to one parent or caretaker of a common child or children in the case of a 2-parent household;
 - (5) A beneficiary who is a custodial parent or caretaker of a child with developmental disabilities who is residing with the parent or caretaker and who is currently approved by the department for services under the home and community based services developmental disability waiver (HCBS-DD);
 - (6) Beneficiaries who are receiving supplemental nutritional assistance program (SNAP) benefits and who are exempt from the program's employment requirements;
 - (7) Beneficiaries who are receiving temporary assistance for needy families (TANF) benefits and who are exempt from the program's employment requirements; and
 - (8) Beneficiaries who are enrolled in health insurance premium program (HIPP).
- (d) The exemptions in (c) above shall continue for as long as the particular circumstance continues to exist.
- (e) A beneficiary who is exempted in (c) above may request to participate voluntarily in the community engagement requirement and shall have access to the granite workforce program pursuant to He-W 639.
- (f) Beneficiaries voluntarily participating in the community engagement requirement in (e) above shall not be subject to suspension or termination for noncompliance with the community engagement requirement.

He-W 837.04 Request for Exemption; Duration of Exemptions.

- (a) All beneficiaries requesting an exemption shall complete and submit BFA Form 330 "Exemption Request Form Granite Advantage Health Care Program" (05/19).
- (b) Beneficiaries requiring certification by a licensed medical professional in (c) below shall have a licensed medical professional certify on BFA Form 330 to the following:
- "As a licensed medical professional caring for this beneficiary, I hereby certify (based on the description of the exemptions provided in the instructions to this form) that the beneficiary meets the qualifications for the exemption(s) requested in Section II."
- (c) Beneficiaries shall provide the following third party certification or documentation to the department for the indicated exemption types:
- (1) For beneficiaries unable to participate due to illness, incapacity, or treatment under He-W 837.03(a)(1) above, provide a certification by a licensed medical professional specifying the duration and limitations of the illness, incapacity, or treatment. The duration of the exemption shall be one month or the date range specified by the licensed medical professional, whichever is longer;
 - (2) For beneficiaries participating in a state certified drug court program under He-W 837.03(a)(2) above, provide a copy of the legal documentation requiring the beneficiary to

participate in the drug court program. The duration of this exemption shall be one year from the date that the required documentation is received;

(3) For a parent or caretaker under He-W 837.03(a)(3) above, provide a certification by a licensed medical professional that specifies the duration that such care is required. Unless specified otherwise by the licensed medical professional, the duration of this exemption shall be one year from the date that the required documentation is received;

(4) For a parent or caretaker of a dependent child under 6 years of age under He-W 837.03(a)(4) above, provide a self-attestation and the child's date of birth;

(5) For a custodial parent or caretaker of a child with developmental disabilities under He-W 837.03(a)(5) above, provide a certification by a licensed medical professional of the child's developmental disability. The duration of this exemption shall be for as long as the particular circumstance continues to exist;

(6) For beneficiaries with a disability under He-W 837.03(a)(7) above, provide an annual certification by a licensed medical professional of the beneficiary's inability to meet the community engagement requirement for reasons related to the disability. The duration of this exemption shall be one year from the date that the required documentation is received or the date range specified by the licensed medical professional, whichever is less;

(7) For beneficiaries residing with an immediate family member with a disability under He-W 837.03(a)(8) above, provide an annual attestation of the beneficiary's inability to meet the community engagement requirement for reasons related to the family member's disability and an annual certification by the family member's licensed medical professional specifying the family member's disability. The duration of this exemption shall be one year from the date that the required documentation is received or the date range specified by the licensed medical professional, whichever is less;

(8) For beneficiaries unable to participate due to hospitalization or serious illness under He-W 837.03(a)(9) above, provide copies of discharge summaries, or financial or billing information, documenting the hospitalization or serious illness or dates of stay. The duration of this exemption shall be one month or the date range specified by the licensed medical professional, whichever is longer;

(9) For beneficiaries who are unable to participate due to hospitalization or serious illness of an immediate family member under He-W 837.03(a)(10) above, provide copies of the family member's discharge summaries, or financial or billing information, documenting the hospitalization or serious illness. The duration of this exemption shall be one month or the date range specified by the licensed medical professional, whichever is longer; and

(10) For medically frail beneficiaries under He-W 837.03(a)(11) above, an annual completion and submission of a. and b. below:

a. BFA Form 320A "Beneficiary Authorization for Licensed Medical Professional to Release Protected Health Information - Granite Advantage Health Care Program" (05/19) permitting and authorizing disclosure of protection health information as follows:

“I hereby authorize the following licensed medical professional to disclose my protected health information for the purposes described above.”

“In addition, I hereby authorize the following specific disclosures (place your initials on the line by those statements which apply)
I specifically authorize the release of my mental health treatment records.
I specifically authorize the release of my HIV and AIDS results and/or treatment.
I specifically authorize the release of my alcohol and/or drug abuse treatment records in accordance with 42 CFR Part 2.”

“I give authorization for my protected health information to be released to the following individual or organization:

Name: Granite Advantage Health Care Program Manager
Organization: Department of Health and Human Services
Address: DHHS, Granite Advantage Health Care Program, P.O. Box 3778,
Concord, NH 03302-3778 or Fax # 603-271-5623

I understand this authorization may be revoked by notifying the Department of Health and Human Services in writing to the address above”; and

b. BFA Form 331 “Licensed Medical Professional Certification of Medical Frailty Granite Advantage Health Care Program” (05/19) indicating that the beneficiary is unable to comply with the work and community engagement requirement as a result of their condition including the duration of such disability. The duration of this exemption shall be one year from the date that the required certification is received or the date range specified by the licensed medical professional, whichever is less. The licensed medical professional shall certify as follows:

“As a licensed medical professional caring for this beneficiary, I hereby certify that the beneficiary is medically frail based on the beneficiary having one or more of the conditions identified above.”

(d) To the extent practicable, third party certification or documentation shall be submitted to the department with the form required in (a) above.

(e) A request for an exemption under this section shall not be considered complete until all of the required documentation is received by the department.

(f) For pregnant women, the beneficiary may report pregnancy by completing and submitting BFA Form 330 or by informing the department.

He-W 837.05 Qualifying Activities. The following activities shall qualify as activities for the community engagement requirement:

- (a) Unsubsidized employment including by non-profit organizations;
- (b) Subsidized private sector employment;
- (c) Subsidized public sector employment;
- (d) On-the-job training;

- (e) Job skills training related to employment;
- (f) Enrollment at an accredited community college, college, or university that is counted on a credit hour basis;
- (g) Job search and job readiness assistance, including but not limited, to participation in job search or job training activities offered through the department of employment security or through other job search or job readiness assistance programs such as the Workforce Innovation and Opportunity Act (WIOA) or work ready New Hampshire. Time spent in any assessment, training, enrollment, or case management activity that is necessary for participation in a job search or job readiness program shall be credited as job search and job readiness assistance hours;
- (h) Vocational educational training not to exceed 12 months with respect to any beneficiary;
- (i) Education directly related to employment, in the case of a beneficiary who has not received a high school diploma or certificate of high school equivalency;
- (j) Attendance at secondary school or in a course of study leading to a certificate of general equivalence, in the case of a beneficiary who has not completed secondary school or received such a certificate;
- (k) Community, volunteer, or public service except that community, volunteer, or public service under this part shall not include services provided to or on behalf of a political organization or campaign;
- (l) Caregiving services for a non-dependent relative or other person with a disabling medical, mental health, or developmental condition;
- (m) Participation in ASAM Level 1 outpatient SUD services, including medication assisted treatment, and recovery supports, as set forth in ASAM Criteria (2013);
- (n) Participation in and compliance with SNAP employment requirements;
- (o) Participation in and compliance with the TANF employment requirements;
- (p) Participation in and compliance with the employment requirements of the refugee resettlement program pursuant to 45 CFR 400.75; or
- (q) Self-employment.

He-W 837.06 Reporting of Community Engagement Activities and Crediting of Hours.

(a) The following types of community engagement activities shall be reported by completing and submitting BFA Form 321 "Reporting Education Participation for Community Engagement– Granite Advantage Health Care Program" (05/19):

- (1) For job skills training related to employment under He-W 837.05(e), the beneficiary shall provide documentation of enrollment that includes the duration and the number of hours per month the beneficiary is participating in the activity;
- (2) For enrollment at an accredited community college under He-W 837.05(f), the beneficiary shall provide documentation of enrollment that includes a copy of the beneficiary's class schedule, the number of credit hours assigned for the enrolled class(es), and the semester begin and end date. The number of community engagement hours to be

credited shall be determined by multiplying the number of credit hours assigned for the enrolled class(es) by 4.33;

(3) For vocational educational training under He-W 837.05(h), the beneficiary shall provide documentation of enrollment that includes the duration of the activity and a copy of the beneficiary's enrollment in the program. Community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the activity not to exceed 12 months;

(4) For education directly related to employment under He-W 837.05(i), the beneficiary shall provide documentation of enrollment that includes the duration of the activity. Community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the activity; and

(5) For study leading to a certificate of general equivalence under He-W 837.05(j), the beneficiary shall provide documentation of enrollment that includes the duration of the activity. Community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the activity;

(b) The types of community engagement activities listed in (c) below shall be reported on a completed and submitted BFA Form 320 "Reporting Monthly Participation in Community Engagement Activities - Granite Advantage Health Care Program" (05/19).

(c) Beneficiaries shall provide the requested information on the form in (b) above, and the hours reported on the form in (b) above shall be credited toward the community engagement requirement as follows:

(1) For time spent participating in job search and job readiness efforts under He-W 837.05(g), the beneficiary shall report the type, duration of the activity, and total number of hours per month;

(2) For community, volunteer, or public service under He-W 837.05(k), the beneficiary shall report where and when the community, volunteer, or public service was performed, the number of hours performed, and the contact information for the organization or individual the service was performed for;

(3) For caregiving services under He-W 837.05(l), the beneficiary shall report the name and contact information for the non-dependent relative or other person cared for, a description of the services provided, and the number of hours of caregiving services provided;

(4) For participation in ASAM Level 1, as set forth in ASAM Criteria (2013), outpatient SUD services under He-W 837.05(m), the beneficiary shall report the name of the agency or organization the services were received from, and the number of hours that the beneficiary participated in the services up to 40 hours per month. For participation in any other ASAM level treatment, see exemption He-W 837.03(a)(1);

(5) For beneficiaries experiencing a temporary increase in monthly employment hours for seasonal work or for other such work greater than the beneficiary's average monthly employment hours as credited pursuant to (d)(4) below, the beneficiary shall report the increased hours which shall be limited to 2 consecutive months; and

(6) For beneficiaries who are self-employed and work more hours than calculated by the department's eligibility system(s), the beneficiary shall report the additional hours worked, and a description of the hours work and tasks performed.

(d) The indicated community engagement activities below shall be credited as follows if the activity is verified by the department's eligibility system(s):

(1) For system-verified participation in and compliance with SNAP employment requirements, community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the program;

(2) For system-verified participation in and compliance with TANF employment requirements, community engagement hours shall be credited at 100 hours per month for the duration of the beneficiary's verified participation in the program;

(3) For participation in and compliance with the employment requirements of the refugee resettlement program pursuant to 45 CFR 400.75, systemic verification of legal status and enrollment in the program. and community engagement hours shall be credited at 100 hours per month for 12 months from the date of the beneficiary's entry into the United States; and

(4) Employment information gathered during the application or redetermination process or in the department's eligibility system(s) shall be used to determine a beneficiary's average monthly employment hours and shall be credited towards the community engagement requirement for employment activities listed in He-W 837.05(a)-(d).

He-W 837.07 Beneficiaries with Disabilities: Reasonable Modification.

(a) A beneficiary with a disability shall be entitled to reasonable modifications related to meeting the community engagement requirement.

(b) Reasonable modifications shall include:

(1) Modification in the number of community engagement hours required where the beneficiary is unable to participate in the required number of hours; or

(2) Assistance with understanding granite advantage to include, but not be limited to, departmental notices, eligibility requirements, exemption requirements, how to apply for an exemption, program benefits, how to establish eligibility, and how to meet and report community engagement activities to maintain eligibility.

He-W 837.08 Opportunity to Cure.

(a) If a beneficiary fails to meet the required community engagement hours, the beneficiary shall satisfy the community engagement requirement by making up the deficit hours for the noncompliant month by doing one of the following:

(1) Curing the deficit hours by engaging in the activities listed in He-W 837.05 above in the following month for only the number of deficit hours for the noncompliant month. For example:

a. A beneficiary engaged in 60 hours of community engagement activities in January, resulting in a 40-hour deficit. The beneficiary worked 100 hours in February. The beneficiary's noncompliance for January shall be cured, and the beneficiary shall be considered compliant with February; or

b. A beneficiary engaged in 60 hours of community engagement activities in January, resulting in a 40-hour deficit. The beneficiary shall only need to complete 40 hours of community engagement activities in February to cure January's deficit. The beneficiary worked 60 hours in February. The beneficiary shall be considered compliant for January, and shall be considered noncompliant for February with a 40-hour deficit;

(2) Demonstrating good cause for the failure to meet the community engagement requirement as described in He-W 837.10; or

(3) Providing documentation of an exemption pursuant to He-W 837.04.

(b) Within 10 days following the noncompliant month, the department shall provide written notice to the beneficiary of failure to meet the community engagement requirement to include:

(1) How a beneficiary can cure the noncompliance as described in (a) above; and

(2) Information regarding potential suspension pursuant to He-W 837.9 below.

(c) At no time shall a beneficiary be required to work more than 100 hours in a single month.

He-W 837.09 Suspension.

(a) If a beneficiary does not cure the deficit hours as described in He-W 837.08(a), the department shall suspend the beneficiary's eligibility effective the first of the month following the one-month opportunity to cure, subject to appeal pursuant to He-W 837.17.

(b) Prior to suspension, the department shall provide, at a minimum, a ten-day written notice to the beneficiary that his or her medicaid eligibility shall be suspended due to noncompliance, and shall include all applicable notice requirements found in 42 CFR 431, Subpart E, and appeal rights pursuant to He-W 837.17.

(c) The suspension shall remain in effect until the beneficiary reactivates eligibility prior to redetermination by:

(1) Satisfying within a single calendar month the deficit hours from the noncompliant month or by satisfying within a single calendar month the deficit hours from the cure month, whichever is less;

(2) Demonstrating within a single calendar month enough good cause hours pursuant to He-W 837.10 and He-W 837.11 to fully cover the number of deficit hours;

(3) Demonstrating within a single calendar month a combination of community engagement hours and good cause hours sufficient to fully cover the number of deficit hours;

(4) Providing documentation of an exemption pursuant to He-W 837.04; or

- (5) Becoming eligible for medicaid under an eligibility category that is not subject to the community engagement requirement.
- (d) Reactivation shall be effective:
- (1) On the date that the deficit hours are reported to the department;
 - (2) On the date the department receives the required attestation or third party certification or documentation to establish good cause or an exemption; or
 - (3) On the date that the beneficiary was admitted to the hospital where the beneficiary was found to have good cause pursuant to He-W 837.10(a)(8) or an exemption under He-W 837.03, and has good cause or an exemption within 30 calendar days of the date of their hospital discharge.
- (e) Upon reactivation in (d) above, a beneficiary's obligation to meet the community engagement requirement shall begin on the first full month following the month in which the beneficiary's eligibility is reactivated.
- (f) After suspension, a beneficiary shall not be required to complete a new medicaid application if she or he has met one of the requirements of (c) above.

He-W 837.10 Good Cause.

- (a) Good cause shall include, but not be limited to, the following circumstances:
- (1) The beneficiary experiences the birth or death of a family member residing with the beneficiary;
 - (2) The beneficiary experiences severe inclement weather, including a natural disaster, and was unable to meet the requirement;
 - (3) The beneficiary has a family emergency or other life-changing event such as divorce;
 - (4) The beneficiary is a victim of domestic violence, dating violence, sexual assault or stalking;
 - (5) The beneficiary is a custodial parent or caretaker of a child 6 to 12 years of age who, as determined by the commissioner on a monthly basis, is unable to secure child care in order to participate in community engagement activities either due to a lack of child care scholarship or the inability to obtain a child care provider due to capacity, distance, or another related factor;
 - (6) The beneficiary has a disability, and was unable to meet the community engagement requirement for reasons related to that disability;
 - (7) The beneficiary resides with an immediate family member who has a disability, and was unable to meet the community engagement requirement for reasons related to the family member's disability, but did not request an exemption from the community engagement requirement;

(8) The beneficiary experienced a hospitalization, but did not request an exemption from the community engagement requirement;

(9) The beneficiary resides with an immediate family member who experienced a hospitalization or serious illness, but the beneficiary did not request an exemption from the community engagement requirement;

(10) The beneficiary is homeless; or

(11) Other good cause exists, such as circumstances beyond the beneficiary's control which related to the beneficiary's ability to obtain or retain a qualifying community engagement activity. Other good cause shall include an illness that did not require inpatient hospitalization.

(b) All beneficiaries requesting a finding of good cause shall complete and submit BFA Form 340 "Good Cause Request Form - Granite Advantage Health Care Program" (04/19) along with any required third party certification(s) to the department.

(c) Beneficiaries requiring certification by licensed medical professional for good cause in (d) below shall have the licensed medical professional certify on BFA Form 340 "Good Cause Request Form – Granite Advantage Health Care Program" (05/19) as follows:

"A showing of good cause for "disability" or "Caretaker residing with immediate family member with disability" requires certification by a licensed medical professional. As a licensed medical professional caring for this beneficiary or for a beneficiary's family member with a disability, I hereby certify that: The beneficiary is disabled and unable to meet the community engagement requirement for reasons related to their disability; or the family member identified above is disabled."

(d) A beneficiary's request for a finding of good cause shall be attested to and certified as follows:

(1) For a beneficiary who experiences the birth or death of a family member residing with the beneficiary, attestation by the beneficiary of the event to include the name of the family member, the date of the event, the family member's relationship to the beneficiary, and the number of days impacted;

(2) For a beneficiary who experiences severe inclement weather, including a natural disaster, and therefore was unable to meet the requirement, attestation by the beneficiary of the date(s) of the severe inclement weather or natural disaster, and the number of days impacted;

(3) For a beneficiary who has a family emergency or other life-changing event such as divorce, attestation by the beneficiary of the nature of the family emergency or life-changing event to include the date(s) and the number of days that the beneficiary was unable to participate due to the circumstance;

(4) For a beneficiary who is a victim of domestic violence, dating violence, sexual assault, or stalking, documentation of the date range specified in the court order or self-attestation to the number of days impacted;

- (5) For custodial parents as described in (a)(5) above, a monthly attestation by the beneficiary of the inability to secure child care and the number of days impacted;
- (6) For a beneficiary who has a disability, , and was unable to meet the requirement for reasons related to that disability the following shall be required:
- a. Attestation by the beneficiary of the number of days the beneficiary was unable to meet the community engagement requirement for reasons related to the disability; and
 - b. The certification described in (c) above;
- (7) For a beneficiary who resides with an immediate family member who has a disability, and was unable to meet the requirement for reasons related to the family member's disability, but did not request an exemption from the community engagement requirement, the following shall be required:
- a. Attestation by the beneficiary of the number of days the beneficiary was unable to meet the community engagement requirement for reasons related to that disability; and
 - b. The certification described in (c) above;
- (8) For a beneficiary who experienced a hospitalization, but did not request an exemption from community engagement requirement, the following shall be required:
- a. Attestation by the beneficiary of the number of days of the hospitalization and the admission date; and
 - b. Copies of the discharge summaries, or financial or billing information that would substantiate the hospitalization or certification by a licensed medical professional;
- (9) For a beneficiary who resides with an immediate family member who experienced a hospitalization or serious illness, but the beneficiary did not request an exemption from community engagement requirement, the following shall be required:
- a. Attestation by the beneficiary of the number of days of the hospitalization or serious illness or certification by a licensed medical professional; and
 - b. Copies of the family member's discharge summary, or financial or billing information, or other medical records that would substantiate the hospitalization or serious illness;
- (10) For a beneficiary who is homeless, attestation by the beneficiary of the beneficiary's homelessness or inability to find stable housing and the number of days the beneficiary was unable to meet the community engagement requirement; or
- (11) For a beneficiary to claim other good cause under (a)(11), attestation by the beneficiary of the circumstance beyond the beneficiary's control which relate to the beneficiary's ability to obtain or retain a community engagement activity to participate in, and the number of days the beneficiary was unable to meet the community engagement requirement.
- (e) A request for a finding of good cause under this section shall not be approved unless the required attestation(s) and certification(s) are received by the department.

(f) The department shall use the documentation received to determine if the community engagement requirement would have been met if not for the good cause.

He-W 837.11 Crediting a Finding of Good Cause.

(a) A finding of good cause shall be credited toward the monthly community engagement requirement as follows:

- (1) For a beneficiary who experiences the birth or death of a family member residing with the beneficiary, 8 hours per day for each day the beneficiary attested being unable to participate;
- (2) For a beneficiary who experiences severe inclement weather including a natural disaster, 8 hours per day for each day the beneficiary attested being unable to participate;
- (3) For a beneficiary who has a family emergency or other life changing event such as divorce, 8 hours per day for each day the beneficiary attested being unable to participate;
- (4) For a beneficiary who is a victim of domestic violence, dating violence, sexual assault, or stalking, 8 hours per day for each day the beneficiary attested being unable to participate or the date range specified in the court order;
- (5) For a beneficiary who is a custodial parent or caretaker of a child 6 to 12 years of age who is unable to secure child care in order to participate in community engagement, 8 hours per day for each day the beneficiary attested being unable to participate;
- (6) For a beneficiary with a disability who was unable to meet the requirement for reasons related to that disability, 8 hours per day for each day the beneficiary was unable to participate, or, if no date range is indicated, 100 hours per month for each month the beneficiary was unable to participate;
- (7) For a beneficiary residing with an immediate family member who has a disability, and was unable to meet the requirement for reasons related to the family member's disability, 8 hours a day for each day the beneficiary was unable to participate, or, if no date range is indicated, 100 hours per month for each month the beneficiary was unable to participate;
- (8) For a beneficiary who experiences a hospitalization, but did not request an exemption the following shall apply:
 - a. For inpatient hospitalization, 100 hours per month for each month the beneficiary was unable to participate; or
 - b. For outpatient hospitalization, 8 hours per day for each day the beneficiary was unable to participate as documented through self-attestation or a certification by a licensed medical professional;
- (9) For a beneficiary who resides with an immediate family member who experienced a hospitalization or serious illness, but the beneficiary did not request an exemption the following shall apply:

a. For inpatient hospitalization, 8 hours per day for each day the beneficiary attested being unable to participate; or

b. For outpatient hospitalization or serious illness, 8 hours per day for each day the beneficiary was unable to participate as documented through self-attestation or a certification by a licensed medical professional;

(10) For a beneficiary who is homeless or unable to find stable housing, 8 hours per day for each day the beneficiary attested being unable to participate; and

(11) For other good cause, 8 hours per day for each day the beneficiary attested being unable to participate.

(b) If the beneficiary's good cause did not fully cover the number of deficit hours in that month, the beneficiary shall be determined noncompliant for the month, resulting in the beneficiary's responsibility to cure as required in He-W 837.08(a).

He-W 837.12 Limitation on the Repeated Consecutive Use of Curing to Meet the Community Engagement Requirement.

(a) Beginning May 1, 2020, a beneficiary, who engages in the repeated consecutive use of cure for 12 months immediately prior to redetermination, shall be suspended at redetermination.

(b) Following suspension in (a) above, a beneficiary may reactivate eligibility under this section by providing 100 hours of community engagement within a single calendar month.

(c) Reactivation shall be effective on the date the 100 community engagement hours are reported to the department.

(d) After reactivation in (c) above, a beneficiary's participation start date shall be the 1st of the month following the month in which the beneficiary's eligibility is reactivated.

He-W 837.13 Extra Hours. A beneficiary shall not be permitted to carry-over hours in excess of the 100-hour requirement in order to satisfy the community engagement requirement.

He-W 837.14 Disenrollment and Reconsideration.

(a) A beneficiary who is suspended for noncompliance with the community engagement requirement, and fails to cure that suspension during redetermination, shall be disenrolled from granite advantage.

(b) A disenrolled beneficiary shall be re-enrolled as follows:

(1) Within 90 days of disenrollment, a beneficiary may return to granite advantage by providing 100 hours of community engagement within a single calendar month;

(2) Upon the department's receipt of the reported 100 hours in (b)(1) above, the beneficiary's eligibility shall be reopened as of the date that the hours are reported to the department; and

(3) The beneficiary's participation start date shall be the 1st of the month following the report in (b)(2) above.

(c) A beneficiary who is compliant with the community engagement requirement at redetermination but whose eligibility is terminated at redetermination for other reasons may, within 90 days of disenrollment, return to granite advantage by:

- (1) Satisfying any outstanding medicaid redetermination requirements pursuant to 42 CFR 435.119, 42 CFR 435.916, He-W 606, and He-W 684;
- (2) Upon satisfying any outstanding redetermination requirements in (c)(1) above, the beneficiary's eligibility shall be reactivated to the date of closure; and
- (3) The beneficiary shall resume the reporting of community engagement hours the 1st of the month following the month that the outstanding redetermination requirements are met.

He-W 837.15 Re-Application.

- (a) A beneficiary may reapply for medicaid at any time after disenrollment.
- (b) If a beneficiary reapplies, the following shall apply:
 - (1) A beneficiary who was disenrolled at redetermination and who reapplies within 6 months and is determined eligible, shall begin to report community engagement hours on the 1st of the month following the month in which the application is filed;
 - (2) A beneficiary, who was disenrolled at redetermination and who reapplies 6 or more months thereafter and is determined eligible, shall in accordance with He-W 837.02 have until the first full month following 75 calendar days from the date of their eligibility determination before he or she is required to meet the 100-hour community engagement requirement; and
 - (3) For purposes of this section, the 6-month period shall be calculated using 365/2 rounded down equaling 182 days.

He-W 837.16 Screening for Other Bases of Medicaid Eligibility Prior to Suspension, Termination, Disenrollment, or Denial of Eligibility. Suspension, termination, disenrollment, or denial of eligibility shall only occur after a beneficiary is screened and determined to be ineligible for all other bases of medicaid eligibility and reviewed for eligibility for insurance affordability programs in accordance with 42 CFR 435.916(f).

He-W 837.17 Appeals.

- (a) A beneficiary may appeal the department's decision denying an exemption under He-W 837.04, denying a request for good cause under He-W 837.10, denying a reasonable modification under He-W 837.07, or suspending, denying, or terminating the beneficiary's eligibility for failing to meet the community engagement requirement under He-W 837.02 by filing a request for an appeal with the department's administrative appeals unit in accordance with He-C 200.
- (b) The department shall not suspend, deny, or terminate the beneficiary's eligibility under (a) above if the beneficiary:
 - (1) Submits a hearing request to the local district office within 30 days from the date on the written notice of adverse decision; and

(2) Submits a request to the local district office for a continuation of benefits during the appeal process within 15 days of the date on the written notice of adverse decision.

He-W 837.18 Other Department Obligations.

(a) The department shall periodically assess compliance with the community engagement requirement in labor market areas, within the state, to assess whether mitigation strategies are needed so that the community engagement requirement is not unreasonably burdensome.

(b) The department shall examine the following:

- (1) Areas that experience high rates of unemployment;
- (2) Areas with limited economies and educational opportunities; and
- (3) Areas with a lack of public transportation.

(c) The department shall provide information and assistance to beneficiaries, including oral and written explanations, regarding community engagement activities, exemptions from participation in the community engagement requirement, good cause exemptions, appeal rights, suspension, disenrollment, and termination, and the opportunity to cure to facilitate beneficiaries' compliance with the program's community engagement requirement, and any other information related to the community engagement requirement and this part.

(d) The department shall develop an eligibility and enrollment monitoring plan that includes metrics, timetables, and programmatic content to ensure processes are in place.

(e) The plan shall include the collection and analysis of data for the following data points:

- (1) The number and percentage of beneficiaries who have requested exemption from the community engagement requirement;
- (2) The number and percentage of beneficiaries who have been granted an exemption from the community engagement requirement;
- (3) The number and percentage of community engagement good cause requested;
- (4) The number and percentage of beneficiaries granted good cause from the community engagement requirement;
- (5) The number and percentage of beneficiaries whose eligibility was terminated at redetermination for not meeting the community engagement requirement;
- (6) The number and percentage of community engagement appeal requests; and
- (7) The number and percentage of beneficiaries whose eligibility was suspended for failing to comply with the community engagement requirement.

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-W 837.04(a)(1)	ASAM Criteria: Treatment Criteria for Substance- Related, Addictive, and Co-Occurring Conditions, 3 rd edition (2013)	Publisher: American Society of Addiction Medicine (ASAM). The ASAM Criteria (2013) can be purchased online through the ASAM website at: http://www.asamcriteria.org/ . Cost = \$95 (non-members) or \$85 (members). Discounts are available for large purchases.

APPENDIX B

Rule Section	Statute Implemented
He-W 837.01	RSA 126-AA; 42 U.S.C. 12101 et seq.; Pub. L. No. 93-112; Pub. L. 111-148; 42 CFR 435.916
He- W 837.02	42 CFR 435.603(a)-(h)
He- W 837.03	RSA 126-AA
He W 837.04	RSA 126-AA; RSA 167:82,II(g); 42 CFR 435.4; 42 CFR 440.315(f)
He- W 837.05	RSA 126-AA; RSA 167:3-i; RSA 167:6, IV-VI; RSA 167:3-e; RSA 167:3-f; 42 U.S.C.1396a(a)(10)(A)(ii)(XV); 42 CFR 435.4; 42 CFR 435.121; 42 U.S.C. 1396a(e)-(f); 42 U.S.C. 1396n; 42 U.S.C. Chapter 7; 42 U.S.C. 1381 et seq.
He- W 837.06	RSA 126-AA
He- W 837.07	RSA 126-AA; RSA 641:3; RSA 167:82,II(g)
He- W 837.08	RSA 126-AA; 45 CFR 475
He- W 837.09	RSA 126-AA; 45 CFR 400.75
He- W 837.10	RSA 126-AA; 42 U.S.C. 12101 et seq.
He- W 837.11	RSA 126-AA
He- W 837.12	RSA 126-AA; 24 CFR 5.2005; 24 CFR 5.2009
He-W 837.13	RSA 126-AA
He-W 837.14	RSA 126-AA; 24 CFR 5.2005; 24 CFR 5.2009
He-W 837.15	RSA 126-AA
He-W 837.16	RSA 126-AA; 42 CFR 435.916(f)
He-W 837.17	RSA 126-AA
He-W 837.18	RSA 126-AA