

CHAPTER He-M 500 DEVELOPMENTAL SERVICES

PART He-M 507 COMMUNITY PARTICIPATION SERVICES

Statutory Authority: New Hampshire RSA 171-A:3; 171-A:18, IV; 137-K:3, IV

He-M 507.01 Purpose. The purpose of these rules is to establish standards for certified community participation services as part of a comprehensive array of community-based services for persons with developmental disabilities or acquired brain disorders that:

- (a) Assist the individual to attain, improve, and maintain a variety of life skills, including vocational skills;
- (b) Emphasize, maintain and broaden the individual's opportunities for community participation and relationships;
- (c) Support the individual to achieve and maintain valued social roles, such as of an employee or community volunteer;
- (d) Promote personal choice and control in all aspects of the individual's life and services, including the involvement of the individual, to the extent he or she is able, in the selection, hiring, training, and ongoing evaluation of his or her primary staff and in determining the quality of services; and
- (e) Are provided in accordance with the individual's service agreement and goals and desired outcomes.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05, EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13

He-M 507.02 Definitions. The words and phrases used in these rules shall mean the following:

- (a) "Acquired brain disorder" means a disruption in brain functioning that:
 - (1) Is not congenital or caused by birth trauma;
 - (2) Presents a severe and life-long disabling condition which significantly impairs a person's ability to function in society;
 - (3) Occurs prior to age 60;
 - (4) Is attributable to one or more of the following reasons:
 - a. External trauma to the brain as a result of:
 - 1. A motor vehicle incident;
 - 2. A fall;

3. An assault; or
 4. Another related traumatic incident or occurrence;
 - b. Anoxic or hypoxic injury to the brain such as from:
 1. Cardiopulmonary arrest;
 2. Carbon monoxide poisoning;
 3. Airway obstruction;
 4. Hemorrhage; or
 5. Near drowning;
 - c. Infectious diseases such as encephalitis and meningitis;
 - d. Brain tumor;
 - e. Intracranial surgery;
 - f. Cerebrovascular disruption such as a stroke;
 - g. Toxic exposure; or
 - h. Other neurological disorders such as Huntington's disease or multiple sclerosis which predominantly affect the central nervous system; and
- (5) Is manifested by one or more of the following:
- a. Significant decline in cognitive functioning and ability; and
 - b. Deterioration in:
 1. Personality;
 2. Impulse control;
 3. Judgment;
 4. Modulation of mood; or
 5. Awareness of deficits.

(b) "Area agency" means "area agency" as defined under RSA 171-A:2, I-b, namely, "an entity established as a nonprofit corporation in the state of New Hampshire which is established by rules adopted by the commissioner to provide services to developmentally disabled persons in the area."

(c) "Basic living skills" means activities accomplished each day to acquire, improve, or maintain independence in daily life.

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

(e) "Centralized service site" means a location operated by a provider agency where individuals receive community participation services for more than one hour per day.

(f) “Certification” means the written approval by the bureau of health facilities administration for the operation of community participation services in accordance with the requirements set forth in He-M 507.

(g) “Community participation services”, also called “day services” elsewhere in He-M 500 and He-M 1001, means habilitation, assistance, and instruction provided to individuals that:

- (1) Improve or maintain their performance of basic living skills;
- (2) Offer vocational and community activities, or both;
- (3) Enhance their social and personal development;
- (4) Include consultation services, in response to individuals’ needs, and as specified in service agreements, to improve or maintain communication, mobility, and physical and psychological health; and
- (5) At a minimum, meet the needs and achieve the desired goals and outcomes of each individual as specified in the service agreement.

(h) “Covered services” means community participation services described pursuant to He-M 507.04 as reimbursable under the Medicaid program or through grants from the bureau.

(i) “Department” means the department of health and human services.

(j) “Developmental disability” means “developmental disability” as defined in RSA 171-A:2, V, namely, “a disability:

- (a) Which is attributable to an intellectual disability, cerebral palsy, epilepsy, autism or a specific learning disability, or any other condition of an individual found to be closely related to an intellectual disability as it refers to general intellectual functioning or impairment in adaptive behavior or requires treatment similar to that required for persons with an intellectual disability; and
- (b) Which originates before such individual attains age 22, has continued or can be expected to continue indefinitely, and constitutes a severe handicap to such individual's ability to function normally in society.”

(k) “Exploitation” means “exploitation” as defined in RSA 161-F:43, IV.

(l) “Family” means a group of 2 or more persons related by ancestry, marriage, or other legal arrangement.

(m) “Health assessment” means an evaluation of an individual’s health status done by a physician or other licensed practitioner for the purpose of making recommendations regarding strategies for promoting and maintaining optimum health.

(n) “Health Risk Screening Tool (HRST) (2009 edition)”, available as noted in Appendix A, means a web-based rating instrument used for performing health risk screenings on individuals in order to:

- (1) Determine an individual’s vulnerability regarding potential health risks; and
- (2) Enable the early identification of health issues and monitoring of health needs.

(o) “Home and community-based care waiver” means the waiver of sections 1902 (a) (10) and 1915 (c) of the Social Security Act which allows the federal Medicaid funding of long-term services for persons in non-institutional settings who are elderly, disabled, or chronically ill.

(p) “Individual” means any person with a developmental disability or acquired brain disorder who receives, or has been found eligible to receive, area agency services.

(q) “Personal development” means supporting or increasing an individual's capacity to make choices, to communicate interests and preferences, and to have sufficient opportunities for exploring and meeting those interests.

(r) “Personal profile” means a narrative description prepared pursuant to He-M 503.11 (f)(1) a. 1. that includes:

(1) A personal statement from the individual and those who know him or her best that summarizes the individual's strengths and capacities, communication and learning style, challenges, needs, interests, and any health concerns, as well as the individual's hopes and dreams;

(2) A personal history covering significant life events, relationships, living arrangements, health, use of assistive technology, and results of evaluations which contribute to an understanding of the individual's needs;

(3) A review of the past year that:

a. Summarizes the individual's:

1. Personal achievements;
2. Relationships;
3. Degree of community involvement;
4. Challenging issues or behavior;
5. Health status and any changes in health; and
6. Safety considerations during the year;

b. Addresses the previous year's desired goals and outcomes with level of success and, if applicable, identifies any obstacles encountered;

c. Identifies the desired goals and outcomes of the individual for the coming year;

d. Identifies the type and amount of services the individual receives and the support services provided under each service category;

e. Identifies the individual's health needs;

f. Identifies the individual's safety needs;

g. Identifies any follow-up action needed on concerns and the persons responsible for the follow-up; and

h. Includes a statement of the individual's and guardian's satisfaction with services;

(4) An attached work history of the individual's paid employment and volunteer positions, as applicable, that includes:

a. Dates of employment;

- b. Type of work;
- c. Hours worked per week; and
- d. Reason for leaving, if applicable; and

(5) A reference to sensitive historical information in other sections of the record when the individual or guardian, as applicable, prefers not to have this included in the profile.

(s) “Primary staff” means staff who are regularly assigned to provide services to specific individuals.

(t) “Provider” means a person receiving any form of remuneration for the provision of services to an individual.

(u) “Provider agency” means an area agency or an entity under contract with an area agency that is responsible for providing community participation services to individuals.

(v) “Risk management plan” means a person-centered document that describes the services, supports, approaches and guidelines to be utilized to meet the individual’s needs and mitigate risks to community safety and which is consistent with the service guarantees and protections articulated in He-M 503.

(w) “Service agreement” means a written agreement between an individual or guardian and the area agency that describes the services that the individual will receive and constitutes an individual service agreement as defined in RSA 171-A:2, X. The term includes a basic service agreement for all individuals who receive services and an expanded service agreement for those who receive more complex services pursuant to He-M 503.11.

(x) “Service coordinator” means a person who is chosen or approved by an individual and his or her guardian and designated by the area agency to organize, facilitate and document service planning and to negotiate and monitor the provision of the individual’s services and who is:

- (1) An area agency service coordinator, family support coordinator, or any other area agency or provider agency employee;
- (2) A member of the individual’s family;
- (3) A friend of the individual; or
- (4) Another person chosen to represent the individual.

(y) “Sheltered workshop” means a program that provides a segregated service environment where the contract objectives of the provider agency are the primary focus and goal.

(z) “Supports Intensity Scale (2004 edition)”, available as noted in Appendix A, means an assessment tool intended to assist in service planning by measuring the individual’s support needs in the areas of home living, community living, lifelong learning, employment, health and safety, social activities, and protection and advocacy. The tool uses a formal rating scale to identify the type of supports needed, frequency of supports needed, and daily support time.

(aa) “Systematic, therapeutic, assessment, respite and treatment (START)” means the model of service supports that is intended to optimize independence, treatment, and community living for individuals with developmental disabilities and mental health needs.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05, EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13

He-M 507.03 Service Principles.

(a) All community participation services shall be designed to:

- (1) Support the individual’s participation in a variety of integrated community activities and settings;
- (2) Assist the individual to be a contributing and valued member of his or her community through vocational and volunteer opportunities;
- (3) Meet the individual’s needs, goals, and desired outcomes, as identified in his or her service agreement, related to community opportunities for volunteerism, employment, personal development, socialization, recreation, communication, mobility, and personal care;
- (4) Help the individual to achieve more independence in all aspects of his or her life by learning, improving, or maintaining a variety of life skills, such as:
 - a. Traveling safely in the community;
 - b. Managing personal funds;
 - c. Participating in community activities; and
 - d. Other life skills identified in the service agreement;
- (5) Promote the individual’s health and safety;
- (6) Protect the individual’s right to freedom from abuse, neglect, and exploitation; and
- (7) Provide opportunities for the individual to exercise personal choice and independence within the bounds of reasonable risks.

(b) Community participation services shall be primarily provided in community settings outside of the home where the individual lives.

(c) An individual or guardian may select any person, any provider agency, or another area agency as a provider to deliver the community participation services identified in the individual’s service agreement.

(d) All providers shall:

- (1) Comply with the rules pertaining to community participation services;
- (2) Enter into a contractual agreement with the area agency; and
- (3) Operate within the limits of funding authorized by the agreement.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05; amd by #8545, eff 1-24-06; paras (a)-(g) and (i)-(q) expired on 4-16-13; ss by #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13

He-M 507.04 Covered Services.

(a) All community participation services shall be designed and provided in accordance with the individual's specific needs, interests, competencies, and learning style, as described in the individual's service agreement and personal profile.

(b) The following services shall be covered:

- (1) Instruction and assistance to learn, improve, or maintain:
 - a. Social and safety skills in different community settings;
 - b. Decision-making regarding choice of and participation in community activities;
 - c. Life skills as applied to community-based activities, such as purchasing items and managing personal funds;
 - d. Good nutrition and healthy lifestyle;
 - e. Self-advocacy and rights and responsibilities as citizens; and
 - f. Any other skill identified by the individual or guardian during service planning and related to the individual's participation in, or contribution to, his or her community;
- (2) Supports to identify and develop the individual's interests and capacities related to securing employment opportunities, including internships;
- (3) Services related to job development and on-the-job training;
- (4) Assistance in finding and maintaining volunteer positions;
- (5) Supports related to enabling the individual to explore, and participate in, a wide variety of community activities and experiences in settings that are available to the general public;
- (6) Consultation services as specified in the service agreement to improve or maintain the individual's communication, mobility, and physical and psychological health and well-being; and
- (7) Transportation that is:

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- a. Related to community participation services, including travel from the individual's residence to locations where the community participation service activities are taking place; or
- b. Travel from the individual's residence to employment or volunteer positions described in He-M 507.05 (a)(3) below.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05, EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13

He-M 507.05 Non-Covered Services.

(a) The following services shall not be covered by community participation services funding provided by the bureau or the Medicaid home- and community-based care waiver:

- (1) Custodial care programs provided only to maintain an individual's basic welfare;
- (2) Sheltered workshops;
- (3) Employment or volunteer positions where the individual is:
 - a. Being solely supported by persons who are not providers; and
 - b. Not receiving any services from a provider agency at those locations; and
- (4) Educational services or education programs for individuals under 21 years of age for which school districts are responsible.

(b) When the community participation services for an individual are phased out at a volunteer or job site and the individual begins to be supported by non-paid persons exclusively, as described in (a)(3) above, the provider agency may include such an arrangement as a part of its billable community participation service

for a maximum of another 120 days. The staffing resources freed up from such an arrangement may be used to support the individual in other activities or need areas identified in the individual's service agreement.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; amd by #5864, eff 7-1-94; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05, EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13

He-M 507.06 Certification.

(a) To be eligible for reimbursement by the bureau or by Medicaid for community participation services provided to individuals, community participation services shall be certified by the department.

(b) If a provider agency wishes to furnish community participation services to 3 or more persons who have not been found eligible for area agency services, the provider agency shall be licensed as an adult day program in accordance with RSA 151 and He-P 818.

(c) An entity seeking certification or recertification to provide community participation services shall submit an application to:

Bureau of Health Facilities Administration (BHFA)
Hugh J. Gallen State Office Park
129 Pleasant Street, Brown Building
Concord, NH 03301

(d) Application materials shall include the following:

(1) A completed "Request for Certification of Community Residence and/or Individual Community Participation Services Provider" application (September 2013 edition);

(2) A written description of the proposed staffing pattern necessary to provide services pursuant to He-M 507.04;

(3) The names, titles, qualifications and relevant experience of all staff members, in accordance with He-M 506.03 and He-M 507.10;

(4) Written administrative policies and procedures, which shall comply with He-M 507.08(b); and

(5) If the community participation services are provided in a centralized service site, a copy of a life safety report which shall:

a. Have been completed no more than 90 days prior to submission; and

b. Include:

1. The name and address of the provider agency;

2. The date of inspection and certification by the local fire inspector that the centralized service site, if applicable, complies with local fire safety codes;
3. The maximum number of individuals authorized to receive services; and
4. The signature, title, and professional affiliation of the local fire inspector.

(e) For a provider agency requesting initial certification, certification shall be granted for 90 days from the date the department receives all required information if the provider agency meets the requirements of, or demonstrates the capacity to meet the requirements of, He-M 507.04, He-M 507.08 (b), and He-M 507.10.

(f) An initial certification review shall be conducted at the provider agency location by BHFA within 90 days of the effective date of the initial certificate for the purposes of determining whether or not the community participation services are in compliance with these rules.

(g) Initial certification shall be granted from the effective date of the initial certificate until the last day of the twelfth month following certification when the provider agency verifies that:

- (1) Any necessary corrective action has been taken; and
- (2) The services conform with all applicable rules adopted by the commissioner.

(h) For community participation services that are applying for recertification, BHFA shall conduct a certification review prior to the expiration date of the certificate. The current certification shall be effective until recertification has been granted or denied or unless the current certification is revoked.

(i) A community participation service program applying for recertification shall submit a completed application 60 days prior to the expiration of the certificate.

(j) The renewal period for certificates shall be one year from the expiration date of the previous certificate for:

- (1) Community participation service programs certified for 51 or more individuals; and
- (2) Community participation service programs certified for 50 or fewer individuals with 3 or more deficiencies.

(k) The renewal period for certificates shall be 2 years from the expiration date of the previous certificate for community participation service programs certified for 50 or fewer individuals with 2 or fewer deficiencies.

(l) When a renewal certificate is issued for a period of 2 years, the provider agency holding the certificate shall conduct a quality assurance review one year following the issuance to ensure that the community participation service program remains in compliance with all applicable rules.

(m) When BHFA staff conduct the 2-year certification review:

- (1) If the community participation service program has documentation of a review pursuant to (l) above, BHFA staff shall:
 - a. Review such documentation;
 - b. Cite any deficiency noted during the agency-conducted quality assurance review that has not been addressed; and

c. Review the community participation service program's compliance for the previous year; or

(2) If the community participation service program lacks documentation of a review pursuant to (1) above, BHFA staff shall:

a. Cite this as a deficiency; and

b. Hold the entire 2-year period subject to review.

(n) Notwithstanding (m) (1) above, any documentation maintained by a community participation service program during its most recent 2-year certification period shall be open to review by BHFA staff for compliance with applicable department rules.

(o) If deficiencies were cited in the inspection report, within 21 days of the date of issuance of the report the community participation service program shall submit a written plan of correction or submit information demonstrating that the deficiency(ies) did not exist. The department shall evaluate any submitted information on its merits and render a written decision on whether a written plan of correction is necessary.

(p) The department shall, within 45 days:

(1) Accept a plan of correction or other information submitted pursuant to (o) above if:

a. The plan:

1. Addresses each identified deficiency in a manner which achieves full compliance with rules cited in the inspection report;

2. Does not create another violation of statute or rule as the result of its implementation;

3. States a completion date; and

4. Identifies a plan for how each deficiency will be prevented in the future; or

b. The information submitted proves that the deficiency was cited erroneously; or

(2) Reject a plan of correction or other information submitted pursuant to (o) above that fails to meet the criteria in (1) above.

(q) If the proposed plan of correction is rejected, the department shall notify the provider agency in writing of the reason(s) for rejection.

(r) Within 10 business days of the date of the written notice under (q) above, the provider agency shall submit a revised plan of correction that includes proposed alternatives that address the reason(s) for rejection.

(s) The department shall either accept or reject the revised plan in accordance with (p) above. If the revised plan of correction is rejected, the department shall deny the certification request. The provider agency may appeal the denial pursuant to He-M 507.15.

(t) The department shall renew a certificate if it determines that:

(1) No deficiencies exist; or

- (2) The plan of correction complies with (p) (1) a. above.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05, EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13 (from He-M 507.03)

He-M 507.07 Operating Requirements.

(a) Each individual shall have a written service agreement that includes goals and desired outcomes and activities specific to his or her community participation services. Each service agreement shall meet the requirements of He-M 503.11.

(b) For each individual receiving community participation services, the annual service planning meeting shall include a discussion of employment and volunteer opportunities.

(c) Individual community participation services shall be designed in accordance with He-M 503.08 and He-M 503.11.

(d) Review of each individual's progress with respect to goals and outcomes shall be conducted and documented as specified in the service agreement, but not less than quarterly.

(e) Participation in all community participation services shall be voluntary.

(f) Any person may make a recommendation for termination of services in accordance with He-M 503.16.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05; amd by #8545, eff 1-24-06; paras (a)-(d) and (f) expired on 4-16-13; ss by #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13 (from He-M 507.06)

He-M 507.08 Organization and Administration.

(a) The community participation services director shall be responsible for the administration of community participation services and the hiring, training, and supervision of community participation services staff.

(b) Provider agencies shall have written policies and procedures that address the following:

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- (1) The provision of covered services;
 - (2) Emergency plans, which shall minimally include:
 - a. Procedures to follow while at a service site, in a vehicle, or in the community in case of:
 1. Behavioral or medical emergencies of an individual; or
 2. Fire or severe weather; and
 - b. If individuals gather at a centralized service site to receive services, an emergency evacuation plan including provisions in compliance with the following:
 1. Each individual shall be oriented to evacuation procedures upon starting services;
 2. If the service site has been evacuated in 3 minutes or less during each of 6 consecutive monthly drills, the provider agency shall thereafter conduct a drill at least once quarterly;
 3. If the service site has not been evacuated in 3 minutes or less during each of 6 consecutive monthly drills, the provider agency shall conduct monthly drills;
 4. For each individual unable to evacuate in 3 minutes or less, the provider agency shall implement a specific evacuation plan;
 5. Evacuation drills shall be held at varied times of the day;
 6. A written record of each drill shall be kept on file by the provider agency;
 7. Staff shall be trained in all aspects of evacuation procedures; and
 8. Staff who conduct training pursuant to 7. above shall document such training;
 - (3) A policy for the administration of medication, which shall comply with the requirements of He-M 1201;
 - (4) A policy on individual rights in accordance with He-M 202 and He-M 310; and
 - (5) If individuals gather at a centralized service site to receive services, a policy which ensures compliance with applicable local and state health, zoning, building, and fire codes and requires documentation of compliance with fire codes.
- (c) Record keeping shall be as follows:
- (1) Records shall comply with the requirements of He-M 310, rights of individuals receiving developmental services in the community, and He-M 503.10–503.11, service planning and service agreements;
 - (2) The provider agency shall maintain a separate record for each individual and records regarding administration of services;
 - (3) Each individual's record shall have an administrative and a service component as described in (d) and (e) below; and
 - (4) Attendance records, either individual or collective, shall be kept at the administrative offices of the provider agency and at the area agency.

(d) The administrative component of each individual's record shall include, for that individual, at least the following:

(1) Personal and identifying information, including:

- a. Name;
- b. Address;
- c. Phone number;
- d. Photo or physical description;
- e. Date of birth;
- f. Primary language, if other than English, or communication means and level;
- g. Emergency contact;
- h. Parent or next of kin;
- i. Guardian, if applicable;
- j. Home provider, if applicable;
- k. Service coordinator; and
- l. Health insurance, if any; and

(2) A current health assessment.

(e) The service component of each individual's record shall include at least the following:

(1) A copy of the current service agreement containing:

- a. Goals and desired outcomes specific to the individual's participation in community participation services; and
- b. The methods or strategies for achieving the individual's community participation services' goals and desired outcomes;

(2) As a guide for planning activities, an individual, week-long, personal schedule or calendar that is created at the time of the annual service planning meeting and, if applicable, identifies:

- a. The days, times, and locations of the individual's:
 1. Paid employment;
 2. Community activities, volunteerism, or internship; and
 3. Other regularly recurring activities, such as therapeutic activities related to communication, mobility, and personal care; and
- b. The days and approximate times of unspecified community activities, which shall not exceed 20% of the total community participation service hours the individual receives per week;

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- (3) A record of daily community participation services activities maintained by the provider agency, including:
 - a. The name(s) of individual(s) served and names of staff supporting them;
 - b. The dates on which services were provided; and
 - c. Activities that took place and the locations of the activities;
 - (4) Narrative progress notes, and other service documentation as specified in the service agreement, recorded at least monthly, and addressing:
 - a. The individual's community participation services goals and actual outcomes; and
 - b. Other activities related to the individual's support services, health, interests, achievements, and relationships;
 - (5) The individual's medical status, including current medications, known allergies, and other pertinent health care information;
 - (6) Results of any screenings or evaluations that have been conducted, including:
 - a. The Supports Intensity Scale (2004 edition), available as noted in Appendix A;
 - b. Vocational assessments;
 - c. Results of any assistive technology assessments;
 - d. The Health Risk Screening Tool (HRST) (2009 edition), available as noted in Appendix A;
 - e. START in-depth assessments and crisis plans; and
 - f. Risk management plans; and
 - (7) For each individual for whom medications are administered during community participation services, medication log documentation pursuant to He-M 1201.07.
- (f) Records of service operations shall include the following:
- (1) A register of current and prior individuals who received community participation services, including termination dates when applicable;
 - (2) A daily census;
 - (3) Documentation of all incident reports as defined in He-M 202.02 (o);
 - (4) Evacuation drill records, if there is a centralized service site; and
 - (5) Copies of emergency plans.

(g) Provider agencies shall have personal injury liability insurance for the staff and providers and for vehicles used to transport individuals. Proof of insurance shall be on file at the provider agency premises.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05, EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13; (from He-M 507.07)

He-M 507.09 Oversight and Quality Improvement.

(a) The community participation services director shall:

- (1) Be responsible for providing oversight; and
- (2) Evaluate, facilitate, and improve the quality of services being delivered and outcomes achieved.

(b) Each individual's service coordinator shall provide oversight regarding the community participation service arrangement and review and facilitate the effectiveness of the community participation services being provided and outcomes achieved.

(c) In fulfilling the responsibilities cited in (a) and (b) above, the community participation services director and service coordinator shall determine whether the following criteria are being met and, if not, take appropriate action:

- (1) Services are customized and meet the interests, goals, and desired outcomes of the individual, as defined in the service agreement;
- (2) Goals reflect the individual's growth and evolving interests and are revised accordingly;
- (3) The goals and desired outcomes identified in the service agreement are being achieved;
- (4) Staff are knowledgeable of the individual's service agreement as it pertains to community participation services and are assisting in meeting the desired goals and outcomes;
- (5) Services occur in integrated settings;
- (6) Methods or strategies for achieving the individual's community participation services goals and desired outcomes are evident and documented;
- (7) An individual week-long personal schedule or calendar is present; and

- (8) Individuals, and guardians if applicable, are satisfied with services.

Source. #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05 (formerly He-M 507.08), EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13 (from He-M 507.08)

He-M 507.10 Staff and Provider Qualifications.

(a) Community participation services staff, contracted providers, and consultants shall collectively possess professional backgrounds and competencies such that the needs of the individuals who receive community participation services can be met.

(b) Community participation services shall be provided, in accordance with each individual's service agreement, by:

- (1) Direct service staff;
- (2) Contracted providers;
- (3) Consultants;
- (4) Professional staff;
- (5) Non-professional staff; or
- (6) Volunteers.

(c) All personnel identified in (b) above shall be supervised by professional staff or by the director of community participation services or his or her designee.

(d) If clinical consultants are used, they shall be licensed or certified as required by New Hampshire law.

(e) All persons who provide community participation services shall be at least 18 years of age.

(f) Prior to a person providing community participation services to individuals, the provider agency, with the consent of the person, shall:

- (1) Obtain at least 2 references for the person;
- (2) Complete, at a minimum, a New Hampshire criminal records check;
- (3) If a person's primary residence is out of state, complete a criminal records check for their state of residence;
- (4) If a person has resided in New Hampshire for less than one year, complete a criminal records check for their previous state of residence; and
- (5) Complete a motor vehicles record check to ensure that the person has a valid driver's license.

(g) Except as allowed in (h)-(i) below, the provider agency shall not hire a person:

(1) Who has a:

a. Felony conviction; or

b. Any misdemeanor conviction involving:

1. Physical or sexual assault;

2. Violence;

3. Exploitation;

4. Child pornography;

5. Threatening or reckless conduct;

6. Theft;

7. Driving under the influence of drugs or alcohol; or

8. Any other conduct that represents evidence of behavior that could endanger the well being of an individual; or

(2) Whose name is on the registry of founded reports of abuse, neglect, and exploitation pursuant to RSA 161-F:49.

(h) A provider agency may hire a person with a criminal record listed in (g)(1)a. or b. above for a single offense that occurred 10 or more years ago in accordance with (i) and (j) below. In such instances, the individual, his or her guardian, and the area agency shall review the person's history prior to approving the person's employment.

(i) Employment of a person pursuant to (h) above shall only occur if such employment:

(1) Is approved by the individual, his or her guardian and the area agency;

(2) Does not negatively impact the health or safety of the individual(s); and

(3) Does not affect the quality of services to individuals.

(j) Upon hiring a person pursuant to (h) above, the provider agency shall document and retain the following information in the individual's record:

(1) Identification of the region, according to He-M 505.04, in which the provider agency is located;

(2) The date(s) of the approvals in (h) above;

(3) The name of the individual or individuals for whom the person will provide services;

(4) The name of the person hired;

(5) Description of the person's criminal offense;

(6) The type of service the person is hired to provide;

- (7) The provider agency's name and address;
- (8) The certification number and expiration date of the certified program, if applicable;
- (9) A full explanation of why the provider agency is hiring the person despite the person's criminal record;
- (10) Signature of the individual(s) or legal guardian(s) indicating agreement with the employment and date signed;
- (11) Signature of the staff person who obtained the individual's or guardian's signature and date signed;
- (12) Signature of the area agency's executive director or designee approving the employment; and
- (13) The signature and phone number of the person being hired.

Source. #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05 (formerly He-M 507.09), EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13

He-M 507.11 Staff and Provider Training.

(a) Prior to delivering community participation services to an individual, the provider agency shall orient staff, contracted providers, and consultants to the needs and interests of the specific individuals they serve, in the following areas:

- (1) Rights and safety;
- (2) Health-related requirements including those related to:
 - a. Current medical conditions, medical history, and routine and emergency protocols; and
 - b. Any special nutrition, dietary, hydration, elimination, or ambulation needs;
- (3) Any communication needs;
- (4) Any behavioral supports;
- (5) The individuals' service agreements, including all goals and desired outcomes and methods or strategies to achieve the goals and desired outcomes; and
- (6) The community participation services' evacuation procedures, if applicable.

(b) Provider agencies shall:

- (1) Assign staff to work with an experienced staff member during their orientation if they have had no prior experience providing services to individuals;

- (2) Train staff in accordance with (c) below within the first 6 months of employment; and
 - (3) Provide staff with training in accordance with their annual individual staff development plans.
- (c) A provider agency shall train staff in the following areas within the first 6 months of employment:
- (1) An overview of developmental disabilities and acquired brain disorders, which shall include:
 - a. An overview of the different types of disabilities and their causes;
 - b. An overview of the local and state service delivery system; and
 - c. An overview of professional services and technologies including therapies, assistive technologies, and environmental modifications necessary to achieve individuals' goals in the community, in the workplace, in recreation or leisure activities, and at home;
 - (2) An overview of conditions promoting or detracting from the quality of life that individuals enjoy, which shall:
 - a. Aid staff to develop an understanding of the stigmas, negative labels and common life experiences of people with disabilities; and
 - b. Aid staff to gain the competencies necessary to:
 - 1. Support individuals to obtain and maintain valued social roles;
 - 2. Support individuals to build relationships with their families, neighbors, co-workers and other community members;
 - 3. Create and enhance opportunities for individuals to:
 - (i) Increase their presence in the life of their local communities; and
 - (ii) Increase the ways in which they contribute to their communities;
 - 4. Support individuals to have as much control as possible over their own life;
 - 5. Build individuals' skills, strengths and interests that are functional and meaningful in natural community environments; and
 - 6. Create conditions that provide opportunities for individuals to experience and participate in a wide range of community organizations and resources;
 - (3) Methods to assist individuals with challenging behaviors utilizing positive behavioral supports;
 - (4) Techniques to:
 - a. Facilitate social relationships; and
 - b. Enhance skills that improve everyday living and promote independence;
 - (5) Basic health and safety practices related to:
 - a. Personal wellness;

- b. Success in living, working, and recreating in the community; and
 - c. An understanding of the importance of common signs and symptoms of illness; and
- (6) Skills necessary to support individuals to:
- a. Make their own decisions;
 - b. Advocate for themselves; and
 - c. Create their own social networks.

Source. #2269, eff 1-10-83; ss by #2963, eff 1-22-85; ss by #4314, eff 9-27-87; ss by #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05 (formerly He-M 507.10), EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13 (from He-M 507.09)

He-M 507.12 Prior Authorization of Community Participation Services.

(a) In order to receive community participation services, an individual shall have a developmental disability or acquired brain disorder and a written service agreement that includes one or more goals and desired outcomes for community participation services.

(b) An agency intending to provide community participation services to an individual through the Medicaid program shall request prior authorization using the procedure outlined in He-M 517.08 (b).

Source. #4659, eff 8-4-89; EXPIRED: 8-4-95

New. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05 (formerly He-M 507.11), EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13; ss by #10426, eff 10-1-13

He-M 507.13 Denial or Revocation of Certification.

(a) The department shall deny an application for certification or issue a notice of intent to revoke certification, following written notice pursuant to (b) below and opportunity for a hearing pursuant to He-C 200, due to any of the following reasons:

- (1) Any reported abuse, neglect, or exploitation of an individual by an applicant, provider, provider agency, or community participation services staff, if:

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- a. Such abuse, neglect, or exploitation is reported on the state registry of abuse, neglect, and exploitation in accordance with RSA 161-F:49;
 - b. Such person(s) continues to have contact with the individual; and
 - c. A waiver has not been received pursuant to He-E 720.05;
- (2) Except as provided in He-M 507.10(g)-(h), any applicant, provider, provider agency, or community participation services staff for whom He-M 507.10(f)(1) or (2) is true;
- (3) A provider agency or area agency fails to conduct criminal records check on all persons who are paid to provide services under He-M 507;
- (4) An applicant, provider, provider agency, or community participation services staff has an illness or behavior that, as evidenced by the documentation obtained or the observations made by the department, would endanger the well-being of the individuals or impair the ability of the provider agency to comply with department rules;
- (5) An applicant or provider agency, or any representative or employee thereof, knowingly provides materially false or misleading information to the department;
- (6) An applicant or provider agency, or any representative or employee thereof, fails to permit or interferes with any inspection or investigation by the department;
- (7) An applicant or provider agency, or any representative or employee thereof, fails to provide required documents to the department;
- (8) At an inspection the applicant or provider agency is not in compliance with RSA 171-A or He-M 507 or other applicable rules; or
- (9) As a result of certification review, the applicant or provider agency or certificate holder is not in compliance with RSA 171-A or He-M 507 or other applicable rules and:
- a. The applicant or provider agency failed to fully implement and continue to comply with a plan of correction that has been accepted by the department in accordance with He-M 507.06 (p); or
 - b. The applicant or provider agency has submitted a revised plan of correction that has been rejected by the department in accordance with He-M 507.06 (s).
- (b) Certification shall be denied or revoked upon the written notice by the department to the applicant or provider agency stating the specific rule(s) with which the provider agency does not comply.
- (c) Any applicant or provider agency aggrieved by the denial or revocation of certification may request an adjudicative proceeding in accordance with He-M 507.15. The denial or revocation shall not become final until the period for requesting an adjudicative proceeding has expired or, if the applicant or provider agency requests an adjudicative proceeding, until such time as the administrative appeals unit issues a decision upholding the department's action.
- (d) Pending compliance with all requirements for certification specified in the written notice made pursuant to (b) above, a provider agency shall not accept additional individuals if a notice of revocation has been issued concerning a violation which presents potential danger to the health or safety of the individuals being served.

(e) If certification has been revoked, the provider agency shall transfer all individuals to another appropriately certified community participation service program within 10 days of certificate revocation becoming final in accordance with (c) above

Source. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05, EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13;
ss by #10426, eff 10-1-13 (from He-M 507.11)

He-M 507.14 Immediate Suspension of Certification.

(a) Notwithstanding the provision of He-M 507.13(c), in the event that a violation poses an immediate and serious threat to the health or safety of an individual, the department shall, in accordance with RSA 541-A:30, III, suspend a provider agency's certification immediately upon issuance of written notice specifying the reasons for the action.

(b) The department shall schedule and hold a hearing within 10 working days of the suspension for the purpose of determining whether to revoke or reinstate the provider agency's certification. The hearing shall provide opportunity for the provider agency whose certification has been suspended to demonstrate that it has been, or is, in compliance with the specified requirements.

Source. #6285, eff 7-12-96, EXPIRED: 7-12-04

New. #8142, INTERIM, eff 8-21-04, EXPIRED: 2-17-05

New. #8324, eff 4-16-05 (formerly He-M 507.13), EXPIRED:
4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13;
ss by #10426, eff 10-1-13 (from He-M 507.12)

He-M 507.15 Appeals.

(a) An applicant for certification, provider, provider agency, or area agency may request a hearing regarding a proposed revocation or denial of certification, except as provided in He-M 507.14 above.

(b) Appeals shall be submitted, in writing, to the bureau administrator in care of the department's office of client and legal services within 10 days following the date of the notification of denial or revocation of certification.

(c) The bureau administrator or his or her designee shall immediately forward the appeal to the department's administrative appeals unit which shall assign a presiding officer to conduct a hearing or independent review, as provided in He-C 200. The burden of proof shall be as required in He-C 203.14.

Source. #8324, eff 4-16-05 (formerly He-M 507.14),
EXPIRED: 4-16-13

New. #10320, INTERIM, eff 4-25-13, EXPIRES: 10-22-13;
ss by #10426, eff 10-1-13 (from He-M 507.13)

He-M 507.16 Prior Authorization and Payment.

(a) In order to receive Medicaid reimbursement for community participation services, area agencies, as the enrolled providers of home and community-based care services, shall submit claims for payment to:

ACS Xerox
250 Commercial Street, #1
Manchester, NH 03101

(b) Payment for Medicaid waiver services shall only be made if prior authorization has been obtained from the bureau pursuant to He-M 517.08.

(c) Requests for prior authorization shall be made in writing to:

Division of Community Based Care Services
Bureau of Developmental Services
State Office Park South
105 Pleasant Street
Concord, NH 03301

Source. #10426, eff 10-1-13

He-M 507.17 Waivers.

(a) An applicant, area agency, provider agency, individual, guardian, or provider may request a waiver of specific procedures outlined in He-M 507 using the form titled “NH bureau of developmental services waiver request” (September 2013 edition). The area agency shall submit the request in writing to the bureau administrator.

(b) A completed waiver request form shall be signed by:

- (1) The individual or guardian indicating agreement with the request; and
- (2) The area agency’s executive director or designee recommending approval of the waiver.

(c) A waiver request shall be submitted to:

Office of Client and Legal Services
Hugh J. Gallen State Office Park
105 Pleasant Street, Main Building
Concord, NH 03301

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

(e) The request for a waiver shall be granted by the commissioner or his or her designee within 30 days if the alternative proposed by the requesting entity meets the objective or intent of the rule and it:

- (1) Does not negatively impact the health or safety of the individual(s); and
- (2) Does not affect the quality of services to individuals.

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

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

(h) Those waivers which relate to other issues relative to the health, safety or welfare of individuals that require periodic reassessment shall be effective for the current certification period only.

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

(j) A requesting entity may request a renewal of a waiver from the bureau. Such request shall be made at least 90 days prior to the expiration of a current waiver.

Source. #10426, eff 10-1-13 (from He-M 507.15)

APPENDIX A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-M 507.02(n) & 507.08 (e)(6)d.	Health Risk Screening Tool (HRST) (2009 edition)	DTECH Computerists, Inc. PO Box 480942. Tulsa, OK 74148-0942. Voice: (918) 585-9988 x110. Toll free: (800) 800-4278 x110. Website: www.dtechgroup.com . Email: HRSTinfo@dtechgroup.com. Cost: 1–100 consumers = \$699.00 each; 1–200 consumers = \$899.00 each; 1–1000 consumers = \$999.00 each
He-M 507.02 (z) & 507.08 (e)(6)a.	Supports Intensity Scale (2004 edition)	American Association on Intellectual and Developmental Disabilities. 501 3rd St., NW, Suite 200. Washington, D.C. 20001 Phone: 800-424-3688. Website: http://www.aaidd.org/ . Email: bookstore@aaidd.org. Cost: \$115

APPENDIX B

RULE	SPECIFIC STATE STATUTES WHICH THE RULE IMPLEMENTS
He-M 507.01 – 507.12	RSA 171-A:18; I, II; RSA 137-K:9
He-M 507.08	RSA 171-A:18; I, II; RSA 137-K:9; RSA 161:4-a, XI
He-M 507.09 – 507.12	RSA 171-A:18; I, II; RSA 137-K:9
He-M 507.13	RSA 171-A:18; I, II; RSA 541-A:29, 30, II; RSA 137-K:9
He-M 507.14	RSA 171-A:18; I, II; RSA 541-A:30, III; RSA 137-K:9
He-M 507.15	RSA 171-A:18; I, II; RSA 541-A:31, III; RSA 137-K:9
He-M 507.16	RSA 171-A:18; I, II; RSA 137-K:9
He-M 507.17	RSA 171-A:18; I, II; RSA 541-A:22, IV; RSA 137-K:9