

APPENDIX II-K  
COVER SHEET FOR EMERGENCY RULE

Document Number	Rule Number
	<b>He-A 505.01</b>
<p>1. Agency Name &amp; Address:</p> <p><b>Dept. of Health and Human Services Bureau of Drug &amp; Alcohol Services 105 Pleasant Street Concord, NH 03301</b></p>	<p>2. RSA Authority: <b>RSA 265-A:39, III(d) &amp; (g); RSA 265-A:40, VII(e), VII(g)</b></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption _____</p> <p style="padding-left: 20px;">Amendment <b>X</b> _____</p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption _____</p> <p style="padding-left: 20px;">Readopt with Amendment _____</p>
5. Date of Filing: <b>October 24, 2022</b>	
6. Short Title: <b>Schedule of Fees and Charges</b>	
7. Contact person for copies and questions:	
<p>Name: <b>Allyson Raadmae</b></p> <p>Address: <b>Dept. of Health &amp; Human Services Administrative Rules Unit 129 Pleasant Street Concord, NH 03301</b></p>	<p>Title: <b>Administrator- Administrative Rules Unit</b></p> <p>Phone #: <b>271-9604</b></p> <p>Fax#: <b>271-5590</b></p> <p>E-mail: <a href="mailto:Allyson.E.Raadmae@dhhs.nh.gov">Allyson.E.Raadmae@dhhs.nh.gov</a></p>

**\*\*PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the numbers on this sheet (a separate sheet is not required for every item):

8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.

9. A summary of the effect if the rule were not adopted.

10. A description of those affected.

**\*PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET** and all attachments along with 2 copies of the emergency rule to the Office of Legislative Services, Administrative Rules.

**\*\*PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,\* hereby certify that the attached is an accurate statement explaining why an emergency rule is necessary.

Date: 10/24/2022

Signature: *Lori Shibinette*

Name: Lori A. Shibinette

Title: Commissioner

\*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

8. An explanation of the nature of (a) the imminent peril to public health or safety, demonstrating that the emergency rule is necessary to prevent the imminent peril, or (b) the substantial fiscal harm to the state or its citizens which could otherwise occur if the rule were not adopted as an emergency rule.

**He-A 500 implements the requirements of RSA 265-A relative to the provision of treatment and educational services to persons convicted of driving while impaired offenses. He-A 500 establishes the requirements to be approved as an impaired driver care management program, an impaired driver education program, and an impaired driver services provider, and the requirements that must be met for those persons convicted of a driving while impaired offense.**

**He-A 505.01 on schedule of fees and charges outlines the various fees and charges that must be paid by an individual who is enrolling in or a client who is enrolled in an impaired driver care management program.**

**The Department of Health and Human Services (Department) recently issued interruptive guidance to providers advising that adding a credit card transaction fee to clients on top of the fees established under the rule is in violation of the rule as currently enacted. The Department received immediate feedback from providers stating that the guidance was not consistent with current practice and prohibiting the application of credit card transaction fees creates a substantial financial burden for the providers.**

**The Department is proposing to amend section He-A 505.01, entitled “Schedule of Fees and Charges” by adding any transaction fee charged by a financial institution shall be collected by the provider for all fees and charges paid that a transaction fee is associated. Additionally, the Department is adding the requirement that all clients shall be notified of the forms of payment allowed and the applicable transaction fees, in writing before payment, and given the opportunity to make payment via any of those methods.**

**The Department is utilizing emergency rulemaking to prevent substantial fiscal harm to the citizens of the state, specifically the providers of impaired driver services. At this time, providers under the current rule, do not have the ability to charge for transaction fees charged by a financial institution for payments made by credit card or any other payment method that generates a transaction fee. Because of this, some providers are not accepting payment by credit card, putting the burden on the client to ensure payment is made via an alternative method. This can take away business from that provider whose potential client cannot make payment via an alternative method. Other providers are allowing for credit card payments and absorbing the transaction fee set by the financial institutions which impacts the providers total operating costs.**

**While there is no public hearing for emergency rulemaking, the Department will enter into regular rulemaking to permanently adopt the amendments to He-A 505.01.**

9. A summary of the effect if the rule were not adopted.

**If the amendments to He-A 505.01 were not adopted, the providers would be unable to charge a client for the transaction fee charged by the financial institution, which could significantly impact the provider by taking away business, or putting the burden on the provider to pay the transaction fee, both of which result in a loss of revenue to a provider in an already scarce provider group. According to a study published by the National Institutes of Health, entitled “Alcohol Consumption during the COVID-19 Pandemic: A Cross-Sectional Survey of US Adults”, during the COVID-19 pandemic 60% of individuals surveyed reported consuming more alcohol than they did previously. This increases the potential for impaired driving. Given the risk impaired drivers present to the citizens of New Hampshire, combined with the on-going opioid crisis it is imperative that these providers continue to offer services to these individuals, while also maintaining financial viability.**

10. A description of those affected.

**These rules apply to entities who wish to be approved by the commissioner of the department of health and human services to be impaired driver care management programs, impaired driver education programs, and/or impaired driver service providers. The rules also apply to those persons convicted of a driving while impaired offense.**

PART He-A 505 SCHEDULE OF FEES AND CHARGES

**Amend He-A 505.01, effective 4-8-14, (Document #10564), cited and to read as follows:**

He-A 505.01 Schedule of Fees and Charges.

(a) IDCMPs shall charge a client no more than the following amounts:

- (1) Intake, \$75, which shall be inclusive of any screening conducted;
- (2) Substance use disorder evaluation, \$200;
- (3) Care management, \$30 per contact;
- (4) Education program, including all course materials, \$300;
- (5) Weekend education program, including all course materials and room and board, \$485;
- (6) Per client fee, \$70, which shall be the fee required by RSA 265-A:39, III(g), and RSA 265-A:40, VII(g), to be paid to the department by the client and which is collected by the IDCMP at intake;
- (7) For each day that an IDCMP staff is required to attend a sentencing court proceeding as a result of a notice of non-compliance being sent in accordance with He-A 507.06(k), \$100 per day; and
- (8) For individuals who choose to receive services outside New Hampshire, in accordance with He-A 506.01:
  - a. An out-of-state client fee of \$350 to cover the cost of intake/registration, service plan development and monitoring, electronic data systems requirements, verification of out-of-state education and clinical requirements, and completion reporting, as applicable;
  - b. The per client fee in (6) above; and
  - c. The fee in (a)(2) if the service is conducted by an IDCMP, and the fees in (a)(3) and (7) if the service is applicable to the client's service plan; **and**

(9) The transaction fee charged by a financial institution for every payment made by a client for services described in (a)(1) through (a)(8).

(b) Clients receiving services in the state of New Hampshire shall make payment as follows:

- (1) For the intake in (a)(1) above and for the evaluation in (a)(2) above, clients shall make payment on the date of service delivery, unless a payment plan agreed to by the client and the IDCMP has been arranged;
- (2) For care management contacts in (a)(3) above, the IDCMP may charge the client individually for each contact or on a monthly basis for 2 contacts, to be payable in a manner determined by the IDCMP;
- (3) For the education program in (a)(4) above and for the weekend education program in (a)(5) above, clients shall make payment on or before the date of the first session, unless a payment plan agreed to by the client and the IDCMP has been arranged;

(4) The per client fee in (a)(6) above shall be paid to the department by the client at the time of intake in accordance with He-A 505.03, unless the fee is waived as described in H-A 505.03(c); and

(5) For the fee in (a)(7), clients shall be billed by the IDCMP and make payment in a manner determined by the IDCMP.

(c) Clients who choose to receive services outside New Hampshire, in accordance with He-A 506.01, shall make payment as follows:

(1) For the out-of-state client fee in (a)(8)a. above, clients shall make payment on the first date of service delivery, unless a payment plan agreed to by the client and the IDCMP has been arranged;

(2) For the evaluation in (a)(2) above, clients shall make payment on the date of service delivery, unless a payment plan agreed to by the client and the IDCMP has been arranged;

(3) For care management contacts in (a)(3) above, the IDCMP may charge the client individually for each contact or on a monthly basis for 2 contacts, to be payable in a manner determined by the IDCMP;

(4) The per client fee in (a)(6) above shall be paid to the department by the client at the time of intake in accordance with He-A 505.03; and

(5) For the fee in (a)(7), clients shall be billed by the IDCMP and make payment in a manner determined by the IDCMP.

(d) Programs shall notify clients prior to services being rendered, in writing:

(1) What acceptable forms of payments are allowed to pay for services rendered; and

(2) What applicable transaction fees are associated with each form of payment for any fee described in (a)(1) through (a)(8).

(e) Clients shall be allowed to make payments for any fees for services rendered or applicable transaction fees in any manner that is an acceptable form of payment as detailed in (d)(1) above.

~~(f)~~ IDCMPs shall provide notice to the department of any changes in fee amounts charged to clients.

~~(g)~~ IDCMPs shall not charge or collect from a client a fee:

(1) For any drug or alcohol testing required by the service plan. Such fees shall be paid by the client directly to the testing site;

(2) For any drug or alcohol testing conducted by an IDCMP to determine or confirm impairment at any IDCMP or IDEP component; and

(3) For any fee that is being paid for by a publicly funded program, including the ATR program.

#### APPENDIX

Rule Number	State or Federal Authority
He-A 505.01	RSA 265-A:39, I, III(d), III(g); RSA 265-A:40, IV, VII(e), VII(g)