

Notice Number _____

Rule Number _____

He-W 534

1. Agency Name & Address:

**Dept. of Health and Human Services
Division of Medicaid Services
129 Pleasant Street, Brown Bldg.
Concord, NH 03301**

2. RSA Authority:

RSA 161:4-a, X

3. Federal Authority: _____

4. Type of Action:

Adoption _____

Repeal _____

Readoption **X**

Readoption w/amendment

X5. Short Title: **Advanced Practice Registered Nurse Services**

6. (a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:

He-W 534 sets forth the New Hampshire Medicaid requirements for providing and receiving advanced practice registered nurse (APRN) services. Most of He-W 534 is scheduled to expire on January 24, 2024, but is subject to extension pursuant to RSA 541-A:14-a.

The Department of Health and Human Services (Department) is proposing to readopt or readopt with amendment all of the rule in He-W 534. The proposed amendments to He-W 534 include:

- **Changing the part heading for He-W 534 from “Advanced Registered Nurse Practitioner Services” to “Advanced Practice Registered Nurse Services”; and**
- **Updating a citation in He-W 534.05 on covered services.**

The proposed amendment does not implement a state statute for the first time.

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

He-W 534 affects all Medicaid recipients and APRNs who are New Hampshire enrolled Medicaid providers.

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

RULE	STATE OR FEDERAL STATUTE THE RULE IMPLEMENTS
He-W 534.01	RSA 326 B:2; 42 CFR 440.166
He-W 534.02	42 CFR 440.210; 42 CFR 440.220
He-W 534.03	42 CFR 440.166
He-W 534.04	42 CFR 440 Subpart B
He-W 534.05	42 CFR 440.166
He-W 534.06	42 CFR 456
He-W 534.07	42 CFR 433.139
He-W 534.08	RSA 541-A:21; 42 CFR 447 Subpart B

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

Name: **Allyson Raadmae** Title: **Administrator- Administrative Rules Unit**
Address: **Dept. of Health and Human Services** Phone #: **(603) 271-9604**
Administrative Rules Unit Fax#: **(603) 271-5590**
129 Pleasant Street, 2nd Floor E-mail: Allyson.E.Raadmae@dhhs.nh.gov
Concord, NH 03301

TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

The proposed rules may be viewed and downloaded at:
<https://www.dhhs.nh.gov/doing-business-dhhs/legal-services/administrative-rules/nh-administrative-rules-public-comment>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Thursday, February 29, 2024**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Thursday, February 22, 2024 at 1:30pm**

Physical Location: [**DHHS Brown Bldg., Auditorium, 129 Pleasant St., Concord, NH**](#)

Electronic Access (if applicable): **N/A**

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

FIS # 23:309 , dated 1/12/2024

1. **Comparison of the costs of the proposed rule(s) to the existing rule(s):**

There is no difference in cost when comparing the proposed rules to the existing rules.

2. **Cite the Federal mandate. Identify the impact on state funds:**

No federal mandate, no impact on state funds.

3. **Cost and benefits of the proposed rule(s):**

- A. **To State general or State special funds:**

None.

- B. **To State citizens and political subdivisions:**

None.

- C. **To independently owned businesses:**

None.

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

The proposed rule modifies an existing program or responsibility, but does not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore does not violate Part I, Article 28-a of the N.H. Constitution.

Change the part heading for He-W 534 to read as follows:

PART He-W 534 ADVANCED PRACTICE REGISTERED NURSE ~~PRACTITIONER~~-SERVICES

Readopt He-W 534.01 through He-W 534.03, effective 1-24-14 (Document #10512), to read as follows:

He-W 534.01 Definitions.

(a) “Advanced practice registered nurse (APRN)” means a registered nurse currently licensed by the New Hampshire board of nursing under RSA 326-B:18 or, in states other than New Hampshire, a registered professional nurse practitioner who, in accordance with 42 CFR 440.166, meets that state’s advanced educational and clinical practice requirements, if any, beyond the 2 to 4 years of basic nursing education required of all registered nurses.

(b) “Current procedural terminology (CPT) code” means a unique identifying code in the field of medical nomenclature and designated by USDHHS as the national coding standard utilized in government and private health insurance programs for reporting medical services and procedures.

(c) “Department” means the New Hampshire department of health and human services.

(d) “Healthcare Common Procedure Coding System (HCPCS)” means a standardized coding system used by Medicare that describes services and procedures. HCPCS includes CPT codes that are used primarily to identify products, supplies, and services not included in the normal CPT code list, such as ambulance services and durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS), when used outside a physician’s office.

(e) “Medicaid” means the Title XIX and Title XXI programs administered by the department, which makes medical assistance available to eligible individuals.

(f) “Recipient” means any individual who is eligible for and receiving medical assistance under the medicaid program.

(g) “Title XIX” means the joint federal-state program described in Title XIX of the Social Security Act and administered in New Hampshire by the department under the medicaid program.

(h) “Title XXI” means the joint federal-state program described in Title XXI of the Social Security Act and administered in New Hampshire by the department under the medicaid program.

He-W 534.02 Recipient Eligibility. All NH medicaid recipients shall be eligible to receive APRN services, in accordance with He-W 534.

He-W 534.03 Provider Participation. Each participating APRN shall:

(a) Be a New Hampshire (NH) enrolled medicaid provider;

(b) If practicing in NH, be licensed as an APRN by the NH board of nursing in accordance with RSA 326-B:18; and

(c) If practicing in another state, submit current proof of meeting that state’s advanced education and clinical requirements to practice as a registered nurse in an advance practice role.

Readopt He-W 534.04, effective 8-15-14 (Document #10657), to read as follows:

He-W 534.04 Service Limits. All services shall be subject to the service limits set forth in He-W 530.

Readopt with amendment He-W 534.05, effective 1-24-14 (Document #10512), to read as follows:

He-W 534.05 Covered Services. Covered services shall be those services set forth in RSA 326-B:11~~Nur 304.05~~.

Readopt He-W 534.06 through He-W 534.08, effective 1-24-14 (Document #10512), to read as follows:

He-W 534.06 Utilization Review & Control. The department's provider program integrity unit shall monitor utilization of APRN services to identify, prevent, and correct potential occurrences of fraud, waste and abuse in accordance with in accordance with He-W 520, 42 CFR 455, and 42 CFR 456.

He-W 534.07 Third Party Liability. All third party obligations shall be exhausted before medicaid may be billed, in accordance with 42 CFR 433.139.

He-W 534.08 Payment for Services.

(a) The payment rates for APRN services shall be established by the department in accordance with RSA 161:4, IV.

(b) The APRN shall submit claims for payment to the department's fiscal agent.

(c) The APRN shall use CPT and HCPCS codes and coding guidelines established for use with these procedure codes when billing.

(d) The APRN shall maintain supporting records, in accordance with He-W 520.

APPENDIX

RULE	STATE OR FEDERAL STATUTE THE RULE IMPLEMENTS
He-W 534.01	RSA 326 B:2; 42 CFR 440.166
He-W 534.02	42 CFR 440.210; 42 CFR 440.220
He-W 534.03	42 CFR 440.166
He-W 534.04	42 CFR 440 Subpart B
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