

CHAPTER He-E 500 SOCIAL SERVICES

Adopt with amendment He-E 501, previously effective 1-29-19 (Document #12720, Interim), and expired 7-29-19, to read as follows:

PART He-E 501 THE SOCIAL SERVICES BLOCK GRANT (TITLE XX)

He-E 501.01 Purpose and Goals.

(a) The purpose of this part is to describe the requirements for services provided by the NH department of health and human services through the social services block grant funded under Title XX of the Social Security Act (Title XX).

(b) Title XX services shall be directed toward one or more of the goals contained in 42 USC 1397.

He-E 501.02 Definitions.

(a) “Activities of daily living (ADL)” means activities such as grooming, toileting, eating, dressing, getting into or out of a bed or chair, walking, and monitoring and supervision of medications.

(b) “Adult” means “adult” as defined in RSA 161-F:1, I, namely “any person 18 years of age or older.”

(c) “Adult day services” means one or more of the following services, provided for fewer than 12 hours a day, to participants 18 years of age or older: supervision, assistance with activities of daily living, nursing care, rehabilitation, recreation, social, cognitive, and physical stimulation, and nutrition.

(d) “Appeal” means a request by a person adversely affected by the NH department of health and human service’s or a provider’s decision or action to review that decision or action in accordance with the provisions of RSA 126-A:5, VIII.

(e) “Authorized representative” means any adult other than a department staff member or provider representative who is 18 years of age or older and who, with the individual’s permission or under the authority of a guardianship order, acts on behalf of the individual during all aspects of initial or continuing eligibility determination for Title XX services.

(f) “Catchment area” means the geographic area where the provider provides Title XX services, as identified in the provider’s contract or other legal agreement with the department.

(g) “Chronic illness or disability” means that the physical, mental, or emotional ability of a person is such that the individual is unable to manage personal, home, or financial affairs without the support of social services.

(h) “Commissioner” means the commissioner of the NH department of health and human services or his or her designee.

(i) “Communication access” means, when necessary and appropriate, providing communication assistance to individuals, who are:

(1) Non-English speaking or have limited English proficiency;

(2) Deaf, experiencing a degree of hearing loss, or have auditory processing challenges;

- (3) Visually impaired; or
- (4) Speech impaired.
- (j) “Days” means days on which the department is ordinarily open for business unless otherwise stated.
- (k) “Department” means the NH department of health and human services.
- (l) “Elderly” means “elderly” as defined in RSA 161-F:1, V, namely “a person 60 years of age or older.”
- (m) “Essential services” means chore, emergency support, and respite services that are needed to maintain an individual’s health or safety, as described in He-E 501.24.
- (n) “Homebound” means that an individual is unable to leave home without difficulty because of chronic illness or disability.
- (o) “Home-delivered meals” means meals that are prepared and provided to an individual in his or her home, in accordance with He-E 501.25.
- (p) “Housecleaning” means duties related to household cleanliness including but not limited to mopping floors, vacuuming, laundry, changing bed linens, dusting, and other tasks related to sanitation within an individual’s living environment.
- (q) “Income” means the total amount of money received by the individual on a regular, recurring basis each month, based on the sources of income contained in He-E 501.05.
- (r) “Independent living situation” means one of the following living arrangements:
 - (1) The individual’s own home or apartment;
 - (2) The home or apartment of a spouse or partner, relative, or friend where the individual also resides;
 - (3) A motel or hotel; or
 - (4) A homeless shelter.
- (s) “Individual” means the adult applying for or receiving the Title XX social services described in this part.
- (t) “In-home care” means services provided to an individual in his or her home including the household maintenance tasks and activities of daily living described in He-E 501.26.
- (u) “Instrumental activities of daily living” means activities performed on a regular basis, including, but not limited to, doing laundry, cleaning, managing money, shopping, using transportation, correspondence, making telephone calls, obtaining and keeping appointments, socializing, and recreation.
- (v) “Licensed health practitioner” means:
 - (1) Medical doctor;
 - (2) Physician assistant (PA);

- (3) Advanced practice registered nurse (APRN);
- (4) Doctor of osteopathy;
- (5) Doctor of naturopathic medicine; or
- (6) Any other individual with diagnostic and prescriptive powers licensed by an appropriate NH licensing board.

(w) “Limited English proficiency” means the inability of an individual to speak English as their primary language, and whose skills in listening, speaking, or reading English are such that the individual cannot adequately understand and participate in their care, or in the services provided to them, without language assistance, the provision of communication access services, or communication devices.

(x) “Nursing facility” means a place which provides for 2 or more persons’ basic domiciliary services, including board, room, and laundry, continuing health supervision under competent professional medical and nursing direction, and continuous nursing care as may be individually required.

(y) “Person-centered” means that the individual or his or her authorized representative or caregiver is the center of the system of care, and the individuals’ needs and preferences drive the care and services provided.

(z) “Plan for achieving self- support income (PASS)” means the Supplemental Security income or Social Security income received by an individual, which has been designated by the Social Security Administration to help the individual attain employment.

(aa) “Provider” means the agency under contract with the department or enrolled as a medicaid provider of specific services or a vendor providing Title XX services.

(ab) “Residential care facility” means a licensed assisted living residence-residential care or assisted living-supported residential health care licensed in accordance with RSA 151.

(ac) “Respite care” means care provided on an intermittent basis to the eligible person to relieve the primary caregiver from the demands of home care for a limited period of time.

(ad) “Title XX” means that section of the Social Security Act which describes the services funded through the social services block grant.

(ae) “Vendor” means an individual, business, or organization reimbursed by the department for the cost of providing essential services that are authorized by the department and described in He-E 501.24.

(af) “Wait list” means a list of individuals who have been determined eligible, and are ready to receive, a Title XX service from a provider, but for whom the agency does not have sufficient service units or resources to serve the individuals.

(ag) “Without regard to income” means an eligibility category whereby Title XX services can be provided to an individual without regard to income, and in accordance with He-E 501.05(i).

He-E 501.03 Confidentiality. All information about individuals receiving Title XX services and programs shall be kept confidential, and only persons involved in administering Title XX services and programs shall review an individual’s information, unless the individual signs an authorization to release the information to another individual or organization.

He-E 501.04 Title XX Services.

(a) The following Title XX services referenced in (b) below shall be provided to individuals who meet the eligibility requirements contained in He-E 501.05 and subject to the wait list described in He-E 501.15.

(b) Title XX services shall include:

- (1) Adult day services;
- (2) Essential services;
- (3) Home-delivered meals; and
- (4) In-home care services.

(c) Providers of adult day services, home-delivered meals, and in-home care shall be contracted with the department and shall provide the services as described in this rule.

(d) Providers of essential services shall be vendors and shall provide services as described in this rule.

(e) Eligibility for services shall be determined by the provider, except for eligibility for essential services, which shall be determined by the department.

He-E 501.05 Eligibility Requirements for Services.

(a) In order to be eligible to receive Title XX services an individual shall:

- (1) Be an adult as defined by He-E 501.02(b);
- (2) Have a chronic illness or disability as defined by He-E 501.02(g);
- (3) Reside in or be expected to reside in an independent living situation, as defined by He-E 501.02(r);
- (4) Have a monthly income which does not exceed \$1,277 per month, based on the sources of income specified in (d) and subject to an annual cost of living adjustment as described in (k) below;
- (5) Be in need of the requested Title XX service in order to maintain his or her health and safety, as determined by the assessment described in (b) below;
- (6) Not already be receiving the same or duplicate services from another program such as services under an approved medicaid waiver program;
- (7) Apply for and be found eligible to receive Title XX services as described in He-E 501.05 and 501.06; and
- (8) In order to be eligible to receive home-delivered meals, demonstrate that he or she cannot prepare meals, and that the individual is:

- a. Homebound; or

b. Temporarily homebound due to recovery from illness or injury.

(b) An individual's eligibility to receive the requested Title XX services shall be determined through an assessment as follows:

- (1) A review of the individual's application; and
- (2) A face-to-face interview with the individual or authorized representative, or both, to obtain information on the individual's ability to engage in activities of daily living and instrumental activities of daily living.

(c) When determining eligibility for the requested Title XX services, an individual may provide information from his or her licensed health practitioner or other community providers to be considered as a part of the assessment described in (b) above.

(d) When determining eligibility in accordance with He-E 501.05 (a)(4) above, the department or the provider shall review all sources of income including but not limited to the following:

- (1) State financial assistance;
- (2) Social Security, with the exception of PASS income;
- (3) Supplemental Security income;
- (4) Veteran's benefits;
- (5) Income received from room and board, rental of buildings or land;
- (6) Interest income received from bank accounts, estates, or trusts;
- (7) Wages or income from self-employment;
- (8) Disability benefits;
- (9) Unemployment compensation;
- (10) Worker's compensation; and
- (11) Alimony.

(e) When determining eligibility for Title XX services, the income of each individual, including spouses, shall be considered separately.

(f) If the individual receives Social Security income and the cost of his or her Medicare premiums are not deducted from his or her check, the amount paid for the premiums shall be deducted from the individual's total income for the purposes of determining whether or not the individual meets the income requirements in (a)(4) above.

(g) Income shall be verified for an individual in accordance with He-E 501.06(h).

(h) Priority to receive Title XX services shall be given to individuals who have been determined by the department to be in need of services for protective reasons in accordance with RSA 161-F:42-57.

(i) Title XX services shall be provided without regard to income, if the service(s) are provided during or after a protective investigation conducted by the department in accordance with RSA 161-F:42-57.

(j) Title XX services shall be provided to an adult in an independent living situation.

(k) The income eligibility level in (a)(4) above shall be subject to a cost of living adjustment, when adjusted by the social security administration, each January by the percentage amount of the cost of living increase in the social security benefits on a yearly basis consistent with federal law and regulations.

He-E 501.06 Application Requirements and Process.

(a) An individual or their authorized representative shall apply to receive Title XX services via an application form provided by the department entitled Form 3000, "Application for Social Services" (November 2019).

(b) The individual or the authorized representative shall submit to the department or the provider depending on where the determination of eligibility is being made, a completed Form 3000, "Application for Social Services" certifying the following:

(1) If the individual:

"I have read and understood the information on the application, including the Assurances section on the next page, and I agree that the entries I have made on this application are true and accurate to the best of my knowledge."

"I understand that as part of the administration of the department programs, the department or provider may verify information I have provided on this application and any other information that would affect my eligibility."

"My signature below authorizes department and provider to obtain verification and authorized release of such information to the department and provider. My authorization to release information remains in effect until the time of my next redetermination of eligibility."

"I understand that I must report any change in my address or income to the department district office or provider where I applied for services, since such changes may affect my eligibility for services."

(2) If the authorized representative:

"My signature below indicates that I have completed this form on behalf of the applicant, using information provided by the applicant, and that this information is true and complete to the best of my knowledge. I have the applicant's permission to act on his or her behalf during all aspects of initial or continuing eligibility for services, including compliance with the provisions described above, and have agreed to accept the responsibilities designated to me. I have read and understood the provisions described above and the Assurances section on the next page. The applicant acknowledges that he/she may be responsible for any errors, omissions or inaccurate information reported to BEAS by me acting as the authorized representative."

(c) If information needed to determine eligibility, as described in He-E 501.05, is incomplete or missing, the provider shall immediately notify the individual.

(d) The individual shall provide the missing information to the department or the provider within 10 days of the face-to face interview.

(e) If the individual does not provide the missing information within the allotted time in stipulated (d) above, the individual's application shall be denied.

(f) An individual shall not require an application prior to the receiving Title XX services when the department determines services are needed for protective reasons in accordance with RSA 161-F:42-57.

(g) Income shall be verified as described in (h) below and for the following reasons:

(1) There is an indication that the income information provided by the individual is inaccurate; or

(2) The department performs an audit to verify income for quality control purposes.

(h) At the request of the department or the provider, when determining eligibility, the individual or authorized representative shall verify income by providing the following information:

(1) Current pay stubs or employer statements, when income includes wages;

(2) Current business records, when the applicant is self-employed;

(3) A copy of the benefit check dated within the last 30 days or the most recent letter from the Social Security administration, when income includes Social Security benefits or Supplemental Security income, or a copy of the most current bank statement showing that the Social Security or Supplemental Security income check has been direct-deposited;

(4) A copy of the benefit check dated within the last 30 days or the most recent correspondence from the agency, business, or union that indicates benefit amounts, when income includes workers' compensation;

(5) A copy of the pension check dated within the last 30 days or the most recent correspondence from the appropriate agency, business, or union, when income includes a pension;

(6) Bank statements dated within the last 30 days, or the most recent stockholder report when income includes interest from income, dividends, trusts, estates, or royalties;

(7) A copy of a check received from the tenant or boarders dated within the last 30 days or the most current copy of the rental or room and board agreement, when income includes money received from rents, room and board, or rental of land;

(8) A copy of the benefits check dated within the last 30 days or the most recent notice indicating the amount of benefits awarded, when income includes unemployment compensation;

(9) A copy of the most recent court order or a signed statement from the individual making the payment, when income includes alimony; and

(10) A copy of the benefit check dated within the last 30 days or the most recent notice indicating the amount of benefits awarded, when income includes veterans benefits.

(i) If requested by an individual, the department or the provider shall assist the individual with completing the application.

He-E 501.07 Determination, Notice of Eligibility, and Eligibility Period.

(a) An individual shall meet the requirements in He-E 501.05 and 501.06 in order to be deemed eligible to receive Title XX services.

(b) For individuals determined eligible to receive Title XX services, the eligibility period shall be for one year, beginning on the date that eligibility is determined, and ending 364 calendar days later.

(c) A written notice of decision shall be provided by the department or by the provider within 45 calendar days of receipt of an application.

(d) If the eligibility requirements are met, and services are available, the notice shall include:

(1) The services to be provided;

(2) The eligibility period; and

(3) Contact information for the department or provider, depending on which entity is responsible for the eligibility determination.

(e) If eligibility requirements are met, but services are not available, the individual shall be notified that his or her name shall be placed on a wait list in accordance with He-E 501.15.

(f) If the eligibility requirements are not met, the notice shall include:

(1) The reason(s) for the denial;

(2) A statement regarding the right of the individual or his or her authorized representative to request an informal resolution or an administrative hearing, as described in He-E 501.11 501.12 respectively; and

(3) Contact information for the department staff member or provider depending on which entity is responsible for the eligibility determination.

He-E 501.08 Individual's Responsibility To Report Changes.

(a) The individual receiving services or on a wait list shall be responsible for reporting to the department or to the provider any changes in circumstances that could affect his or her eligibility for Title XX services, including changes in:

(1) Address;

(2) Type of living arrangement;

(3) Sources and amounts of income; and

(4) The individual's level of functioning that would have a direct effect on the need for services.

(b) When the individual reports changes described in (a) above, the department or the provider shall determine whether these changes affect the individual's eligibility for Title XX services, based on the requirements described in He-E 501.05.

(c) When the individual level of functioning has changed as described in (a)(4) above, the department or the provider shall verify the changes via the redetermination process outlined in He-E 501.09 and, either:

- (1) Have a face-to-face meeting with the individual; or
- (2) Accept documentation from the individual's licensed health practitioner describing the change in the individual's level of functioning.

(d) If it is determined that the reported changes cause the individual to become ineligible for Title XX services:

- (1) Services shall be terminated and a notice shall be sent to the individual in accordance with He-E 501.10(c); or
- (2) The individual shall be removed from the wait list and provided notice in accordance with He-E 501.15.

He-E 501.09 Redetermination of Service Eligibility.

(a) The department or the provider shall provide the application entitled Form 3000 "Application for Social Services" (November 2019) to the individual 60 days prior to the end of the eligibility period.

(b) At least 45 calendar days prior to the end date of the individual's eligibility period, the individual shall complete and submit the application referenced in (a) above for redetermination of eligibility.

(c) If requested by an individual, the department or provider staff shall assist the individual with completing the application during a scheduled visit.

(d) The department or the provider shall:

- (1) Re-determine eligibility in accordance with He-E 501.05; and
- (2) Send notice to the individual or his or her authorized representative, as described in He-E 501.07, confirming whether the individual continues to be eligible for Title XX services and:
 - a. If the individual is determined eligible to continue receiving Title XX services, services shall be authorized in accordance with He-E 501.16; or
 - b. If the individual is determined ineligible to receive Title XX services, services shall be discontinued in accordance with He-E 501.10.

(e) If an individual does not submit the application prior to the end of their eligibility period services shall be terminated in accordance with He-E 501.10, subject to the right of appeal or informal resolution as described in He-E 501.12, and until such time that the individual re-applies and is found eligible for Title XX services in accordance with He-E 501.06.

He-E 501.10 Termination of Services.

(a) Title XX services shall be terminated when:

- (1) The individual or his or her authorized representative requests that the services be terminated;
- (2) The individual no longer meets the eligibility requirements for Title XX services as described in He-E 501.05;
- (3) Funding for the service(s) is no longer available;
- (4) The individual did not reapply for services in accordance with He-E 501.09;
- (5) The individual relocates to a geographic area outside the catchment area area;
- (6) The individual relocates to an institutional setting excluding short-term respite care; or
- (7) The individual dies.

(b) If a provider wishes to terminate services for an eligible individual because the provider determines that the individual's behavior or living environment creates a health or safety hazard for the provider's staff, then:

- (1) The provider shall initiate an adult protective report in accordance with RSA 161-F: 46 and He-E 700.
- (2) If the provider wishes to terminate Title XX services for the reason described in (b) above, the provider shall:
 - a. Forward to the department a written notification of the reasons for terminating services, including a summary of the efforts the provider has made to resolve the situation;
 - b. Consult with department staff for assistance in determining possible remedies other than termination;
 - c. Following consultation with department staff, document and report to the department the outcome of each additional effort made to resolve the situation;
 - d. Notify the department of a final decision to terminate prior to distribution of the notice to the individual; and
 - e. For individuals whose services are terminated in accordance with (a) above, document in the individual's service record a description of the individual's behavior(s) or living environment that created a health or safety hazard for the provider's staff, as well as the provider's attempts to continue to provide services; and

(3) The provider shall send written notice to an individual as specified in He-E 501.10(c) below, within 5 business days of notifying the department as indicated in He-E 501.10(b)2.d.

(c) The notice of termination of services shall specify:

- (1) The service(s) to be terminated;
- (2) The reason(s) for terminating the service or services;

- (3) The date upon which the service(s) shall be terminated, which shall be 30 days from the date of the notice ;
- (4) A statement that the individual has 30 calendar days from the date of the notice to request an administrative hearing with the department as described in He-E 501.11 and in accordance with He-C 200; and
- (5) The contact information for the department or provider staff member who completed the notice.

He-E 501.11 Informal Resolution.

(a) An individual who disagrees with an eligibility determination, redetermination, or termination of Title XX services may request an informal resolution of the decision, as follows:

- (1) The individual or his or her authorized representative, shall submit a written request to the department within 30 calendar days of the eligibility or termination determination; and
- (2) The written request shall include:
 - a. An explanation of the reason why the decision on the eligibility determination, redetermination or termination determination should be changed; and
 - b. Any supporting documentation.

(b) For individuals currently receiving services, Title XX services shall continue during the informal resolution process until a decision is rendered.

(c) The department shall review the request in (a) above and provide a written notice within 45 days to the individual, or his or her authorized representative, of the decision to maintain or change the original eligibility or termination decision, including the reason therefor. The Department shall make a redetermination based on the same criteria used in the initial determination and shall take into consideration any new information.

(d) If the department or provider's decision is not upheld:

- (1) Services shall be initiated for individuals requesting services; and
- (2) Services for individuals currently receiving Title XX services shall continue as long as the Title XX eligibility requirements described in He-E 501.05 are met or until the end of the individual's eligibility period.

(e) If the department's or provider's decision is upheld, services for individuals currently receiving services shall end within 30 calendar days of the decision.

(f) Requesting an informal resolution shall not:

- (1) Preclude in any way an individual's right to appeal a disputed eligibility or termination determination in accordance with He-C 200; or
- (2) Change the timeframes established for filing an appeal.

(g) An individual may appeal the decision of the department in accordance with He-C 200 and RSA 541-A:29.

He-E 501.12 Administrative Hearing and Provisions of Services During the Administrative Appeal Process.

(a) An individual or his or her authorized representative wishing to appeal a decision made during the service eligibility determination or redetermination may request an administrative hearing within 30 calendar days of receiving the written notice of decision described in He-E 501.07 or He-E 501.10.

(b) The request for an appeal shall be submitted in writing and addressed to:

Department of Health & Human Services
Administrative Appeals Unit
105 Pleasant St., Concord, NH 03301

(c) The hearing shall be conducted in accordance with RSA 541-A and He-C 200.

(d) If the individual or his or her authorized representative requests an administrative hearing for the termination of Title XX services as described in He-E 501.10, Title XX services shall continue until a decision is rendered.

(e) If the department's or provider's decision is not upheld, the individual shall continue to receive services as long as the Title XX eligibility requirements described in He-E 501.05 are met or until the end of the individual's eligibility period.

(f) If services were discontinued in accordance with He-E 501.10(b), and the provider's decision is not upheld, a provider shall initiate services within 30 days of the date on the notice decision.

(g) If the department's decision is upheld:

(1) The individual shall be notified in accordance with He-C 200; and

(2) Title XX services shall end within 30 calendar days of the hearing officer's notice of decision.

He-E 501.13 Provider Requirements.

(a) Providers wishing to provide adult day services, home-delivered meals or in-home care shall be under contract with the department to provide such service(s).

(b) Providers shall:

(1) Comply with all provisions included in the contract with the department;

(2) Comply with and make available upon request any licensing or certification requirements required by applicable federal, state, or local laws or rules, specifically:

a. For providers providing in-home care, be licensed as a home health provider, home care service provider, or other qualified agency in accordance with He-P 809 and He-P 822, respectively; and

- b. For providers providing adult day services, be licensed as an adult day program in accordance with He-P 818;
- (3) Develop person-centered plans as described in He-E 501.22;
- (4) Determine eligibility for applicants and comply with notice requirements as described in these rules;
- (5) Maintain the insurance coverage required by applicable state or local laws or rules, and provide written proof of such insurance coverage to the department;
- (6) Identify an executive director who will oversee the services being provided;
- (7) Identify staff who will complete the responsibilities contained in this rule for the service(s) being provided;
- (8) Train and supervise provider staff and volunteers regarding the following:
 - a. The provider's policies and procedures;
 - b. The specific Title XX services the staff or volunteer will be providing; and
 - c. Any additional training requirements contained in applicable federal or state laws/rules;
- (9) Comply with all contract requirements regarding the provision of communication access to individuals who are requesting or receiving services covered under this rule;
- (10) Develop protocols for staff responses to emergencies;
- (11) Develop protocols for reporting suspected abuse, neglect, self-neglect, or exploitation of incapacitated adults as required by RSA 161-F: 46 of the adult protection law;
- (12) Comply with the provisions of RSA 161-F: 49 with regard to checking the names of prospective or current employees, volunteers or subcontractors against the state registry administered by the department's bureau of elderly and adult services;
- (13) Have an established written complaint and incident process that may be accessed by individuals, family members, or authorized representative when an individual is denied services or dissatisfied with the services provided by the provider, including:
 - a. The name or position of the provider's staff member who coordinates the complaint and incident process;
 - b. The issues that may be addressed through the complaint and incident process;
 - c. How individuals are informed of their right to file a complaint or incident report;
 - d. The procedures to be followed by individuals who wish to file a complaint or incident report with the provider;
 - e. The procedures to be followed by the provider when reviewing complaints or incidents, and for notifying the individual of the outcome of the review; and

f. Information stating that the availability of the complaint and incident process from the provider shall not cancel the right of an individual who is denied Title XX services to request an administrative hearing in accordance with He-E 501.12 and He-C 200;

(14) When requested, provide information to the department regarding individuals receiving services;

(15) Maintain financial records;

(16) Maintain service records in accordance with He-E 501.17 for the specific Title XX service provided per eligibility period;

(17) Submit the fiscal reports required by the department pursuant to the provider contract;

(18) Submit information on the wait list in accordance with He-E 501.15;

(19) Engage in monitoring and evaluating the quality of the services being provided, which shall include:

- a. Obtaining feedback from the individual, authorized representative, and family members,
- b. Participating in any quality assurance measures implemented by the department; and
- c. Making changes as necessary to improve the quality and effectiveness of service delivery; and

(20) When providing home-delivered meals service:

- a. Be in compliance with federal, state, and local regulations for food safety, meal preparation and delivery;
- b. Employ staff or subcontract with another agency to prepare and deliver meals;
- c. Demonstrate on a quarterly basis that meals are in compliance with the nutritional requirements contained in He-E 501.25
by providing the department with sample menus which are signed by a registered dietitian or another professional with comparable expertise;
- d. Ensure that meals are delivered only when individuals are at home to receive them;
- e. Ensure that the driver who delivers meals has face-to-face contact with each individual; and
- f. Keep a record of the number of meals authorized for the individual and the scheduled days of delivery.

He-E 501.14 Fees for Title XX Services.

(a) Providers providing Title XX services may charge fees to individuals receiving these services under the conditions described in this section.

(b) Providers that elect to charge fees shall:

- (1) Develop a sliding fee schedule;
 - (2) Provide the fee schedule to individuals in a letter that describes:
 - a. The basis for the fee;
 - b. A description of the program the fee is being applied to;
 - c. A description of how the fee applies based on the individual's income;
 - d. The billing schedule, as applicable; and
 - e. Whether or not and when services would be discontinued for non-payment; and
 - (3) Include with the letter to the individual, in (2) above, a copy of the sliding fee schedule.
- (c) Providers shall base sliding fee schedules on the following considerations:
- (1) The type of program(s) the fee is being applied to;
 - (2) The ability of the individual to pay the fee which includes the income of the individual receiving Title XX services; and
 - (3) The fee does not exceed the difference between the amount reimbursed by the department to providers and the standard payment charged to individuals paying privately for the full cost of services provided by the provider.
- (d) Providers shall:
- (1) Communicate the fee schedule verbally and in writing prior to commencing services; and
 - (2) Make available fee and billing information at any time.
- (e) No fees shall be charged to the client receiving Title XX services when the department has determined that services are needed for protective reasons in accordance with RSA 161-F:42-57.

He-E 501.15 Wait Lists.

- (a) All services covered by He-E 501 shall be provided to the extent that funds, staff or resources for this purpose are available.
- (b) The provider shall maintain a wait list when funding or resources are not available to provide the requested services for:
 - (1) Individuals who:
 - a. Are newly eligible; and
 - b. Are ready to receive services;
 - (2) Individuals who:
 - a. Are receiving services; and

b. Requesting additional services; or

(3) Individuals who:

a. Relocate outside of the catchment area for the contact agency providing services; and

b. Are requesting Title XX services from a provider in the new location in accordance with He-E 501.19.

(c) Each provider shall include the following information on its wait list:

(1) The individual's full name and date of birth;

(2) The name of the Title XX service being requested;

(3) The date upon which the individual applied for services which shall be the date the application was received by the provider or by the department

(4) The target date of implementing the services based on the communication between the individual and the department or provider;

(5) The date upon which the individual's name was placed on the wait list shall be the date of the notice of decision in which the individual was determined eligible for Title XX services;

(6) The individual's assigned priority on the wait list, determined in accordance with (d) below;

(7) A brief description of the individual's circumstances and the services he or she needs; and

(8) If the individual is already receiving a Title XX service, the type and amount of the services received.

(d) The provider shall prioritize each individual's standing on the list by determining the individual's urgency of need in the following order:

(1) The individual is at risk of being admitted to an institutional setting;

(2) The individual is discharged from an institutional setting;

(3) Declining mental or physical health of the caregiver;

(4) Declining mental or physical health of the individual;

(5) The individual has no respite services while living with a caregiver; and

(6) Length of time on the wait list.

(e) When 2 or more individuals on the wait list have been assigned the same service priority, the individual served first will be the one with the earliest application date.

(f) Individuals with adult protective needs in accordance with RSA 161-F:42-57 shall be exempt from the wait list.

(g) The individual may reserve the right to remove his or her name from the wait list at anytime or apply for Title XX services with another provider.

(h) When an individual is placed on the wait list, the provider shall notify the individual in writing and include the following information:

- (1) A statement that Title XX services are not covered because funds, staff, or resources are unavailable;
- (2) A brief description of the provider's wait list process;
- (3) The estimated period of time that the provider expects the individual to remain on the wait list;
- (4) A statement that notifies the individual of the right to remove his or her name from the wait list and to apply for Title XX services with another provider;
- (5) A statement that directs the individual to the specified toll-free telephone number to NH ServiceLink for more information on other providers in the individual's catchment area that provide the Title XX service being requested;
- (6) The contact information for the provider; and
- (7) A statement requesting that the individual notify the agency if his or her service needs change or if the individual begins to receive the requested Title XX service from another provider.

(i) Immediately upon becoming aware of availability to provide a Title XX service, the provider shall call and send written notice to the individual requesting Title XX services based on the priority outline in (f) above.

(j) The individual shall respond to the provider within 10 days of the date on the written notice, indicating whether or not her or she still wishes to receive the Title XX services.

(k) If the individual does not respond within 10 business days, the provider shall no longer be obligated to guarantee Title XX services to that individual.

(l) The individual may reapply to receive Title XX services in accordance with He-E 501.05.

(m) If an individual is found ineligible due to a reported change in circumstances as described in He-E 501.08, the department or the provider shall remove the individual from the wait list and provide notice to the individual that includes the following information:

- (1) The individual has been removed from the wait list;
- (2) The individual has 30 calendar days from the date of the notice to request an administrative hearing as described in He-E 501.12 and in accordance with He-C 200 and RSA 541-A:29 unless the provisions conflict with the Title XX federal requirements ; and
- (3) The contact information for the department or provider staff member who completed the notice.

He-E 501.16 Service Authorization.

(a) Once an applicant has been determined eligible to receive Title XX services, one or more of the following services shall be authorized by the provider based on the needs identified in the individual's person-centered plan:

- (1) Adult day services;
- (2) Home-delivered meals; and
- (3) In-home care services.

(b) The provider shall complete Form 3502, "Contract Service Authorization-New Authorization" (November 2019) and submit to:

Department of Health and Human Services
Bureau of Data Management
129 Pleasant Street
Concord, NH 03301

(c) Payment shall not be made to the provider unless Form 3502, "Contract Service Authorization" (September 2014) is submitted to data management as indicated above.

He-E 501.17 Service Records.

(a) Providers shall maintain service records for all individuals receiving Title XX services.

(b) The service record shall contain:

- (1) The individual's name, address, and telephone number;
- (2) The name, address, and telephone number of the individual's primary caregiver;
- (3) The name and telephone number of a person who may be contacted in an emergency;
- (4) Documentation of the individual's communication access needs, including modality, and the name of the communication access provider or type of device utilized, if applicable;
- (5) The name and telephone number of the individual's licensed health practitioner, if applicable;
- (6) The name and contact information for the pharmacy used by the individual, if applicable;
- (7) The application described in He-E 501.06;
- (8) The notice of decision described in He-E 501.07;
- (9) The service authorization form required by He-E 501.16;
- (10) The person-centered plan as described in He-E 501.22;
- (11) Copies of correspondence related to service provision; and
- (12) Documentation of the following:

- a. The name of the Title XX service being provided, and the type of service activities, based on the service description contained in this rule;
- b. The dates of service provision and other related contacts with the individual;
- c. Changes in the individual's health or other circumstances affecting service provision;
- d. Any other information or correspondence deemed relevant to service provision; and
- e. Documentation of any referrals made to other resources or programs.

(c) Service records shall be kept confidential in accordance with He-E 501.03 and all applicable federal and state laws, rules, or regulations.

(d) Service records shall be retained for a period of 4 years after services have ended or been terminated.

He-E 501.18 Title XX Services Added During the Eligibility Period.

(a) Additional Title XX services may be authorized for an eligible individual at any time within the eligibility period.

(b) If, after the initial service authorization, the individual or his or her authorized representative requests another Title XX service or services in addition to the service(s) previously authorized, the department or provider shall:

(1) Confirm that the individual continues to meet the Title XX eligibility requirements as described in He-E 501.05;

(2) Document on the original application form that another Title XX service(s) is/are being added, and request that the individual initial this note within 30 calendar days in order to confirm that he or she is requesting the service; and

(3) Follow the procedures for service authorization that are described in He-E 501.16.

(c) Additional Title XX services added in accordance with this part shall have the same eligibility period end date as the first service the individual was found eligible to receive.

He-E 501.19 Relocation and Title XX Services.

(a) When an individual receiving Title XX services relocates to a new location outside the provider's catchment area, the provider shall refer the individual to another provider to make arrangements to receive Title XX services in the new location unless the provider and the individual agree to continue Title XX services after the individual has relocated to another catchment area.

(b) The provider shall transfer the individual's service record to the provider in the new location.

(c) Within 20 days of an individual's relocation to another catchment area, a provider shall provide notification to the department that it is no longer providing Title XX services to the individual.

(d) The provider providing Title XX services in the new location shall conduct a record review.
(e) An individual's eligibility period end date shall not change when an individual relocates to another provider.

He-E 501.20 Cessation of Title XX Services by a Provider.

- (a) When a provider decides to stop providing Title XX services, the provider shall provide written notification to the department according to the terms of the contract.
- (b) The provider shall notify individuals receiving Title XX services of the date upon which services will cease, and what kind of assistance the agency plans to provide during the transition.
- (c) The provider shall also comply with any other provisions contained in its contract with respect to the cessation of Title XX services.

He-E 501.21 Vendor Requirements.

- (a) Vendors wishing to provide the essential services described in He-E 501.24 shall:
 - (1) Comply with any licensing or certification requirements required by applicable federal, state, or local laws , rules or regulations, and provide copies of any current licenses and certificates to the department;
 - (2) Have a tax identification number;
 - (3) Obtain any permits, as applicable, prior to the service being rendered;
 - (4) Have proof of insurance; and
 - (5) Provide essential services in accordance with the authorization issued in accordance with (b) below.
- (b) Essential services shall be authorized by the department and take into consideration the following:
 - (1) The individual's needs for the specific essential service being requested; and
 - (2) The cost of the service being provided by the vendors, based on the vendor's written estimate.
- (c) Vendors offering to provide essential services shall provide a written estimate on the cost thereof, which shall be authorized by the department prior to services being provided.
- (d) Vendors providing emergency support shall:
 - (1) Be reimbursed for no more than the actual costs of the goods purchased and services rendered; and
 - (2) Include with the invoice a receipt(s) for the goods purchased.
- (e) Vendors providing essential services to an individual shall be reimbursed based on the dollar amount authorized by the department which shall not exceed the amounts stipulated in (1)-(3) below:
 - (1) \$500 per individual for chore service during the eligibility period;
 - (2) \$1000 per individual for emergency support provided during the eligibility period; or

(3) \$294 per individual for respite care provided during eligibility period.

(f) The vendor shall not bill the individual for any amount for essential services.

He-E 501.22 Person-Centered Plan.

(a) Providers providing adult day services, home delivered meals, and in-home care services shall develop with input from each individual or his or her authorized representative a person-centered plan to drive the provision of Title XX services.

(b) The person-centered plan shall be based on the individual's needs and developed with input from the individual or his or her authorized representative so that services are designed, scheduled, and delivered to best meet the needs and preferences of the individual, and so that the individual is supported as a full participant in the service planning and decision-making process.

(c) The person-centered plan shall include:

(1) Identification of the anticipated needs, goals, and outcomes of service provision from the perspective of the individual;

(2) Written acknowledgement that the person-centered plan was developed with input from the individual or his or her authorized representative;

(3) Written acknowledgement that, as appropriate, reflects the person-centered plan is responsive to the changing needs of the individual; and

(4) Information on the individual's health condition, medications, allergies, and special nutritional needs as appropriate to the service being provided to assess the individual's service needs and to coordinate service.

(d) The provider shall provide service to the individual based on the person-centered plan. In addition to the requirements in (c) above, providers of adult day services shall be required to comply with all care plan requirements described in He-P 818.

(e) The person-centered plan shall be updated annually and whenever there is a change in the individual's living arrangement or health status, or a change requested by the individual and agreed to by the involved parties.

(f) In addition to the requirements in (c) above, for individuals receiving home-delivered meals, the person-centered plan shall include:

(1) The number of meals to be delivered and when the meals are to be delivered;

(2) Documentation of any other special needs or factors that could impact service provision; and

(3) Consideration of the individual's nutritional needs, including to the extent possible, any special nutritional needs and preferences.

He-E 501.23 Adult day services.

(a) Adult day services shall include the following activities, based on the individual's needs:

- (1) Supervision in a protected environment;
 - (2) The following services, as described in He-P 818.15:
 - a. Personal care services;
 - b. Health and safety services;
 - c. Nutrition services;
 - d. Nursing services;
 - e. Social services; and
 - f. Recreational activities;
 - (3) Monitoring of the individual's condition and counseling, as appropriate, on nutrition, hygiene, or other related matters; and
 - (4) Referrals, as appropriate, to other services and resources that could assist the individual, including any necessary follow-up.
- (b) Providers of adult day services shall:
- (1) Be licensed and comply with all duties and responsibilities of licensees as required in He-P 818;
 - (2) Provide the required services described in He-P 818; and
 - (3) Maintain records as described in He-P 818.
- (c) In order for an individual to be eligible to receive adult day services, the individual's licensed practitioner shall:
- (1) Complete a physical examination on the individual within 60 calendar days prior to the request for services; and
 - (2) Refer the individual for adult day services, because the individual:
 - a. Has been diagnosed as having an illness or disability; and
 - b. Requires adult day program services.
- (d) Adult day services funded under Title XX shall not be available to anyone:
- (1) Who resides in a nursing facility or other licensed or certified facility;
 - (2) Who receives adult family care services pursuant to He-E 801.14;
 - (3) Whose needs cannot be met by adult day services; or
 - (4) Who is primarily seeking services to support needs related to a diagnosis of mental illness or developmental disability.

He-E 501.24 Essential services.

(a) Essential services shall include one or more of the following components, depending on the individual's needs as identified by the department in accordance with He-E 501.05:

(1) Chore services, including but not limited to, home maintenance or repairs, heavy cleaning, fumigation, snowplowing, and trash removal;

(2) Emergency support, including but not limited to, payment for food, shelter, clothing, medicine, home heat, or telephone installation; and

(3) Respite care, when the individual needs assistance in the absence of his or her primary caregiver, or when the individual needs interim care while in transition to another living arrangement, and to include one or more of the following based on the individual's needs:

a. Meal preparation;

b. Personal care; or

c. Light housekeeping.

(b) Respite care may be provided to the individual in the private home or in a licensed residential care or nursing facility.

(c) Vendors shall comply with the authorization described in He-E 501.16, which shall include the amount of funds authorized for chore, emergency support, or respite services based on the requirements contained in He-E 501.21.

(d) Individuals receiving essential services shall receive follow up from the department to:

(1) Confirm that services are being provided as authorized; and

(2) Provide assistance if there are any outstanding issues.

(e) Essential services funding shall not be authorized to supplement services being funded through another source.

He-E 501.25 Home-delivered meals.

(a) Home-delivered meals services shall include:

(1) The delivery of nutritionally balanced meals, based on the requirements contained in (c) and (d) below, to the individual's home; and

(2) The monitoring of the individual and the reporting of emergencies, crises, or potentially harmful situations to emergency personnel;

(3) The distribution of educational materials on nutrition and wellness, including, but not limited to, the following:

a. Printed materials available at no cost from federal, state, or local government sources or from other agencies; or

b. Information provided by the provider through another venue, such as a newsletter; and

(4) Referrals as necessary to other services or programs.

(b) Home-delivered meals shall be provided to individuals who:

(1) Meet the eligibility requirements contained in He-E 501.05;

(2) Can demonstrate that they cannot prepare meals without assistance; and

(3) Are homebound or temporarily homebound due to recovery from illness or injury.

(c) Providers providing home-delivered meals shall:

(1) Comply with state and local regulations on the safe and sanitary handling of food, equipment and supplies used in the storage, preparation, service and delivery of meals as described in He-P 2300; and

(2) Accommodate, to the extent possible, the special nutritional needs or preferences of the individual, including recommendations from the individuals' licensed practitioner.

(3) Confirm that the individual is physically present to receive the meal; and

(4) Not be reimbursed for meals that are delivered when the individual is not at home.

(d) Each meal shall:

(1) Include at least one-third of the dietary reference intakes based on age and gender, established by the U. S. Department of Agriculture for dietary reference intakes as specified in the United States Department of Agriculture's "Dietary Guidelines for Americans 2015-2020" (Eighth Edition), available as noted in Appendix A; and

(2) Meet the U.S. Department of Agriculture recommended Dietary Guidelines for Americans as specified in the United States Department of Agriculture's "Dietary Guidelines for Americans 2015-2020" (Eighth Edition),b incorporated in (1) above and available as noted in Appendix A.

(e) At least 3 times per year, the provider of home-delivered meals shall distribute to all individuals receiving home-delivered meals educational materials on nutrition and wellness, including, but not limited to, the following:

(1) Printed materials available at no cost from federal, state, or local government sources or from other agencies; or

(2) Information provided by the provider through another venue, such as a newsletter.

(f) As necessary, the provider shall refer individuals to other services or programs.

and

(g) Providers providing home-delivered meals shall keep a service provision record of all meals delivered that includes:

(1) The date of the meal;

- (2) The name of the person the meal was delivered to; and
- (3) Comments on any follow-up service provided or referrals to other services.

He-E 501.26 In-home Care Services.

(a) In-home care services, also known as adult in-home care, shall include the following core household maintenance tasks based on the individual's needs including:

- (1) Light housecleaning;
- (2) Laundry;
- (3) Maintaining a safe environment in areas of the home used by the individual;
- (4) Meal preparation for the individual only and not for other members of the household;
- (5) Rearranging light-weight furniture to assure the individual can safely ambulate to reach food, water, medication, and other essential items;
- (6) Shopping for groceries and performing other errands for the individual receiving services; and
- (7) Instructing the individual to perform core household maintenance tasks necessary to maintain the individual's well-being, safety, and independence.

(b) In-home care services shall also include the following:

- (1) Assistance with one or more of the following ADLs or instruction in self-care, based on the individual's needs:
 - a. dressing;
 - b. meal preparation, eating and drinking;
 - c. grooming;
 - d. assistance with medication as allowed by He-P 809 and He-P 822; and
 - e. toileting.
- (2) Providing and encouraging socialization; and
- (3) Evaluating the individual's progress and, when necessary, providing information about and referral to other resources.

(c) In-home care services shall be provided by employees of:

- (1) Home health care providers licensed in accordance with RSA 151:2 and He-P 809; and
- (2) Home care providers licensed in accordance with RSA 151:2 and He-P 822.

He-E 501.27 Waivers.

(a) A provider may request a waiver of a requirement(s) contained in He-E 501 by sending a letter to the department on the provider's letterhead, and shall submit the request to the attention of the department by:

- (1) Email to beas@dhhs.nh.gov; or
- (2) Fax to (603) 271-4643; or
- (3) Mail to:

The Department of Health & Human Services
Bureau of Elderly and Adult Services
105 Pleasant St., Main Building
Concord NH 03301.

(b) The waiver request shall be signed by the provider's executive director or designee, and shall include:

- (1) The specific requirement(s) in He-E 501 that the provider requests to have waived;
- (2) The reason why the waiver is being sought; and
- (3) The alternative proposed by the provider to satisfy the requirements of He-E 501.

(c) The department shall review the request, and within 30 calendar days of the date the request was received, determine whether or not to approve it.

(d) The waiver request shall be approved if the alternative proposed by the provider meets the objective or intent of He-E 501, and, in the opinion of the department, the waiver:

- (1) Shall not negatively impact the health or safety of the individual(s);
- (2) Shall not affect the quality of services provided to individuals by the provider; and
- (3) Shall not waive any provision or procedure prescribed by statute.

(e) The department shall inform the provider in writing of the decision on the waiver request.

(f) Waivers that are approved shall become effective as of the date of the written notice referred to in (e) above, and shall not expire except as follows:

- (1) Those waivers which relate to the health, safety, or welfare of individuals and require periodic reassessment shall be effective for one calendar year only subject to the participant's continued eligibility; and
- (2) Any waiver shall end with the closure of the related program or service.

(g) The provider may request a renewal of a waiver from the department, and such a request shall be made at least 90 calendar days prior to the expiration of a current waiver and following the steps described in He-E 501.28(a)-(e).

(h) The request to renew a waiver shall be granted based on the requirements stipulated in He-E 501.23(d).

Appendix A: Incorporation by Reference Information

Rule	Title	Publisher; How to Obtain; and Cost
He-E 501.25(d)(1)	United States Department of Agriculture’s “Dietary Guidelines for Americans 2015-2020” (Eighth Edition)	<p>Publisher: United States Department of Agriculture</p> <p>Cost: Free to the Public</p> <p>The incorporated document is available at: https://health.gov/dietaryguidelines/2015/resources/2015-2020_Dietary_Guidelines.pdf</p>

Appendix B

Rule Number	Implemented Statute/ Federal Regulation
He-E 501.01-501.27	RSA 161-F:4; 42 USC 1397