

PART He-M 510 FAMILY-CENTERED EARLY SUPPORTS AND SERVICES

Statutory Authority: RSA 171-A:18, IV; Part C of Public Law 105-17, Individuals with Disabilities Education Act of 1997, (20 U.S.C. 1400 et seq.)

REVISION NOTE:

Document #5745, effective 12-1-93, made extensive changes to the wording, format, structure, and numbering of rules in Part He-M 510. Document #5745 supersedes all prior filings for the sections in this part. The prior filings for former Part 510 include the following documents:

- #2117, eff 8-1-82
- #2663, eff 3-30-84
- #2780, eff 7-24-84 EXPIRED 7-24-90

He-M 510.01 Purpose. In its role as designated lead agency for the implementation of federally mandated Part C of Public Law 108-446 Individuals with Disabilities Education Improvement Act (IDEIA) of 2004, 20 U.S.C. 1400 et seq. the department establishes these minimum standards for family-centered early supports and services (ESS). These services are provided in natural environments as part of a comprehensive array of supports and services for families residing in New Hampshire with children, birth through age 2, who have developmental delays, exhibit atypical behavior, are at risk for substantial developmental delays, or have established conditions.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; ss by #9135, INTERIM, eff 4-22-08, EXPIRED: 10-19-08

New. #9594, eff 11-11-09

He-M 510.02 Definitions. The words and phrases used in these rules shall have the following meanings:

(a) “Area agency” means “area agency” 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 persons with a developmental disability in the area.

(b) “Assessment” means the procedures used by personnel, as identified in He-M 510.12, throughout the period of a child’s application and eligibility under this part to identify:

- (1) The child’s unique strengths and needs and the services appropriate to meet those needs;
- (2) The resources, priorities, and concerns of the family; and
- (3) The early supports and services necessary to enhance the family’s capacity to meet the developmental needs of their child with a disability.

(c) “Atypical behavior” means behavior reported by the family and documented by personnel listed in He-M 510.12 (b) (1) that includes one or more of the following:

- (1) Extreme fearfulness or other modes of distress that do not respond to comforting by caregivers;
- (2) Self-injurious or extremely aggressive behaviors;

(3) Extreme apathy;

(4) Unusual and persistent patterns of inconsolable crying, chronic sleep disturbances, regressions in functioning, absence of pleasurable interest in adults and peers, and inability to communicate emotional needs; or

(5) Persistent failure to initiate or respond to most social situations.

(d) “At risk for substantial developmental delay” means that a child, birth through age 2, experiences 5 or more of the following, as reported by the family and documented by personnel listed in He-M 510.12 (b) (1):

(1) Documented conditions, events, or circumstances affecting the child including:

- a. Birth weight less than 4 pounds;
- b. Respiratory distress syndrome;
- c. Gestational age less than 27 weeks or more than 44 weeks;
- d. Asphyxia;
- e. Infection;
- f. History of abuse or neglect;
- g. Prenatal drug exposure due to mother’s substance abuse or withdrawal;
- h. Prenatal alcohol exposure due to mother’s substance abuse or withdrawal;
- i. Nutritional problems that interfere with growth and development;
- j. Intracranial hemorrhage grade III or IV; or
- k. Homelessness; or

(2) Documented conditions, events, or circumstances affecting a parent, including:

- a. Developmental disability;
- b. Psychiatric disorder;
- c. Family history of lack of stable housing;
- d. Education less than 10th grade;
- e. Social isolation;
- f. Substance addiction;
- g. Age of either parent less than 18 years;
- h. Parent/child interactional disturbances; or
- i. Founded child abuse or neglect as determined by a district court pursuant to RSA 169-C:21.

(e) “Child” means an infant or toddler with a disability who is:

- (1) At risk for, or has a developmental delay;
- (2) Exhibiting atypical behavior; or
- (3) Has an established condition.

(f) "Child find" means the process, described in Ed 1105, He-M 510.09, and He-M 510.10, of identifying and referring a child to an LEA for the provision of special education services.

(g) "Commissioner" means the commissioner of the department of health and human services or his or her designee.

(h) "Consent" means that:

- (1) The parent has been fully informed, in the parent's native language or other mode of communication, of all information relevant to the activity for which approval is sought;
- (2) The parent understands and agrees, in writing, to the carrying out of the activity for which the parent's approval is sought;
- (3) The written approval describes the approved activity and lists the records, if any, that will be released and to whom; and
- (4) The parent understands that the granting of approval is voluntary on the part of the parent and can be revoked at any time.

(i) "Department" means the New Hampshire department of health and human services.

(j) "Developmental delay" means that a child, birth through age 2, has a 33% delay in one or more of the following areas as determined through completion of the multidisciplinary evaluation pursuant to He-M 510.06 (i):

- (1) Physical development, including vision, hearing, or both;
- (2) Cognitive development;
- (3) Communication development;
- (4) Social or emotional development; or
- (5) Adaptive development.

(k) "Early intervention specialist" means an individual certified by the bureau in accordance with the criteria in He-M 510.12 (k).

(l) "Early intervention services" means early supports and services as defined in (m) below.

(m) "Early supports and services" means a wide range of activities and assistance that develops and maximizes the family's and other caregivers' ability to care for the child and to meet his or her needs in a flexible manner and that includes:

- (1) Information;
- (2) Training;
- (3) Special instruction;

- (4) Evaluation;
- (5) Therapeutic interventions;
- (6) Financial assistance;
- (7) Materials and equipment;
- (8) Emotional support; and
- (9) Any of the services in He-M 510.03 (b)-(s).

(n) “Established condition” means that a child, birth through age 2, has a diagnosed physical or mental condition that has a high probability of resulting in a developmental delay, even if no delay exists at the time of referral, as documented by the family and personnel listed in He-M 510.12 (b) (1), including, at a minimum, conditions such as:

- (1) Chromosomal anomaly or genetic disorder;
- (2) An inborn metabolic fault;
- (3) A congenital malformation;
- (4) A severe infectious disease;
- (5) A neurological disorder;
- (6) A sensory impairment;
- (7) A severe attachment disorder;
- (8) Fetal alcohol spectrum disorder;
- (9) Lead poisoning; or
- (10) Developmental delay secondary to severe toxic exposure.

(o) “Family-centered early supports and services (ESS) program” means a program under contract with the department to provide early supports and services as defined in these rules.

(p) “Family support council” means the regional council established pursuant to RSA 126-G:4.

(q) “Foster parent” means a person with whom a child lives who is allowed to act as a parent under Part C of the IDEIA, if:

- (1) The natural parents’ authority to make the decisions required of parents under Part C of the IDEIA has been extinguished under state law;
- (2) The foster parent has an ongoing, long-term, parental relationship with the child;
- (3) The foster parent is willing to make the decisions required under He-M 510; and
- (4) The foster parent has no interest that would conflict with the interests of the child.

(r) “Frequency and intensity” means the number of days or sessions a service will be provided and whether the service will be provided on an individual or group basis.

(s) “Homeless children” means children under the age of 3 years who meet the definition given the term “homeless children and youths” in section 725 (42 U.S.C. 11434a) of the McKinney-Vento Homeless Assistance Act, as amended, 42 U.S.C. 11431 et seq.

(t) “Individualized family support plan (IFSP)” means a written plan developed in accordance with He-M 510.07 for providing supports and services to an eligible child and family.

(u) “Informed clinical opinion” means the conclusion of a professional identified pursuant to He-M 510.12 (b)(1) based on:

- (1) Parent observations of the child as reported to the professional;
- (2) Parent reports of the child's developmental history;
- (3) The professional’s multiple and direct observations of the child at home or in other community settings;
- (4) The professional’s review of pertinent records related to the child's current health status and medical history; and
- (5) Formal measures of the child's activities and interactions with others.

(v) “Length” means the period of time the service is provided during each session of that service.

(w) “Local education agency (LEA)” means the school district that is responsible for providing special education services to a child aged 3 to 21 with a disability pursuant to Ed 1100.

(x) “Medical home” means a model of delivering primary care that is accessible, continuous, comprehensive, family-centered, coordinated, compassionate, and culturally effective.

(y) “Method” means how a service is provided.

(z) “Multidisciplinary evaluation” means an evaluation of a child:

- (1) Performed to:
 - a. Determine a child’s eligibility or progress;
 - b. Define or redefine services and expected outcomes; or
 - c. Plan for future needs;
- (2) Conducted by professionals from 2 or more different disciplines as specified in He-M 510.12 (b)(1);
- (3) As described in He-M 510.06 (i);
- (4) Including the family and other persons of the family's choosing;
- (5) In the child’s or family’s native language; and
- (6) Selected and administered so as not to be racially or culturally discriminatory.

(aa) “Natural environment” means places and situations where the child’s age peers without disabilities live, play, and grow.

(ab) “Native language” means:

- (1) The language normally used by the parent of the child in the home or by the child in the learning environment; or
 - (2) For a child with deafness or blindness, or for a family with no written language, the mode of communication normally used by the child and family such as sign language, braille, or oral communication.
- (ac) "Natural supports" means people including but not limited to family, relatives, friends, neighbors, child care providers, and clergy, and social groups such as religious organizations, co-workers, and social clubs, available to provide assistance as part of everyday living as well as during critical events.
- (ad) "Parent" means:
- (1) A biological or adoptive parent of a child;
 - (2) A guardian authorized to act as the child's parent, or authorized to make early intervention, educational, health, or developmental decisions for the child, but not the state if the child is in the custody of the New Hampshire division of children, youth, and families.
 - (3) A foster parent as defined in (q) above;
 - (4) An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative with whom the child lives;
 - (5) A surrogate parent as defined in RSA 186-C:14, II(a) ; or
 - (6) Any other individual who is legally responsible for the child's welfare.
- (ae) "Personally identifiable information" means:
- (1) The name of the parent(s);
 - (2) The name of the child or other family members;
 - (3) The address of the child;
 - (4) A personal identifier such as the parent or child's social security number; or
 - (5) A list of personal characteristics, or other information that would make it possible to identify the child or family with reasonable certainty.
- (af) "Provider" means a person receiving any form of remuneration for the provision of services to an infant, toddler, or family applying for or receiving early supports and services under He-M 510.
- (ag) "Region" means a geographic area designated pursuant to He-M 505.04 for the purpose of providing services to individuals with developmental disabilities and their families.
- (ah) "Service coordinator" means a person who:
- (1) Is chosen or approved by the parent of the child;
 - (2) Is identified in He-M 510.12 (b);
 - (3) Together with the family has the responsibility of planning, accessing, coordinating, and monitoring, the delivery of services for an eligible child's and family; and

(4) Possesses experience relevant to carrying out applicable responsibilities for the child and family's needs under He-M 510.

(ai) "Setting" means the actual place(s) the services will be provided.

(aj) "Team" means the persons who participate in activities related to the provision of early supports and services, including:

- (1) Family members;
- (2) Early supports and services personnel representing different disciplines;
- (3) Representatives of other agencies providing supports to the eligible child and family; and
- (4) Any other persons chosen by the family.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; amd by #7822, eff 2-8-03; ss by #9135, INTERIM, eff 4-22-08, EXPIRED: 10-19-08

New. #9594, eff 11-11-09

He-M 510.03 Support and Service Categories.

(a) Early supports and services shall:

- (1) Be provided in collaboration with parents under public supervision by personnel qualified pursuant to He-M 510.12; and
- (2) Include those of the services listed in He-M 510.03 (b)-(s) that meet the developmental needs of the child and family and enhance the child's development.

(b) Assistive technology services shall directly assist a child with a disability in the selection, acquisition, or use of a commercially available, modified, or customized assistive technology device such as any item, piece of equipment, or product system that is designed to increase, maintain, or improve the functional capabilities of the child.

(c) Assistive technology shall include:

- (1) The evaluation of the needs of a child, including a functional evaluation of the child in the child's customary environment;
- (2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by the family;
- (3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- (4) Coordinating and using other therapies, supports, or services with assistive technology devices, such as those associated with existing IFSPs;
- (5) Training or technical assistance for a child or, if appropriate, that child's family; and

(6) Training or technical assistance for professionals, including persons providing early supports and services and other persons who provide services to, or are otherwise substantially involved in the major life functions of, children with disabilities.

(d) Audiology services shall include:

(1) Identification of children with auditory impairments, using at risk criteria and appropriate audiologic screening techniques;

(2) Determination of the range, nature, and degree of hearing loss and communication functions, by use of audiological evaluation procedures;

(3) Referral for medical and other services necessary for the habilitation or rehabilitation of children with auditory impairment;

(4) Provision of auditory training, aural rehabilitation, speech reading and listening device orientation and training, and other services;

(5) Provision of services for prevention of hearing loss; and

(6) Determination of the child's need for individual amplification, including selecting, fitting, and dispensing appropriate listening and vibrotactile devices, and evaluating the effectiveness of those devices.

(e) Family training, counseling, and home visits shall include assistance to the family in understanding the special needs and building on the interests of the child and enhancing the child's development.

(f) Health services shall include services necessary to enable a child to benefit from the other early supports and services under He-M 510 during the time that the child is eligible to receive other early supports and services, including:

(1) Such services as clean intermittent catheterization, tracheotomy care, tube feeding, the changing of dressings or colostomy collection bags, and other health services; and

(2) Consultation by physicians with other early supports and services providers concerning the special health care needs of infants and toddlers with disabilities that will need to be addressed in the course of providing other early supports and services.

(g) Health services shall not include:

(1) Services that are surgical in nature, such as cleft palate surgery, surgery for club foot, or the shunting of hydrocephalus;

(2) Services that are purely medical in nature, such as hospitalization for management of congenital heart ailments or the prescribing of medicine or drugs for any purpose;

(3) Services related to the implementation, maintenance, replacement, or optimization, such as mapping, of a medical device that is surgically implanted, including cochlear implants;

(4) Devices such as heart monitors, respirators and oxygen, and gastrointestinal feeding tubes and pumps necessary to control or treat a medical condition; or

(5) Medical-health services, such as immunizations and regular "well baby" care, that are routinely recommended for all children.

(h) Nothing in He-M 510 shall:

(1) Limit the right of a child with a disability who has a surgically implanted device, such as a cochlear implant, to receive the early intervention services that are identified in the child's IFSP as necessary to meet the child's developmental outcomes; or

(2) Prevent the provider from routinely checking that either the hearing aid or the external components of a surgically implanted device, such as a cochlear implant, of a child with a disability are functioning properly.

(i) Medical services shall be for diagnostic or evaluative purposes only. Such services shall be provided by a licensed physician, physician assistant, or advanced practice registered nurse to determine a child's developmental status and the specific array of early supports and services needed.

(j) Occupational therapy shall be services that:

(1) Address the functional needs of a child related to adaptive development, adaptive behavior and play, and sensory, motor, and postural development;

(2) Are designed to improve the child's functional ability to perform tasks in home, school, and community settings; and

(3) Include:

a. Identification, assessment, and provision of needed supports and services;

b. Adaptation of the environment and selection, design, and fabrication of assistive and orthotic devices to facilitate development and promote the acquisition of functional skills; and

c. Prevention or minimization of the impact of initial or future impairment, delay in development, or loss of functional ability.

(k) Physical therapy shall be services that:

(1) Address the promotion of sensorimotor function through enhancement of:

a. Musculoskeletal status;

b. Neurobehavioral organization;

c. Perceptual and motor development;

d. Cardiopulmonary status; and

e. Effective environmental adaptation; and

(2) Include:

a. Screening, evaluation, and assessment of children to identify movement dysfunction;

b. Obtaining, interpreting, and integrating information to prevent, alleviate, or compensate for movement dysfunction and related functional problems; and

c. Providing individual and group services to prevent, alleviate, or compensate for movement dysfunction and related functional problems.

(l) Preventative and diagnostic services shall be medical assessment and screening of the child's physical and mental status as specified in He-W 546.05 (a) and (b).

(m) Psychological services shall include:

- (1) Administering psychological and developmental tests and other assessment procedures;
- (2) Interpreting assessment results;
- (3) Obtaining, integrating, and interpreting information about child behavior and child and family conditions related to learning, mental health, and development; and
- (4) Providing counseling for children and parents, family counseling, consultation on child development, parent training, and education programs.

(n) Service coordination shall include assistance to a family to receive the procedural safeguards and supports and services that are available or needed by the family, including:

- (1) Coordinating the performance of evaluations and assessments;
- (2) Facilitating and participating in the development, review, and evaluation of IFSPs;
- (3) Assisting families in identifying available providers;
- (4) Coordinating and monitoring the delivery of available supports and services;
- (5) Informing families of the availability of advocacy supports and services;
- (6) Coordinating with medical and health providers;
- (7) Facilitating the development and implementation of a transition plan to enable the family to access the area agency, community supports, or the LEA, if appropriate; and
- (8) Facilitating referral to area agency family support services, if appropriate.

(o) Social work services shall include:

- (1) Home visits to evaluate a child's living conditions and patterns of parent-child interaction;
- (2) Preparing a social or emotional developmental assessment of the child within the family context;
- (3) Providing individual and family/group counseling with parents and other family members and appropriate social skill building activities with the child and parents;
- (4) Working with the family to resolve problems in the family's living situation, home, or community that affect the child's and family's maximum utilization of early supports and services; and
- (5) Identifying, mobilizing, and coordinating community resources and services to enable the child and family to receive maximum benefit from early supports and services.

(p) Special instruction shall include designing learning environments and activities that promote the child's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction.

(q) Speech-language pathology services shall include:

- (1) Identification of children with communicative or language disorders and delays in development of communication skills, including the diagnosis and appraisal of specific disorders and delays in those skills;
- (2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of children with communicative or language disorders and delays in development of communication skills;
- (3) Provision of services for the habilitation, rehabilitation, or prevention of communicative or language disorders and delays in development of communication skills; and
- (4) Provision of sign language, cued language, and auditory/oral language services that, as used with respect to children who are hearing impaired, include services to the child and the family to:
 - a. Teach sign language, cued language, and auditory/oral language;
 - b. Provide oral transliteration services; and
 - c. Provide sign language and cued language interpreting services.

(r) Transportation services shall include reimbursing the family for the cost of travel such as mileage, or travel by taxi, common carrier, or other means, and other related costs such as tolls and parking expenses, that are necessary to enable an eligible child and the child's family to receive early supports and services.

(s) Vision services shall include:

- (1) Evaluation and assessment of visual functioning, including the diagnosis and appraisal of specific visual disorders, delays, and abilities;
- (2) Referral for medical or other professional services necessary for the habilitation or rehabilitation of visual functioning disorders, or both; and
- (3) Communication skills training, orientation and mobility training for all environments, visual training, independent living skills training, and additional training necessary to activate visual motor abilities.

(t) Children and families who qualify for services under He-M 510 might have access to respite services under He-M 513 and He-M 519 as well as other services authorized by the department that meet the intent and purpose and are consistent with evidence-based nationally recognized treatment standards.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; amd by #7822, eff 2-8-03; ss by #9135, INTERIM, eff 4-22-08, EXPIRED: 10-19-08

New. #9594, eff 11-11-09

He-M 510.04 Provision of Supports and Services.

(a) Early supports and services shall be provided in a variety of natural environments where children and families of the community gather, such as:

- (1) The family's own home;
- (2) Neighborhood playgrounds;
- (3) Child care settings;
- (4) Foster placements;
- (5) Relatives' or friends' homes;
- (6) Libraries;
- (7) Recreational programs;
- (8) Places of worship;
- (9) Grocery stores;
- (10) Shopping malls; and
- (11) Other similar settings.

(b) Early supports and services shall incorporate the concerns, priorities, and resources of the family to:

- (1) Identify and promote the use of natural supports as a principal way of assisting in the development of the child, including supports from:
 - a. Relatives;
 - b. Friends;
 - c. Neighbors;
 - d. Co-workers; and
 - e. Cultural, ethnic, or religious organizations;
- (2) Foster the family's capacity to make decisions and provide care and learning opportunities for their child;
- (3) Respect the cultural and ethnic beliefs and traditions, and the personal values and lifestyle of the family;
- (4) Respond to the changing needs of the family and to critical transition points in the family's life; and
- (5) Mobilize community resources to support families and link them with other families with similar concerns and interests.

(c) Early supports and services shall include training, support, evaluation, special instruction, and therapeutic services that maximize the family's and other caregivers' ability to understand and care for the

child's developmental, functional, medical, and behavioral needs at home as well as in settings described in (a) above.

(d) Early supports and services to the child and family and other caregivers shall be founded on scientifically-based research to the extent practicable, and include assistance in the following areas as identified in the family's IFSP:

- (1) Understanding the child's special needs;
- (2) Support and counseling for families;
- (3) Management and coordination of health and medical issues in collaboration with the primary physician or medical home;
- (4) Enhancement of the cognitive, social interactive, and play competencies of the child at home and in community settings;
- (5) Enhancement of the ability of the child to develop age-appropriate fine and gross motor skills and overall sensory and physical awareness and development;
- (6) Enhancement of the ability of the child to develop functional communication methods and expressive and receptive language skills;
- (7) Guidance and management of a child with very active, inappropriate, or life-threatening behaviors;
- (8) Consultation regarding appropriate diet and the child's eating and oral motor skills to insure proper nutrition; and
- (9) Linkage with assistive technology services that might enhance the child's growth and development.

(e) Early supports and services shall promote local and statewide prevention efforts to reduce and, where possible, eliminate the causes of disabling conditions.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; ss by #9135, INTERIM, eff 4-22-08, EXPIRED: 10-19-08

New. #9594, eff 11-11-09

He-M 510.05 Parents' Right to Written Prior Notice.

(a) ESS programs shall give written notice to families before proposing, refusing to initiate, or changing the eligibility for, evaluation regarding, or provision of early supports and services.

(b) The written notice referenced in (a) above shall be provided, at a minimum, prior to:

- (1) Eligibility evaluations;
- (2) IFSP development;
- (3) IFSP reviews;

- (4) Changes in IFSP services;
 - (5) The transition planning conference; and
 - (6) Notification pursuant to He-M 510.09.
- (c) The written notice referenced in (a) above shall contain the following information:
- (1) The proposed date and time of the action;
 - (2) The action that is being proposed or refused;
 - (3) The reasons for taking the action;
 - (4) All procedural safeguards that are available under He-M 510 and He-M 203; and
 - (5) A summary of the ESS complaint resolution procedures set forth in He-M 203, including a description of how to file a complaint and the timelines under these procedures.
- (d) The proposed date and time of the action in (c) above shall be timely and convenient to the family.
- (e) The notice shall be written in language that is understandable to the general public and in the family's native language, unless it is clearly not feasible to do so.
- (f) If the native language or the other mode of communication of the parent is not a written language, the area agency or ESS provider shall take steps to ensure:
- (1) The notice is translated orally, or by other means to the parent in the parent's native language, or other mode of communication;
 - (2) If the parent is deaf or blind the mode of communication shall be that normally used by the parent;
 - (3) The parent understands the notice; and
 - (4) There is written evidence that the requirements of (1)-(3) above have been met.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; amd by #7822, eff 2-8-03; ss by #9135, INTERIM, eff 4-22-08, EXPIRED 10-19-08

New. #9594, eff 11-11-09

He-M 510.06 Referral and Eligibility Determination.

- (a) Any child who is a resident of New Hampshire shall be eligible for early supports and services.
- (b) Participation in early supports and services shall be voluntary.
- (c) The point of contact for referral to early supports and services shall be the area agency.
- (d) An area agency shall designate an intake coordinator to make initial contact with families who are referred for early supports and services.

(e) The intake coordinator shall:

- (1) Have at least 2 years' experience with infants and toddlers with disabilities and their families;
- (2) Demonstrate the capacity to develop rapport with families;
- (3) Have knowledge of resources available in the community; and
- (4) Act as an interim service coordinator for families applying for early supports and services until eligibility is determined and a service coordinator identified.

(f) The intake coordinator shall:

- (1) Document the date of the referral;
- (2) Provide information relative to early supports and services and other community services;
- (3) Inform the family of the process for the initiation of early supports and services, including the family's rights under He-M 510 and procedural safeguards under He-M 203;
- (4) If the family decides to seek a determination of eligibility for early supports and services:
 - a. Obtain parental consent for the initial evaluation and, if the child is eligible, IFSP development;
 - b. Request a release to obtain the child's medical records and a physician's referral for evaluation;
 - c. Request information about the child's insurance, including public and private insurance; and
 - d. Request consent to utilize private insurance pursuant to He-M 510.15 (b) and (c); and
- (5) If the family decides not to seek a determination of eligibility for early supports and services, make reasonable efforts to ensure the parent:
 - a. Is fully aware of the nature of the evaluation, and the assessment, and the services that would be available; and
 - b. Understands that the child will not be able to receive the evaluation, the assessment, or other services unless consent is given.

(g) If a family decides to seek a determination of eligibility for early supports and services, the area agency shall conduct a multidisciplinary evaluation and an assessment.

(h) The purpose of the multidisciplinary evaluation shall be:

- (1) To determine if the child is eligible for early supports and services according to (a) above and He-M 510.02 (e); and
- (2) To provide information that will form the basis of the IFSP if the child is eligible for early supports and services.

(i) The multidisciplinary evaluation shall:

- (1) Be based on informed clinical opinion;
 - (2) Be conducted by a team composed of the family, other persons requested by the family, and professionals from 2 or more different disciplines identified in He-M 510.12 (b)(1);
 - (3) Be conducted by professionals whose expertise most closely relates to the needs of the child and family;
 - (4) Be carried out in a setting that is convenient to the family;
 - (5) Include the completion of the Infant Toddler Development Assessment (IDA, 1995) or the Hawaii Early Learning Profile (HELP, 1992);
 - (6) Include the components of the assessment as defined in He-M 510.02 (b);
 - (7) Include an evaluation of the child's level of functioning in each of the following developmental areas:
 - a. Cognitive development;
 - b. Physical development, including vision and hearing;
 - c. Communication development;
 - d. Social or emotional development; and
 - e. Adaptive development; and
 - (8) As determined through the use of an assessment tool and a voluntary family-directed personal interview with the family, include identification of:
 - a. The family's resources, priorities, and concerns; and
 - b. The supports and services necessary to enhance the family's capacity to meet the developmental needs of the family's child with a disability.
- (j) A child's medical and other records may be used to establish eligibility without conducting a multidisciplinary evaluation if those records contain information regarding the child's level of functioning in the developmental areas identified in (i) (7) above.
- (k) Based on the results of the multidisciplinary evaluation pursuant to (i) above, the team shall, determine whether the applicant is a child as defined in He-M 510.02 (e) and is eligible for early supports and services pursuant to (a) above.
- (l) If the child is found eligible for early supports and services, the area agency shall, in writing, advise the family of its eligibility status within 3 business days and include the name and contact information for the service coordinator.
- (m) If the child is found not eligible for early supports and services, the area agency shall, in writing, advise the family within 3 business days from date of eligibility determination of the following:
- (1) The findings of the evaluation and recommendations;
 - (2) Other specific supports and services that meet the needs of the family, including parent-to-parent networks, and an explanation of how to access those supports and services;

- (3) The family's right to file a complaint pursuant to He-M 203; and
- (4) The names, addresses, and telephone numbers of advocacy organizations, such as the New Hampshire Disabilities Rights Center, that the family can contact for assistance in challenging the determination.

(n) In the event of exceptional family circumstances that make it impossible to complete the initial evaluation and to develop the IFSP within 45 calendar days of the referral, the ESS program shall:

- (1) Document the specific circumstances of the delay;
- (2) Complete the multidisciplinary evaluation as soon as family circumstances allow;
- (3) Proceed pursuant to (k)-(m) above; and
- (4) Develop and implement an interim IFSP, to the extent appropriate and consistent with He-M 510.07 (a) and (e).

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; amd by #7822, eff 2-8-03; amd by #8065, eff 3-25-04; ss by #9135, INTERIM, eff 4-22-08, EXPIRED 10-19-08

New. #9594, eff 11-11-09 (from He-M 510.05)

He-M 510.07 IFSP Development.

(a) With parental consent, early supports and services may begin prior to the completion of the multidisciplinary evaluation if an interim IFSP is in place that contains a description of the services needed immediately and the elements described in (e) below. Such an interim IFSP shall not preclude the requirement in (b) below of completing the multidisciplinary evaluation and developing a full IFSP within 45 calendar days from the initial date of the referral.

(b) For a child who has been evaluated for the first time and determined to be eligible, a meeting to complete the initial IFSP shall be conducted within 45 calendar days from the initial date of referral.

(c) The IFSP meeting shall be held at a time and place mutually agreed upon by the team and convenient for the family.

(d) The IFSP shall be based on the results of the multidisciplinary evaluation.

(e) The IFSP shall include:

- (1) Information about the child's status in the areas noted in He-M 510.06 (i)(7);
- (2) To the extent the family agrees, a statement of the family's concerns, priorities, and resources related to enhancing the family's capacity to meet the developmental needs of the child;
- (3) A detailed statement of the specific early supports and services that are necessary to meet the unique needs of the child and family and achieve the outcomes identified in the IFSP;

- (4) A statement of the measurable results or measurable outcomes expected to be achieved for the child and family, including pre-literacy and language skills as developmentally appropriate for the child;
 - (5) The criteria, procedures, and timelines used to determine the degree to which progress toward achieving the outcomes is being made and whether modifications or revisions of the results, outcomes, or services are necessary;
 - (6) The length, frequency and intensity, anticipated duration, and method of delivery for each support and service;
 - (7) A summary of the documented medical services such as hospitalization, surgery, medication, and other supports that the child needs or is receiving through other sources but that are neither required nor funded under He-M 510;
 - (8) For services described in (7) above that are not currently being provided, a description of the steps the service coordinator or family can take to assist the child and family in securing and funding those other services;
 - (9) Identification of the natural environments in which the early supports and services will be provided;
 - (10) A justification of the extent, if any, to which a support or service cannot be provided in a natural environment, including:
 - a. An explanation of why the supports or services cannot be provided satisfactorily for the child in a natural environment;
 - b. A plan of action that identifies how supports and services can be provided in a natural environment in the future; and
 - c. A time frame in which this plan will be implemented;
 - (11) The name(s) and credentials of the person(s) responsible for implementing the supports and services;
 - (12) The earliest possible projected start date for each support and service as agreed upon by the team, including the family;
 - (13) The name, telephone number, agency, and location of the service coordinator;
 - (14) The names of the members of the team, other than the service coordinator, participating in the development of the plan; and
 - (15) Steps to be taken to support the transition of the child in accordance with He-M 510.10.
- (f) Through discussion, all team members shall consider the advantages and disadvantages of the supports and services suggested during the development of the IFSP.
- (g) The provider agency shall explain the contents of the IFSP to the family prior to the family consenting to the document.
- (h) Parents may elect to provide consent with respect to some supports and services and withhold consent for others.

(i) Parents may withdraw consent for some services without jeopardizing other early supports and services.

(j) The IFSP shall be considered complete when the family has given consent by signing the IFSP.

(k) The following services shall be provided to each child at public expense:

(1) Implementing child find requirements in accordance with 34 CFR Part 303.165 and 303.321;

(2) Evaluation and assessment;

(3) Service coordination;

(4) Development, review, and evaluation of IFSPs;

(5) Implementation of procedural safeguards available under He-M 203 and Part C of Public Law 102-119, Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq; and

(6) Any other services provided pursuant to He-M 510.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; amd by #7822, eff 2-8-03; ss by #9135, INTERIM, eff 4-22-08, EXPIRED 10-19-08

New. #9594, eff 11-11-09

He-M 510.08 Implementation of the IFSP.

(a) Early supports and services shall be based on peer reviewed research and delivered as agreed upon in the IFSP.

(b) In addition to arranging direct supports and services for the child and parents or primary caregivers, the service coordinator shall link the child and family with community resources identified in the IFSP.

(c) Each IFSP shall be reviewed in a meeting at least once every 6 months, or more frequently if a provider proposes adding or discontinuing a support or service or if requested by the family. Such a review shall minimally include the family, the service coordinator, relevant providers, and any other persons requested by the family and be arranged at a mutually agreed upon time, location, and process that is convenient to the family.

(d) The team shall:

(1) Assess progress toward achieving outcomes;

(2) Determine if the early supports and services in the IFSP continue to be appropriate; and

(3) Determine whether revisions or additions are needed to the IFSP.

(e) At any time, the team, including the family, may request a multidisciplinary evaluation or an assessment to determine progress, redefine services and outcomes, or plan for future needs.

(f) Before implementation of any revision, deletion, or addition to the IFSP, the family shall give consent and sign the revised IFSP. If the family does not give consent, the IFSP shall remain unchanged.

(g) If the family has any concerns with the implementation of the IFSP, the family or the service coordinator may request a meeting. Such a meeting shall be held as soon as possible at a mutually determined time and location that is convenient to the family and include the family, the service coordinator, and others as requested who are involved in providing supports and services to the family and child.

(h) If the family's concerns are not being addressed to the family's satisfaction, the procedural safeguards for early supports and services identified in He-M 203 shall be available.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; ss by #9135, INTERIM, eff 4-22-08, EXPIRED 10-19-08

New. #9594, eff 11-11-09 (from He-M 510.07)

He-M 510.09 Child Find Notification.

(a) Child find notification shall be notification provided by an area agency to the special education administrator of the responsible LEA for each child receiving ESS services, as follows:

(1) Notification shall include:

- a. The child's name;
- b. The child's date of birth;
- c. The parents' names; and
- d. The parents' contact information; and

(2) Notification shall be provided:

- a. No later than the child's second birthday; or
- b. Immediately, if the child enters ESS services after his or her second birthday.

(b) Prior to issuing notification the ESS program shall inform parents, as required by He-M 510.05 of their right to opt out of the child find notification requirement cited in (a) above.

(c) A parent may object to the child find notification and disclosure of information in (a) above.

(d) If a parent objects to child find notification, the area agency shall:

- (1) Not provide notification to the LEA; and
- (2) Document the objection in the child's record.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; ss by #9135, INTERIM, eff 4-22-08, EXPIRED 10-19-08

He-M 510.10 Transition.

(a) The service coordinator shall discuss with the family, and include in the IFSP, the steps to be taken in the process of transition from the ESS program, including:

- (1) Steps to be taken to support the transition of the child; and
- (2) The parent's need for training, as appropriate, regarding future placements and other matters related to the child's transition.

(b) The service coordinator shall develop with the family, and include in the IFSP, a written transition plan for each child receiving early supports and services, according to the following schedule:

- (1) For a child receiving early supports and services in accordance with an IFSP, development and implementation of a written transition plan shall begin when the child attains 24 months of age;
- (2) For a child who is referred and determined to be eligible for early supports and services between 24 and 36 months of age, a written transition plan shall be included in the initial IFSP; and
- (3) For a child who is less than 24 months of age and has been found to be no longer eligible to receive early supports and services, a written transition plan shall be developed and implemented.

(c) A written transition plan shall:

- (1) Support the family in exploring future service options;
- (2) List activities to prepare the child for transition;
- (3) List parent training and information resources;
- (4) Include, with parental consent, referrals to the LEA, area agency, or other community resources;
- (5) Include, with parental consent, arrangements for facilitating a transition planning conference for children referred to the LEA; and
- (6) For the family of a child who might not be eligible for services from the LEA, include provisions for bringing together the family and team to discuss other services that might be helpful to the child and family.

(d) A transition planning conference shall be conducted for each child referred to the LEA and shall:

- (1) Include the family, other persons requested by the family, the service coordinator, and relevant providers;
- (2) Be conducted not less than 90 calendar days but not more than 9 months prior to the child's third birthday; and
- (3) Include an invitation to the LEA representative to attend.

(e) The purpose of the transition planning conference shall be to:

- (1) Identify any transition services needed by the toddler and his or her family;
- (2) Establish steps for the toddler and his or her family to exit from ESS services; and
- (3) Review the child's program options for the period from his or her third birthday through the remainder of the school year.

(f) When indicated by the child's developmental status, the ESS program shall, with the family's consent, transmit information about the child's current developmental status to the area agency no later than the child's 33rd month of age in order to facilitate the process for determining area agency eligibility under He-M 503.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; ss by #9135, INTERIM, eff 4-22-08, EXPIRED 10-19-08

New. #9594, eff 11-11-09

He-M 510.11 Administration.

(a) Each area agency shall develop an agreement with ESS programs and the family support council within the region to detail their mutual responsibilities in supporting families who are participating in early supports and services.

(b) The agreement in (a) above shall:

- (1) Describe the process of referral, eligibility determination, and initiation of supports and services in the area agency system;
- (2) Provide for streamlined mechanisms to enable families to easily access family support services from the area agency;
- (3) Provide for ongoing contacts between staff of the area agency and the ESS program to ensure open communication and effective collaboration; and
- (4) Provide for procedures to address issues of common concern in the region.

(c) The area agency shall develop a written agreement with the LEA that describes:

- (1) Practices that will enable ESS and LEA personnel to collaborate effectively;
- (2) When and how information will be shared, including a statement of confidentiality;
- (3) A process to facilitate involvement of families, ESS staff, and LEA staff in transition conference planning activities and meetings; and
- (4) Transition activities that will be in place such as home and program visits, observations, and evaluations.

(d) Each area agency, in cooperation with its family support council and ESS programs, shall document evidence of coordination with other local agencies that serve children with disabilities and their families, such as:

- (1) The New Hampshire division of public health;
- (2) Local education agencies;
- (3) Visiting nurse associations;
- (3) Local hospitals and medical clinics; and
- (4) Child care providers.

(e) Documentation pursuant to (d) above shall include agreements, minutes of meetings, or memoranda that demonstrate efforts to maximize the use of community resources and prevent duplication of services for families.

(f) Area agencies and ESS programs shall comply with applicable state and federal rules and regulations.

(g) ESS programs shall conduct quality assurance activities, including a combination of:

- (1) Constituent surveys;
- (2) Record reviews;
- (3) Performance data measurements; and
- (4) Monitoring visits to ESS programs.

(h) Each ESS program shall have a designated program director who shall be responsible for the overall administration of the supports and services and personnel training and supervision. The director may be involved in the provision of direct supports and services.

(i) ESS programs shall offer and provide a full array of early supports and services to families throughout the calendar year.

(j) ESS programs shall coordinate personnel schedules so that staff have opportunities to share information and strategies across disciplines on a regular basis.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; ss by #9135, INTERIM, eff4-22-08, EXPIRED 10-19-08

New. #9594, eff 11-11-09 (from He-M 510.08)

He-M 510.12 Personnel.

(a) All personnel shall have specific training and experience in child development and knowledge of family support.

(b) Personnel shall be drawn from the following categories:

(1) New Hampshire licensed, department of education certified, or bureau of developmental services certified professionals, including:

- a. Physician;
- b. Physician assistant;
- c. Advanced practice registered nurse;
- d. Registered nurse;
- e. Psychologist;
- f. Marriage and family therapist;
- g. Clinical social worker;
- h. Clinical mental health counselor;
- i. Pastoral psychotherapist;
- j. Physical therapist;
- k. Occupational therapist;
- l. Speech language pathologist;
- m. Audiologist;
- n. Dietitian;
- o. Early intervention specialist;
- p. Speech-language specialist;
- q. Early childhood special educator;
- r. Early childhood educator;
- s. Special education teacher in the area of intellectual and developmental disabilities;
- t. Special education teacher in the area of deaf and hearing disabilities;
- u. Special education teacher in the area of emotional and behavioral disabilities;
- v. Special education teacher in area of specific learning disabilities;
- w. Special education teacher in the area of physical and health disabilities;
- x. Special education teacher in the area of blind and vision disabilities; and
- y. Orientation and mobility specialist.

(2) New Hampshire licensed or certified professional assistants, including:

- a. Licensed physical therapy assistant;
- b. Licensed occupational therapy assistant; and

c. Certified speech and language assistant; and

(3) Unlicensed or uncertified personnel, including personnel who have education, training, or experience relevant to the provision of early supports and services.

(c) All personnel shall utilize support strategies, assessment procedures, and treatment techniques considered to be best practice in working with a child and family applying for or receiving early supports and services.

(d) All personnel shall ensure the effective provision of early supports and services, via a minimum of the following:

(1) Consulting with parents, other service providers, and representatives of appropriate community agencies;

(2) Participating in the child's multidisciplinary evaluation and the development of service outcomes for the IFSP; and

(3) Training parents and other persons chosen by the family regarding the provision of the services.

(e) Personnel identified in (b)(1) above shall:

(1) Conduct multidisciplinary evaluations;

(2) Conduct assessments;

(3) Develop or amend IFSPs;

(4) Supervise, when appropriate, licensed assistants and unlicensed personnel; and

(5) Provide service coordination.

(f) Personnel identified in (b)(2) above shall:

(1) Contribute to the multidisciplinary evaluation;

(2) Contribute to assessments;

(3) Develop or amend IFSPs;

(4) Be supervised, as required by their license or certification; and

(5) Provide service coordination.

(g) Personnel identified in (b)(3) above shall:

(1) Contribute to the multidisciplinary evaluation;

(2) Contribute to the assessment;

(3) Develop or amend IFSPs;

(4) Be supervised by a licensed or certified professional; and

(5) Provide service coordination.

(h) All ESS personnel, including program directors and consultants, shall meet New Hampshire requirements for certification, licensing, continuing competence, or other comparable requirements.

(i) An ESS program director shall:

- (1) Be a licensed or certified professional pursuant to (b)(1) above;
- (2) Have 3 years of professional experience providing early intervention services; and
- (3) Have one year of professional experience in a management or administrative role.

(j) A service coordinator shall:

- (1) Have completed the orientation program outlined in He-M 510.13 (b); and
- (2) Together with the family, be responsible for accessing, coordinating, and monitoring the delivery of services identified in the child's IFSP, including transition services and coordination with other agencies and persons.

(k) An individual who wishes to obtain certification as an early intervention specialist shall submit information to the bureau documenting:

(1) Possession of a minimum of a bachelor's degree in:

- a. Human services;
- b. Family studies;
- c. Psychology;
- d. Child development;
- e. Communication;
- f. Child life;
- g. Education; or
- h. Early intervention;

(2) Completion of the orientation program outlined in He-M 510.13 (b);

(3) A minimum of 2 years' experience in an ESS program for degrees listed in (1) a.- g. above;

(4) A minimum of 6 months' experience in an ESS program for the degree listed in (1) h. above; and

(5) Training and experience in the subject matter in (e) (1),(3), and (5) above.

(l) Upon completion of (k) above, the bureau shall certify the individual as an early intervention specialist.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; amd by #7822, eff 2-8-03; ss by #9135, INTERIM, eff 4-22-08, EXPIRED 10-19-08

New. #9594, eff 11-11-09 (from He-M 510.09)

He-M 510.13 Personnel Development.

(a) All new personnel, including personnel involved with intake activities, shall participate in an orientation program pursuant to (b) below within 6 months from the date of hire.

(b) The orientation program shall consist of 12 hours of training and include information about:

- (1) The philosophy and provision of early supports and services;
- (2) Provision of service coordination;
- (3) Eligibility evaluation and ongoing assessment;
- (4) Procedural safeguards;
- (5) State-of-the-art issues in ESS team evaluations, provision of supports, and service delivery;
- (6) Funding for early supports and services;
- (7) IFSP development and implementation; and
- (8) Transition from ESS to community services such as special education.

(c) Each provider shall have an annual personnel development plan written in consultation with, and approved by, the ESS program director. The purpose of the personnel development plan shall be to sustain and improve the skills and knowledge of each employee involved in the provision of direct services to families such that the requirement of He-M 510.12 (d) and (h) have been met. Successful achievement of professional development goals shall be included in the criteria for annual review of performance.

(d) Personnel development plans for ESS program directors shall be developed with, and monitored by, the director's supervisor.

Source. (See Revision Note at part heading for He-M 510) #5745, eff 12-1-93, EXPIRED: 12-1-99

New. #7234, eff 4-22-00; ss by #9135, INTERIM, eff 4-22-08, EXPIRED 10-19-08

New. #9594, eff 11-11-09

He-M 510.14 Recordkeeping.

(a) Each program shall maintain individual family records that contain, at a minimum, the following:

(1) A face sheet at the beginning of the record that shall include:

a. Identifying information including:

1. The family name(s), address(es), and phone number(s); and

2. The child's birth date;
 - b. The name of the service coordinator;
 - c. The name, address, and telephone number of the child's primary health care provider; and
 - d. Health insurance information;
- (2) Medical information that shall include:
 - a. A record of a physical examination conducted within the past year;
 - b. Documentation by qualified medical personnel of any established condition(s), as identified in He-M 510.02 (n), including diagnosis;
 - c. A record of immunizations;
 - d. A list of any required prescriptions; and
 - e. Other pertinent medical records;
 - (3) The current multidisciplinary evaluation of the child and family pursuant to He-M 510.06 (i);
 - (4) The current IFSP signed by the parent;
 - (5) Written documentation of each contact with the child and family by the provider, including:
 - a. A description of the service provided;
 - b. A description of the child's and family's response;
 - c. The date, location, and duration of the contact; and
 - d. The name and credentials of the provider;
 - (6) Reviews of progress once every 6 months or more frequently;
 - (7) Copies of any letters or notifications written to, or on behalf of, the family;
 - (8) Information obtained from other agencies or programs that the family believes is important in developing or providing early supports and services; and
 - (9) Releases of information providing consent obtained from the family for evaluation and for the exchange of information among agencies and providers.
- (b) Each ESS program shall have a standard release or exchange of information form which shall be valid for no longer than one year.
- (c) All release or exchange of information forms shall include:
- (1) The child's name and birth date;
 - (2) The information to be released or obtained;

- (3) The purpose of obtaining or releasing the information;
 - (4) The name of the person or organization being authorized to release the information;
 - (5) The name of the person or organization to whom the information is to be released; and
 - (6) The time period for which the authorization is given, if less than one year.
- (d) Each ESS program shall maintain a log of any disclosures of information that includes:
- (1) The information disclosed;
 - (2) The date of disclosure; and
 - (3) The name of the recipient of the information.
- (e) Each provider and ESS program shall maintain the confidentiality of a child's and family's records and protect the child's and family's personally identifiable information at the collection, storage, disclosure, and destruction stages in accordance with the Family Educational Rights and Privacy Act (FERPA).
- (f) Each ESS program shall designate a staff member responsible for insuring the confidentiality of any personally identifiable information.
- (g) Each ESS program shall have policies for the training of all personnel in the collection or use of personally identifiable information and compliance with IDIEA and the Family Educational Rights and Privacy Act (FERPA).
- (h) Parents shall have the following rights with regard to ESS records for their children:
- (1) The right to inspect and review ESS records at any time;
 - (2) The right to make reasonable requests for explanations and interpretations of the records and to receive a response to these requests within 3 business days;
 - (3) The right to receive, upon request, copies of records; and
 - (4) The right to have a representative of the parent inspect, review, and receive copies of the records.
- (i) ESS Programs shall give each family a list of the types and locations of records collected, maintained, or used by ESS personnel. All parents shall have the right to access such records unless a particular parent does not have this authority under state law.
- (j) Information shall be made available only:
- (1) To those persons or agencies for whom the parent or guardian has given written consent;
 - (2) To ESS personnel;
 - (3) To the department or other funding, licensing, or accrediting agencies as necessary for determining eligibility for funding or for assisting in accrediting, monitoring, or evaluating supports and services delivery; or
 - (4) As otherwise required by law.

(k) Each ESS program shall make copies of records available to parents free of charge for the first 25 pages and not more than 10 cents per page thereafter. The fee shall not effectively prevent the parents from exercising their right to inspect and review those records. A fee shall not be charged for searching for or retrieving information.

(l) Provider agencies shall advise families of their right to request that records be corrected or amended if they believe the information collected, maintained, or used is inaccurate or misleading or violates the privacy or other rights of the child or family.

(m) The ESS program shall take steps to accommodate any request pursuant to (l) above.

(n) If the ESS program refuses to amend the information as requested, the program director shall inform the parent of the refusal and advise the parent of the right to complain pursuant to He-M 203.

(o) If, as a result of complaint resolution pursuant to He-M 203, it is decided that the information contained in the records is inaccurate, misleading, or otherwise in violation of privacy or other rights of the child, the ESS program shall amend the information accordingly and so inform the parent(s) in writing.

(p) If, as a result of complaint resolution, it is decided that the information contained in the records is not inaccurate, misleading, or otherwise in violation of privacy or other rights of the child, the ESS program shall inform the parent(s) of the right to place in the records a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the ESS program.

(q) Any explanation placed in the records of the child shall be maintained by the ESS program as part of the records of the child as long as the record, or the contested portion of a record, is maintained by the program.

(r) If the record, or the contested portion of a record, is disclosed by the ESS program to any party, the explanation shall be disclosed to the party.

(s) The ESS program shall inform the parent(s) when personally identifiable information collected, maintained, or used is no longer needed to provide supports and services to the child.

(t) Personally identifiable information that is no longer needed by an ESS program shall be destroyed at the request of the parent(s).

(u) Notwithstanding (t) above, a permanent record of the following may be maintained without a time limitation:

- (1) The child's name, address, and phone number;
- (2) The services received; and
- (3) The dates and duration of the services.

(v) Records that parents have not requested to be destroyed shall be retained for at least 6 years following termination of service.

(w) All evaluations and assessments, notices of eligibility for services, IFSPs, notices of meetings, information regarding procedural safeguards, progress reports and consent forms shall be written in language understandable to the general public and provided to the family in their native language or primary mode of communication unless it is unfeasible to do so. If the family's native language or means of communication is not a written language, the ESS program shall take steps to ensure that the

information is translated orally or by the mode of communication the family typically uses so that the information is meaningful and useful.

[Source.](#) #9594, eff 11-11-09 (from He-M 510.11)

He-M 510.15 Utilization of Public and Private Insurance.

(a) For a child who is a NH medicaid recipient, the use of this benefit shall be required, except if:

(1) A child who is eligible for home and community based care (HCBC) waiver services under He-M 524 or medical assistance for home care of child with severe disabilities (HC-CSD) under He-W 508; and

(2) The cost of early supports and services would result in a risk for loss of service or eligibility based on aggregate health related expenditures.

(b) For a child who has private insurance:

(1) Access to this benefit shall be requested; and

(2) The use of private insurance shall require the consent of the parent.

(c) Prior to giving consent for the use of insurance, parents shall be informed of and understand that because of insurance billing the parent might incur financial cost, including the following:

(1) A decrease in available lifetime coverage or any other benefit; and

(2) An out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim.

(d) The inability of a family of an eligible child to pay for services or the refusal of such a family to allow access to private insurance shall not result in the denial of services provided under this rule.

[Source.](#) #9594, eff 11-11-09

He-M 510.16 Interagency Coordinating Council. An interagency coordinating council shall be established and operated pursuant to 34 CFR Part 303, Subpart G.

[Source.](#) #9594, eff 11-11-09

He-M 510.17 Central Directory. A central directory shall be maintained and operated pursuant to 34 CFR Part 303.301.

[Source.](#) #9594, eff 11-11-09

He-M 510.18 Waivers.

(a) An area agency, ESS program, parent, or provider may request a waiver of specific procedures outlined in He-M 510 using the form titled “NH bureau of developmental services waiver request.” 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 parent(s) 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 or federal regulation shall be waived.

(e) The request for a waiver shall be granted by the commissioner or his or her designee within 30 calendar days if the alternative proposed by the area agency, ESS program, parent, or provider meets the objective or intent of the rule and it:

(1) Does not negatively impact the health or safety of the child with a disability; and

(2) Does not affect the quality of services to the child with a disability.

(f) The determination on the request for a waiver shall be made within 30 calendar days of the receipt of the request.

(g) Upon receipt of approval of a waiver request, the area agency's, ESS program's, parent's, or provider'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.

(h) Waivers shall be granted in writing for a specific duration not to exceed 3 years except as in (i) below.

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

(j) An area agency, ESS program, parent, or provider may request a renewal of a waiver from the department. Such request shall be made at least 90 calendar days prior to the expiration of a current waiver.

[Source.](#) #9594, eff 11-11-09 (from He-M 510.13)