



OFFICE OF LEGISLATIVE SERVICES
ADMINISTRATIVE RULES
STATE HOUSE ANNEX
25 CAPITOL STREET, ROOM 234
CONCORD, NH 03301

Rulemaking Notice Form

Notice Number: 2026-134

Rule Number: He-W 895

1. **Agency:** Department of Health and Human Services
Former Division of Human Services

Agency Address: Department of Health and Human Services,
Administrative Rules Unit,
Brown Building, 2nd Floor,
129 Pleasant St. Concord, NH 03301

2. **RSA Authority:** RSA 167:3-c, I
3. **Federal Authority:**
4. **Action(s):** Readopt w/Amendment
5. **Short Title:** Undue Hardship
6. **(a) Summary of what the rule says and of any proposed amendments including whether the rule implements a state statute for the first time:**

He-W 895 establishes the criteria for the determination of undue hardship pursuant to 42 USC 1396p(b)(3), and the waiver of the state's claim for recovery of medical assistance granted against a deceased Medicaid recipient's estate where estate recovery would result in undue hardship.

The Department of Health and Human Services is proposing to readopt He-W 895 with the following amendments:

- Changing all pronouns to gender neutral pronouns;
- Spelling out first appearances of acronyms;
- Updating "physician's assistant" to "physician's associate";

- Correcting citations; and
- Other editorial changes for readability.

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

He-W 895 is scheduled to expire on August 26, 2026, but is subject to extension pursuant to RSA 541-A:14-a.

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

The administrator or executor of the estate, the surviving joint tenant, or remainderman of a Medicaid recipient's life estate.

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

Rule	Specific State or Federal Statute or Regulations the Rule Implements
He-W 895	RSA 167:3-c, I
He-W 895.01	RSA 167:13-14; RSA 167:16-a, II; 42 USC 1396p(b)(3)
He-W 895.02	RSA 167:13-14; RSA 167:16-a, II; 42 USC 1396p(b)(3)
He-W 895.03	RSA 167:13-14; RSA 167:16-a, II; 42 USC 1396p(b)(3)
He-W 895.04	RSA 167:13-14; RSA 167:16-a, II; 42 USC 1396p(b)(3)
He-W 895.05	RSA 167:13-14; RSA 167:16-a, II; 42 USC 1396p(b)(3)
He-W 895.06	RSA 167:13-14; RSA 167:16-a, II; 42 USC 1396p(b)(3)
He-W 895.07	RSA 167:13-14; RSA 554:19; 42 USC 1396p(b)(3)
He-W 895.08	RSA 167:13-14; 42 USC 1396p(b)(3)

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

Name: Nicole Valanzola	Title: Rules Coordinator
Address: Department of Health and Human Services Administrative Rules Unit Brown Building, 2nd Floor 129 Pleasant St. Concord, NH 03301	Phone Number: (603) 271-9640
	FAX Number: (603) 271-5590
	Email: nicole.valanzola@dhhs.nh.gov

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

Tuesday, August 11, 2026

☒ **Fax**
☒ **Email**
☐ **Other**

9. **Public hearing scheduled for:**

Date: Tuesday, August 4, 2026

Time: 11:00 AM

Place: Department of Health and Human Services

Brown Building, Auditorium
129 Pleasant St.
Concord, NH 03301

Electronic Access, if applicable: N/A

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

FIS #: 26:104, dated: Friday, June 12, 2026

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

There is no difference in cost between the proposed rules and the existing rules.

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

No federal mandate, no impact on state funds.

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

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

None.

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

None.

- C. To independently owned businesses:**

None.

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

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