STATE OF NEW HAMPSHIRE

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

Interim Rulemaking Notice Form and Cover Sheet

Proposed Interim Rule Number: 2026-17 INT

Rule Number: He-W 816.02

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. **Filing Date:** 2026-07-27

6. **Short Title:** Eligibility of Aliens

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. **Summary explaining the effect of the rule and, if the rules are being proposed to implement a state statute for the first time, identification of the statute and/or relevant session law being implemented pursuant to RSA 541-A:19, I(a):**

The Department of Health and Human Services (Department) is proposing to readopt with amendment He-W 816.02 to comply with 42 USC 1396b(v) as amended by Public Law. No. 119-21, 71109, which restricts the Department's federal match to U.S. citizens and U.S. nationals, lawful permanent residents, Cuban or Haitian entrants, Compacts of Free Association Migrants and lawfully residing pregnant women and children under age 19.

Proposed He-W 816.02 is being amended to reflect the changes made by Public Law No. 119-21, 71109, effective October 1, 2026 and clarify that the 5-year waiting period and exceptions to the 5-year waiting period established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) continue to apply.

The Department is seeking an interim rule pursuant to RSA 541-A:19, I(c) to conform with this federal requirement which must be met sooner than the time periods allows under regular rulemaking.

9. **Listing of people, enterprises, and government agencies affected by the rule:**

He-W 816.02 affects any applicants or current enrollees who are not U.S. citizens, U.S. nationals, lawful permanent residents, Cuban or Haitian entrants, Compacts of Free Association Migrants, or lawfully residing pregnant women and children under age 19.

10. **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 816.02	RSA 167:3-c, I; 42 USC 1396b(v)(4); 42 USC 1396b(v)(5); 8 USC 1613; 8 USC 1613(b)

11. **Agency form(s) as required by RSA 541-A:19, IV-a which this rule incorporates by reference or whose requirements are set forth in the rule pursuant to RSA 541-A:19-b.**
_ No

12. **Summary of the effect upon the state if the rule were not adopted:**

If the rule were not adopted, the Department would be in noncompliance with the Working Family Tax Cut Act (WFTC) which limits the federal match to:
- U.S. citizens;
- U.S. nationals;
- Certain lawful permanent residents (green card holders);
- Cuban and Haitian entrants;
- Citizens of Compact of Free Association (COFA) countries; and
- Pregnant women and children under 19 who are lawfully living in the U.S.

13. **Proposed date of review by the Joint Legislative Committee on Administrative Rules:**

2026-08-20

FIS #: 26:123**, dated:** 2026-07-17

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

When compared to the existing rule, the proposed interim rule will decrease state general fund expenditures by approximately $1.8 million annually.

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

The Department of Health and Human Services notes that Public Law 119-21, § 71109 restricts the federal Medicaid match for certain non-citizens, resulting in currently allowable non-citizen enrollees becoming ineligible for Medicaid. The change is estimated to decrease state general fund expenditures by $1,805,856 annually. This figure was determined by using a report of claims paid (fee-for-service claims and capitation payments) from March 2, 2025, through February 28, 2026, for the current enrollees whose claims will no longer be matchable as of October 1, 2026.

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

A. To State general or State special funds:

As noted in response to (2) above, the proposed rule is anticipated to reduce general fund expenditures by approximately $1.8 million annually. No impact on state special funds.

B. To State citizens and political subdivisions:

There will be no impact on state citizens. As noted in response to (2) above, there will be a cost to certain non-citizens in that they will no longer be eligible for Medicaid benefits. No impact on political subdivisions.

C. To independently owned businesses:

None.

<u>**PLEASE SIGN THE FOLLOWING:</u>

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

Date: 2026-07-27 **Name:** Lori A. Weaver **Title:** Commissioner

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

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Proposed Interim Rule Number:

Rule Number: He-W 816.02

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   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. **Filing Date:** 2026-07-24

6. **Short Title:** Eligibility of Aliens

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

Name: Nicole Valanzola	**Title:** Rules Coordinator
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8. **Summary explaining the effect of the rule and, if the rules are being proposed to implement a state statute for the first time, identification of the statute and/or relevant session law being implemented pursuant to RSA 541-A:19, I(a):**

The Department of Health and Human Services (Department) is proposing to readopt with amendment He-W 816.02 to comply with 42 USC 1396b(v) as amended by Public Law. No. 119-21, 71109, which restricts the Departments federal match to U.S. Citizens and U.S. Nationals, Lawful Permanent Residents, Cuban/Haitian Entrants, Compacts of Free Association Migrants and Lawfully Residing Pregnant Women and Children under age 19.
Proposed He-W 816.02 is being amended to reflect the changes made by Public Law No. 119-21, 71109, effective October 1, 2026 and clarify that the 5-year waiting period and exceptions to the 5-year waiting period established under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) continue to apply.
The Department is seeking an interim rule pursuant to RSA 541-A:19, I(c) to conform with this federal requirement which must be met sooner than the time periods allows.

9. **Listing of people, enterprises, and government agencies affected by the rule:**
Any applicants or current enrollees who are not U.S. Citizens, U.S. Nationals, Lawful Permanent Residents, Cuban/Haitian Entrants, Compacts of Free Association Migrants, or Lawfully Residing Pregnant Women and Children under age 19.

10. **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 816.02 RSA 167:3-c, I; 42 USC 1396b(v)(4), 42 USC 1396b(v)(5), 8 USC 1613; 8 USC 1613(b)

11. **Agency form(s) as required by RSA 541-A:19, IV-a which this rule incorporates by reference or whose requirements are set forth in the rule pursuant to RSA 541-A:19-b.**
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12. **Summary of the effect upon the state if the rule were not adopted:**
If the rule were not adopted, the Department would be in noncompliance with the Working Family Tax Cut Act (WFTC) which limits the federal match to:

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- Pregnant women and children under 19 who are lawfully living in the U.S.

13. **Proposed date of review by the Joint Legislative Committee on Administrative Rules:**
2026-09-17

FIS #: 26123, **dated:** 2026-07-17
1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

When compared to the existing rule, the proposed interim rule will decrease state general fund expenditures by approximately $1.8 million annually.

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

The Department of Health and Human Services notes that Public Law 119-21, § 71109 restricts the federal Medicaid match for certain non-citizens, resulting in currently allowable non-citizen enrollees becoming ineligible for Medicaid. The change is estimated to decrease state general fund expenditures by $1,805,856 annually. This figure was determined by using a report of claims paid (fee-for-service claims and capitation payments) from March 2, 2025, through February 28, 2026, for the current enrollees whose claims will no longer be matchable as of October 1, 2026.

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C. To independently owned businesses:

None.

**PLEASE SIGN THE FOLLOWING:

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

Date: **7/27/2026**

Signature: Lori Weaver

Name: **Lori A. Weaver**

Title: **Commissioner**

Date: **7/27/2026**

Signature: Christine Santaniello

Name: **Christine Santaniello**

Title: **Associate Commissioner**

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