



**Readopt with amendment He-W 606.69, which describes acceptable documentation to verify IRWEs for APTD applicants pursuant to RSA 167:6, VI. The Department is also proposing to adopt the text of this rule as new rule He-W 806.69 to describe the verification requirements for the medical assistance categories.**

- **Readopt with amendment He-W 606.69, which describes acceptable documentation to verify IRWEs for APTD applicants pursuant to RSA 167:6, VI. The Department is also proposing to adopt the text of this rule as new rule He-W 806.69 to describe the verification requirements for the medical assistance categories.**

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

**Adult cash and medical assistance applicants and recipients will be affected by the rule**

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

<u>Rule</u>	<u>RSA/Federal Citation</u>
He-W 606.37	RSA 167:3-c,I; 45 CFR 233.20(a)(3)(ix); Title II of the SSA [42 USC 401 et seq]; Title XVI of the SSA [42 USC 1381 et seq]
He-W 606.68	RSA 167:4,I(a)
He-W 606.69	RSA 167:6,VI; 20 CFR 416.905; 20 CFR 416.976; 20 CFR 416.1112(c)(6); 42 USC 1382c
He-W 806.37	RSA 167:3-c,I; 42 CFR 435.608; 42 CFR 435.914
He-W 806.68	RSA 167:4,I(a); 42 CFR 435.914
He-W 806.69	RSA 167:6,VI; 20 CFR 416.905; 20 CFR 416.976; 20 CFR 416.1112(c)(6); 42 CFR 435.914; 42 USC 1382c

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

Name: **Catherine Bernhard** Title: **Rules Coordinator**  
 Address: **Dept. of Health & Human Services** Phone #: **271-9374**  
**Administrative Rules Unit** Fax#: **271-5590**  
**129 Pleasant Street** E-mail: **catherine.bernhard@dhhs.state.nh.us**  
**Concord, NH 03301**

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

**The proposed rules may be viewed and downloaded at:**

<http://www.dhhs.nh.gov/oos/aru/comment.htm>

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **Wednesday, December 23, 2015**

Fax  E-mail  Other format (specify):

9. Public hearing scheduled for:

Date and Time: **Tuesday, December 15, 2015 2:00pm**

Place: [\*\*DHHS, Brown Bldg., Room 232, 129 Pleasant St., Concord, NH 03301\*\*](#)

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

FIS #

15:202

, dated

11/13/15

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

There is no difference in cost when comparing the proposed He-W 606.37, He-W 606.68 and He-W 606.69. He-W 806.37, He-W 806.68 and He-W 806.69 are new rules.

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

42 CFR 435.608 mandates that applicants and recipients take steps to obtain other benefits to which they are entitled; this mandate has no effect on state funds.

42 CFR 435.914 mandates that case records must include documentation to support eligibility decisions. This mandate has no effect on state funds.

45 CFR 233.20(a)(3)(ix) requires the state agency to establish and carry out policies with reference to applicants' and recipients' potential income sources. This mandate has no effect on state funds.

20 CFR 416.976(g) requires that Impaired Related Work Expenses be verified. This mandate has no effect on state funds.

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

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

None.

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

None.

**C. To Independently owned businesses:**

None.

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

**The proposed rules do not create a new program or responsibility. The proposed rules modify an existing program or responsibility, but do not mandate any fees, duties or expenditures on the political subdivisions of the state, and therefore do not violate Part I, Article 28-a of the N.H. Constitution.**

**Readopt with amendment He-W 606.37, effective 11-17-07 (Document #9030), to read as follows:**

He-W 606.37 Application for Disability Benefits. In accordance with He-W 652.07(b)(5), the applicant or recipient shall provide a letter from the Social Security Administration or provide a form designated by the Social Security Administration acknowledging the individual has applied for disability benefits under 42 USC 401-434 or 42 USC 1381-1383f.

**Readopt with amendment He-W 606.68, effective 11-17-07 (Document #9030), to read as follows:**

He-W 606.68 Adult OAA and ~~APTDANB~~ Employment Expense Disregard.

(a) Verification of employment expenses shall not be required for adult category OAA and ~~ANB~~ APTD financial assistance if the individual's claimed monthly employment expenses are \$18.00 or less.

(b) Acceptable verification of the amount of employment expenses for adult category OAA and ~~ANB-APTD~~ category financial assistance shall be:

- (1) For social security taxes, pay stubs, a letter or other written information from the employer which specifies the amount of social security taxes withheld from earnings;
- (2) For railroad retirement, pay stubs or a letter from the employer verifying the employment expense;
- (3) For federal withholding:
  - a. Pay stubs or a letter from the employer verifying the employment expense; or
  - b. For self-employed individuals, IRS tax forms or other documents which indicate the amount of federal withholding taxes being paid;
- (4) For transportation costs:
  - a. A statement signed by the client individual indicating whether reimbursement is received and the amount and source of the reimbursement;
  - b. If child care related transportation costs are claimed, a statement signed by the child care provider attesting to the fact that it is necessary for the individual to provide the child's transportation;
  - c. If the individual's own vehicle is used, a signed statement indicating the number of miles claimed and that such mileage is the shortest necessary to travel to and from work;
  - d. If the individual rides in another person's privately owned vehicle, the documentation in c. above, and a statement signed by the driver which indicates the amount and frequency of the charge for transportation; or
  - e. If the client individual uses public transportation, a statement signed by the provider of the transportation which indicates the amount normally charged to the public and whether the charge is for one-way or round-trip;

(5) For special clothing, paid receipts for purchased clothing which substantiate that the costs are recurring; and

(6) For child care costs:

a. If the client individual is being reimbursed for child care costs through the department of health and human services (DHHS) child care assistance program, the amount, if any, of the child care fee which the client individual must pay as shown on the DHHS invoice; or

b. If there is no DHHS child care assistance program involvement with child care costs, acceptable documentation shall be:

1. A statement signed by the client individual indicating whether reimbursement is received and the amount and source of the reimbursement;

2. A written statement signed by the child care provider indicating the amount and frequency of the child care cost; or

3. ~~District office~~DHHS verbal contact with the child care provider indicating the amount and frequency of the child care cost.

(c) If the individual fails or refuses to provide verification of a claimed expense, the amount of the unverified expense shall not be an allowable employment expense.

**Readopt with amendment He-W 606.69, effective 11-17-07 (Document #9030), to read as follows:**

He-W 606.69 Impairment Related Work Expenses.

(a) When claiming impairment related work expenses (IRWE's) during the substantial gainful activity eligibility process pursuant to RSA 167:6, VI, APTD clients-applicants shall furnish the ~~district office~~department of health and human services (DHHS) with documentation of the need for and the unreimbursed cost of one or more of the IRWE's described in 20 CFR 416.976.

(b) Acceptable documentation of the need for IRWE's shall be a signed statement from a physician, psychologist, vocational rehabilitation counselor or other medical health professional which:

(1) Indicates that the expense is related to the client's applicant's impairment and is necessary for employment; and

(2) Is dated within 30 days of the date that the documentation is provided to ~~the district office~~DHHS.

(c) Acceptable documentation of the unreimbursed cost of the expense shall be a paid receipt, canceled check or other documentation that demonstrates that the client applicant has paid for the item or service out of his or her own funds, and has not or will not be reimbursed for the expense.

(d) For an client applicant wishing to claim mileage expenses for his or her specially equipped vehicle, the client applicant shall provide documentation of:

(1) The ownership, make and model of the vehicle;

- (2) The specific modifications that were made to the vehicle; and
- (3) The number of miles traveled to and from work.

(e) Refusal or failure to provide verification of an IRWE shall result in the expense not being allowed as a deduction from earned income.

**Adopt He-W 806.37, to read as follows:**

He-W 806.37 Application for Disability Benefits. In accordance with He-W 652.07(b)(5), the applicant or recipient shall provide a letter from the Social Security Administration or provide a form designated by the Social Security Administration acknowledging the individual has applied for disability benefits under 42 USC 401-434 or 42 USC 1381-1383f.

**Adopt He-W 806.68, to read as follows:**

He-W 806.68 Adult OAA, APTD, and ANB Employment Expense Disregard.

(a) Verification of employment expenses shall not be required for use in the cost of care computation for OAA, APTD, or ANB applicants and recipients requesting nursing facility, choices for independence (CFI), home and community-based care for the developmentally disabled (HCBC-DD), home and community-based care for individuals with an acquired brain disorder (HCBC-ABD), and home and community-based care for in-home supports (HCBC-IHS) assistance, if the individual's claimed monthly employment expenses are \$18.00 or less.

(b) Acceptable verification of the amount of employment expenses for use in the cost of care computation for OAA, APTD or ANB applicants and recipients requesting nursing facility, CFI, HCBC-DD, HCBC-ABD, and HCBC-IHS assistance, shall be:

- (1) For social security taxes, pay stubs, a letter or other written information from the employer which specifies the amount of social security taxes withheld from earnings;
- (2) For railroad retirement, pay stubs or a letter from the employer verifying the employment expense;
- (3) For federal withholding:
  - a. Pay stubs or a letter from the employer verifying the employment expense; or
  - b. For self-employed individuals, IRS tax forms or other documents which indicate the amount of federal withholding taxes being paid;
- (4) For transportation costs:
  - a. A statement signed by the individual indicating whether reimbursement is received and the amount and source of the reimbursement;
  - b. If child care related transportation costs are claimed, a statement signed by the child care provider attesting to the fact that it is necessary for the individual to provide the child's transportation;

- c. If the individual's own vehicle is used, a signed statement indicating the number of miles claimed and that such mileage is the shortest necessary to travel to and from work;
- d. If the individual rides in another person's privately owned vehicle, the documentation in c. above, and a statement signed by the driver which indicates the amount and frequency of the charge for transportation; or
- e. If the individual uses public transportation, a statement signed by the provider of the transportation which indicates the amount normally charged to the public and whether the charge is for one-way or round-trip;

(5) For special clothing, paid receipts for purchased clothing which substantiate that the costs are recurring; and

(6) For child care costs:

a. If the individual is being reimbursed for child care costs through the department of health and human services (DHHS) child care assistance program, the amount, if any, of the child care fee which the client must pay as shown on the DHHS invoice; or

b. If there is no DHHS child care assistance program involvement with child care costs, acceptable documentation shall be:

1. A statement signed by the individual indicating whether reimbursement is received and the amount and source of the reimbursement;

2. A written statement signed by the child care provider indicating the amount and frequency of the child care cost; or

3. DHHS verbal contact with the child care provider indicating the amount and frequency of the child care cost.

(c) If the individual fails or refuses to provide verification of a claimed expense, the amount of the unverified expense shall not be an allowable employment expense.

**Adopt He-W 806.69, cited and to read as follows:**

He-W 806.69 Impairment Related Work Expenses.

(a) When claiming impairment related work expenses (IRWE's), APTD applicants and recipients shall furnish the department of health and human services (DHHS) with documentation of the need for and the unreimbursed cost of one or more of the IRWE's described in 20 CFR 416.976.

(b) Acceptable documentation of the need for IRWE's shall be a signed statement from a physician, psychologist, vocational rehabilitation counselor or other medical health professional which:

(1) Indicates that the expense is related to the applicant or recipient's impairment and is necessary for employment; and

(2) Is dated within 30 days of the date that the documentation is provided to DHHS.

(c) Acceptable documentation of the unreimbursed cost of the expense shall be a paid receipt, canceled check or other documentation that demonstrates that the applicant or recipient has paid for the item or service out of his or her own funds, and has not or will not be reimbursed for the expense.

(d) For an applicant or recipient wishing to claim mileage expenses for his or her specially equipped vehicle, the applicant or recipient shall provide documentation of:

- (1) The ownership, make and model of the vehicle;
- (2) The specific modifications that were made to the vehicle; and
- (3) The number of miles traveled to and from work.

(e) Refusal or failure to provide verification of an IRWE shall result in the expense not being allowed as a deduction from earned income.

(f) OAA recipients with an IRWE deduction at the time their case is transferred from APTD to OAA shall furnish documentation pursuant to (a) above.

#### **APPENDIX**

<b><u>Rule</u></b>	<b><u>RSA/Federal Citation</u></b>
He-W 606.37	RSA 167:3-c,I; 45 CFR 233.20(a)(3)(ix); Title II of the SSA [42 USC 401 et seq]; Title XVI of the SSA [42 USC 1381 et seq]
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He-W 606.69	RSA 167:6,VI; 20 CFR 416.905; 20 CFR 416.976; 20 CFR 416.1112(c)(6); 42 USC 1382c
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