

CHAPTER He-M 300 RIGHTS

PART He-M 310 RIGHTS OF PERSONS RECEIVING DEVELOPMENTAL SERVICES OR ACQUIRED BRAIN DISORDER SERVICES IN THE COMMUNITY

Statutory Authority: RSA 171-A:3; 171-A:14, V; 126-A:16, III; 137-K:3, IV

Readopt with amendment He-M 310.09, effective 6-24-23 (Document #13676), to read as follows:

He-M 310.09 Rights of Individuals in Community Residences.

(a) In addition to the foregoing rights, individuals living in community residences shall also have the following rights:

- (1) The right to a safe, sanitary, and humane living environment;
- (2) The right to settings that are physically accessible to the individual;
- (3) The right to freely and privately communicate with others, including:
 - a. The right to send and receive unopened and uncensored written and electronic correspondence;
 - b. The right to have access to telephones and to be allowed to make and to receive reasonable numbers of telephone calls;
 - c. The right to receive and to refuse to receive visitors; and
 - d. The right to engage in social, recreational, and religious activities including the provision of regular opportunities for individuals to engage in such activities;
- (4) The right to privacy in the individual's sleeping or living unit, including the following:
 - a. The right to courtesies such as knocking on closed doors before entering and ensuring privacy for telephone calls, electronic communications, and visits;
 - b. The right to entrance doors lockable by the individual with only appropriate staff having keys to doors;
 - c. The right to receive visitors of one's choosing at any time;
 - d. The right to opportunities for personal interaction in a private setting;
 - e. The right to receive personal care in private; and
 - f. The right to be free from searches of their persons and possessions except in accordance with applicable constitutional and legal standards;
- (5) The right to individual choice, including the following:
 - a. The right to keep and wear their own clothes;
 - b. The right to reasonable space for personal possessions;
 - c. The right to keep and to read materials of their own choosing;

- d. The right to keep and spend their own money;
- e. The right to be compensated for any work performed and the right not to work, except that:

- 1. Individuals may be required to perform personal housekeeping tasks within the individual's own immediate living area and equitably shared housekeeping tasks within the common areas of the community residence, without compensation; and
- 2. Individuals may perform vocational learning tasks or work required for the operation or maintenance of a community residence, if the work is consistent with their service agreements and the individual is compensated for work performed according to laws, rules, and regulations set by the state and federal governments;

- f. The right to choose one's roommate when bedrooms are shared;
- g. The right to furnish and decorate one's sleeping or living unit within the limits of the lease or other agreement; and
- h. The freedom and support to control one's own activities and schedules, and to access food at any time;

(6) The right to a residency agreement in accordance with He-M 310.10; and

(7) The right to be reimbursed for the loss of any money held in safekeeping by the community residence.

(b) In community residences serving persons involuntarily admitted in accordance with RSA 171-B, restrictions on a person's communication, privacy, and personal choice may be imposed if necessary for the person's treatment if consistent with the individual treatment plan.

(c) Nothing in He-M 310.09 shall require a community residence to have policies governing the behavior of the residents.

(d) Individuals and guardians or representatives shall have the right to be informed in writing of any house policies prior to admission to the community residence.

(e) Residents shall have the right to participate in the development and modification of any house policies. Residents shall formally review the house policies at least annually.

(f) House policies shall be in conformity with He-M 310.

(g) House policies shall be periodically reviewed for compliance with He-M 310 in connection with provider and department site visits.

(h) Any modification to (a)(4), (5), or (6) above shall be supported by a specific assessed need and documentation described in (i) below, and be reviewed and approved by the human rights committee of the individual's provider agency.

(i) A provider agency shall only make modifications pursuant to (h) above by documenting in the service agreement, developed pursuant to He-M 503.10 or He-M 522.11, the following:

- (1) The specific and individualized assessed need and a description of the condition that is directly proportionate to the need;
- (2) Positive interventions and supports used prior to any modification to the service agreement;

- (3) Less intrusive methods of meeting the need that have been tried unsuccessfully;
- (4) A method for the regular collection and review of data to measure the ongoing effectiveness of the modification, and established timelines for periodic reviews to determine whether the modification is still necessary or can be terminated;
- (5) Informed consent of the individual, guardian, or representative; and
- (6) An assurance that the interventions and supports will not cause harm to the individual.

APPENDIX B

RULE	SPECIFIC STATE OR FEDERAL STATUTE OR REGULATIONS THE RULE IMPLEMENTS
He-M 310.09	RSA 171-A:14, II, III, and IV; RSA 171-A:29; RSA 137-K:3, IV; 42 CFR 441.301(c)(4)(vi)(F)