



# Housing for Adults with ID/DD in New Hampshire

25-Mar-2024

## **Disclaimer**

The content of this document is for informative purposes only and is not to be relied upon as a professional or legal opinion whatsoever. Much of the language used in this document is pulled as is from the original source material – as such, the language may not follow current practices.

## **Purpose**

This document is intended to help people gain an understanding of the housing choices available to adults with intellectual disabilities or developmental disabilities (ID/DD). In describing the choices, it uses terminology from both Federal and New Hampshire regulations, but will also relate those terms to more common/colloquial terminology where applicable.

Although the content centers on housing, this document also recognizes that housing is only one component of many when considering the full context of an individual's life. All of these components must fit together to meet the purpose and policy of NH [RSA 171-A](#): enable the individual to have participation in the community, share ordinary places, develop meaningful relationships, and learn things that are useful. The components must also enhance the individual's social and economic status and maximize the individual's potential for self-sufficiency and independence.

Out of scope for this document includes identifying problems and proposing solutions.

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## Summary of Funding and Housing Choices

The following is a summary of the public sources of funding and housing choices available to adults with intellectual disabilities or developmental disabilities (ID/DD). These are covered in detail in the remainder of this document.

### *Public Sources of Funding*

- *Home and Community Based Services Waivers (HCBS)* - Offered through Medicaid to fund the services and supports an individual requires to live a full and meaningful life. For the purposes of this document, it is assumed that the individual qualifies for and receives services through the Developmental Disabilities HCBS Waiver (DD Waiver). Note that the DD Waiver cannot be used to pay for housing directly. Depending upon the individual's service agreement, the DD Waiver may be used to compensate the home care providers with whom an individual may live.
- *Medicaid for Employed Adults with Disabilities (MEAD and MOAD)* - Allows employed adults with disabilities to remain financially eligible for Medicaid programs such as the HCBS Waivers.
- *Supplemental Security Income (SSI)* - Payments offered through the Social Security Administration for people with little or no income. Among other things, SSI can be used for room and board, living expenses, etc.
- *Social Security Disability Insurance (SSDI)* - Payments offered to people who have a disability that stops or limits their ability to work. SSDI is generally available only to people who have a work history that was interrupted by a disability, but children of people receiving SSDI may be able to receive a portion of the benefit.
- *Housing Choice Voucher Program (Section 8)* - Provides rental assistance to people with little or no income. The residential units are owned by private landlords.
- *Public Housing* - Similar to the Housing Choice Voucher Program, but the residential units are government owned and operated.

### *Housing Choices*

- *Live Independently With Support* - The individual may live by themselves or with a roommate.
- *Live With a Family Member* - The individual lives with one or more family members.
- *Enhanced Family Care* - The individual lives with a care provider who is not a family member. The care provider can be viewed as a roommate, "foster parent", companion, staff, etc.
- *Supportive Living* - The individual lives in a residential complex that has support staff who live in separate units. There's often a common area for individuals to gather for socialization, food preparation, etc.
- *Community Living Facilities* - The individual lives in a structured residential setting that may have on-premises staff available anywhere from 20 hours per week to 24/7. These settings can further be broken into two classes: one with up to 3 individuals receiving services and one with 4 or more individuals receiving services.

# Housing Considerations<sup>1</sup>

Regardless of their needs, any individual with a disability should be able to live as independently as possible and with maximum inclusion in the community. With this in mind, this section provides items one might consider when making a choice where to live. Note: not all individuals will need all of these, and some might conflict with others. These are just things to consider.

## ***Sustainability, Resiliency, and Compatibility***

- Service delivery needs to be stable and sustainable. What is the long-term viability of the housing choice you make? For example, are you at risk of the housing provider not being able to sustain costs? What's your backup plan if this happens?
- Service delivery must be resilient. What are the backup plans if a care provider unexpectedly becomes unavailable? These plans need to focus on the immediate term (minutes/hours), mid term (days/weeks), and long term.
- If you are working with a tax-exempt organization, review its IRS 990 Report<sup>2</sup>. The 990 report details the funding sources of the organization – it will tell you, for example, if they are dependent on a single funding stream or if they have diverse sources of income. The 990 also details the compensation to senior management, who the members of the board are, and if there are any related business.
- Look at any training given to the staff, volunteers, and board members. Are they being trained and does the training align with your goals and interests?
- Meet with the management and staff - they will be your partners. Does their charter align with your goals and interests? Can they be flexible?
- Talk with other families. You're not the first to go through this and there is great value learning from others with more experience.

## ***Support Needs***

- Loneliness/Isolation. Will the environment result in a sense of community or will the individual feel isolated? Note that different individuals thrive in different environments: some may easily fit into a group situation whereas others might thrive better in a smaller environment such as Enhanced Family Care.
- The individual's service agreement is unique to the individual and will identify the support the individual requires. Consider where, when, and how these supports will be provided.
- All solutions require paperwork. Consider who has to do the paperwork, how often it needs to be done, and what the renewal/review process involves.

## ***Structural Needs***

- ADA compliant
- Wheelchair accessible

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<sup>1</sup> Much of the content in this section originated with [HOW TO GET ON](#), a "self-advocacy guide for anyone who is homebound or bed bound in the US".

<sup>2</sup> See <https://www.irs.gov/pub/irs-pdf/p4839.pdf>

- Ability to install lift systems that are barrier-free (typically in ceilings)
- Accessible bathroom set up with grab bars, etc
- A unit with no carpet - for a person with severe allergies, mobility equipment that can be used more easily on hard floors, etc.
- Washer and dryer in unit - for a person unable to transport clothes to laundromat or a person with multiple chemical sensitivities unable to use shared washer dryer
- Central air conditioning - for a person whose disability symptoms are substantially worsened by exposure to heat
- Steam radiators or baseboard heat - for a person with severe allergies to dust or mold in ductwork
- Bathroom within x feet of bedroom
- Windows that open, windows of a certain size
- Fire and security alarm system or other safety features

### ***Additional Rooms***

- Private Bedroom - for a person who needs their own bedroom because of their disability
- Medical Equipment - for the storage and use of medical equipment and supplies
- Home Therapies - for in-home physical therapy, occupational therapy, or other therapies
- Additional Bathroom - for a person whose disabilities require them to have immediate access to the toilet at all times
- Live-in Aid – as with the individual, a live-in aid needs privacy and personal space

### ***External Features***

- Designated parking spot, accessible parking spot
- Accessible porch - for homebound person to access fresh air and sunlight
- External entrance - apartments must be accessible without going through common areas such as a lobby, hallways and elevator. For persons highly susceptible to infections, or persons with severe multiple chemical sensitivities ([MCS](#)).

### ***Location in Building***

- Ground floor unit or no stairs
- Specific unit that will be more quiet
- Unit with exterior door, no hallway
- Unit with interior door, hallway
- Unit that fosters integration/inclusion with neighbors
- Unit that is more private with fewer interactions with neighbors
- Unit that is closer or further from mailboxes, laundry, or common areas
- Unit with a different type or size of windows

### ***Location in Community***

- Access to public transportation, especially in rural communities
- Access to friends, peers, and the community

- Housing within x blocks of caregiver or family, so caregiver can assist with needed activities of daily living
- Housing within x distance of doctor/counselor/treatment/care team, to be able to access necessary care and treatment
- Walking distance to shops - if someone is unable to regularly use public transportation
- Walking distance to public transportation - if unable to drive due to disabilities
- Number of feet or blocks from bus stop - if disability prevents walking distances
- Number of minutes from hospital emergency room - for someone with critical condition that may need immediate response
- Within service area for current disability services - i.e. meals on wheels, para-transit, home oxygen delivery, grocery delivery, home-based visits from physical therapists or other practitioners

## Public Sources of Funding

The funding models described in this section are not all mutually exclusive: an individual may qualify and receive benefits from several at the same time depending upon their circumstances. Note also that some of these models may not fund housing directly, but can help the individual maximize their independence.

### *Home and Community Based Services Waivers (HCBS Waivers)*

The Medicaid Home and Community-Based Services (HCBS) waiver program authorized in [§1915\(c\) of the Social Security Act](#) helps fund the services and supports that an eligible<sup>3</sup> individual requires to live a full and meaningful life.

Note that the [HCBS Waivers](#) cannot be used for housing: they are used to fund services and supports that an individual needs. That is, in addition to the support that families and communities provide, HCBS services complement and/or supplement the services that are available to participants through the Medicaid state plan and other federal, state, and local public programs.

The HCBS Waivers available to adults with disabilities in New Hampshire are as follows:

- The Developmental Disabilities Waiver ([DD Waiver](#)) for adult individuals with autism, intellectual disabilities, or developmental disabilities
- The Acquired Brain Disorder Waiver ([ABD Waiver](#)) for individuals with acquired brain disorders
- The Choices for Independence Waiver ([CFI Waiver](#)) for individuals who are Medicaid eligible and meet nursing facility level of care

For adults with ID/DD, the DD Waiver is the primary source of funding for services and supports. The DD Waiver is administered by the New Hampshire Department of Health and Human Services ([DHHS](#)) and Bureau of Developmental Services ([BDS](#)) in collaboration with the [Area Agencies](#) that serve as local points of contact for applicants and participants.

The services an individual receives through the DD Waiver are based on the individual service agreement (ISA) created with their service coordinator after assessing the individual's needs. Input to the ISA includes the Supports Intensity Scale Adult Version ([SIS-A](#)), which covers activities of daily living, personal advocacy, and exceptional medical and behavioral support needs.

The delivery of the services under the DD Waiver generally follows two models: “traditional” and PDMS.

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<sup>3</sup> See [NH Medicaid \(Medical Assistance\) Eligibility for Adults](#).

## “Traditional”

With the “traditional” model<sup>4</sup> of the DD Waiver, services are managed through a vendor such as [The PLUS Company](#), [The Nashua Center](#), or [Aspire Living & Learning](#)<sup>5</sup>. The services that the individual receives depends upon the individual’s needs defined in their individual service agreement (ISA), and can range from highly-individualized to group-oriented.

With the traditional model, a vendor meets with the individual, their family (or guardian), and their service coordinator to develop the individual’s service agreement (ISA). Once the agreement is in place, the vendor manages all the paperwork and permits family members to be as “hands on” or “hands off” as they feel comfortable/capable of doing.

Furthermore, vendors typically provide a “safety net” with an intent to handle any disruptions that may occur. For example, the vendor may ensure continuity of care if a care provider becomes unavailable.

Under the traditional model, the individual may also qualify for residential housing with the DD Waiver. While the DD Waiver cannot be used to pay for housing, it can provide compensation to care providers who welcome an individual into their home. An example is Enhanced Family Care, described later in this document.

## PDMS

With participant directed and managed services (PDMS<sup>6</sup> - formerly called Consumer Directed Services, or CDS), the individual and their families are much more “hands on”. The families are responsible for finding/hiring a direct support professional (DSP) according to the individual service agreement and must do the monthly paperwork. With PDMS, the services tend to be highly individualized and tailored to the individual’s needs and growth.

PDMS can be implemented using a DSP from a vendor of the individual or family’s choosing, but can also be done through a Family Managed Employee (FME). With the FME model, the family hires and manages the DSP, but the DSP is paid through the area agency.

Unlike the “traditional” model, PDMS relies upon the family to establish the “safety net” to handle disruptions. Typically, the PDMS model is done with the individual living with a family member. As such, the “safety net” is the family.

## Note on Service Coordinators, Service Providers, and Vendors

Obtaining services through an HCBS Waiver requires both a service coordinator and a service provider.

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<sup>4</sup> The traditional model is done in accordance with [He-M 503](#), [He-M 507](#), [He-M 521](#), and [He-M 1001](#).

<sup>5</sup> These are just examples of different vendors. An individual’s area agency should have a list of vendors.

<sup>6</sup> The PDMS model is done in accordance with [He-M 525](#) (see also the [DHHS PDMS FAQ](#)).



## Service Coordinators

Service coordinators organize, facilitate, negotiate, and monitor the provision of the individual's service agreement (ISA). Service coordinators typically work at area agencies, but may also work for themselves or a separate organization.

## Service Providers

Once an individual and their family develops an ISA with the service coordinator, service providers then deliver one or more of the services identified in the ISA.

Service providers are often employed by vendors such as [The PLUS Company](#), [The Nashua Center](#), or [Aspire Living & Learning](#). As seen previously, however, PDMS service providers may be managed directly by the family, as is the case of a Family Managed Employee (FME).

It is important to note that the Centers for Medicare & Medicaid Services ([CMS](#)), which is the federal organization that sets the rules and regulations for the HCBS Waivers, prevents the same organization from coordinating and providing services to the same individual<sup>7</sup>. As such, individuals may need to work with more than one organization to coordinate and receive services and supports.

## Vendors

Vendors are not a mandatory component of service delivery unless the individual requires residential services such as Enhanced Family Care. Benefits that vendors bring with them are experience and resources to deliver a variety of appropriate services. Furthermore, vendors handle all the paperwork and provide a "safety net" to handle unexpected disruptions, such as the loss of a service provider.

To apply for the DD Waiver, start with an intake assessment by calling your local area agency. The NH Department of Health and Human Services (DHHS) provides a [web page](#) to help you find your local area agency.

## ***MEAD and MOAD***

In general, New Hampshire residents have to meet both an asset limit and an income limit in order to be financially eligible for Medicaid (e.g., the HCBS Waivers).

The Medicaid for Employed Adults with Disabilities (MEAD) and Medicaid for Employed Older Adults with Disabilities (MOAD) programs help adults with disabilities who are working and have a higher level of assets to remain eligible for Medicaid. In other words, neither MEAD nor MODE provide any funding. Instead, they help individuals remain eligible for Medicaid.

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<sup>7</sup> Exceptions are allowed if the organization is the Only Willing and Qualified Provider ([OWQP](#)) for a geographic region.

MEAD is for ages 18 through 64. MOAD is for age 65 or older. Both permit higher income and resource limits. Note that some individuals who are eligible for MEAD may be required to pay a health insurance premium.

To learn more about MEAD and MOAD, visit the DHHS [web page](#).

## ***Supplemental Security Income (SSI)***

Supplemental Security Income ([SSI](#)) provides monthly payments to people with disabilities and older adults who have little or no income or resources<sup>8</sup>. These monthly SSI payments may be used for room and board, food, clothing, and so on. The amount of the monthly payment depends on the individual's income, living situation, things they own, and other factors.

SSI also enables a solution for individuals who are not able to manage their payments. This is done by appointing a suitable [representative payee](#) who manages the payments on behalf of the individual. Generally, the payees are family or friends, but may also be qualified organizations such as an area agency.

When on SSI, an individual may also qualify for other [SSI-related programs](#) such as: nutrition assistance (SNAP - formerly known as "Food Stamps"); finding a new job or starting a business (PASS); and saving for disability-related expenses ([ABLE](#)<sup>9</sup>).

Note that with ABLE, people can save for qualified disability expenses without losing eligibility for SSI and Medicaid. Balances of \$100,000 or less are excluded from the SSI resource limit. Qualified disability expenses are any expenses that are incurred as a result of living with a disability and are intended to improve an individual's quality of life, including housing.

To apply for SSI, visit the Supplemental Security Income [web page](#).

## ***Social Security Disability Insurance (SSDI)***

Social Security Disability Insurance ([SSDI](#)) or "Disability" provides monthly payments to people who have a disability that stops or limits their ability to work. To qualify for SSDI, an individual typically must have worked for at least 5 of the last 10 years. Furthermore, some adults may be able to collect SSDI under a parent if the parent is disabled, deceased, or retired<sup>10</sup>.

To apply for SSDI, visit the Social Security Disability Insurance [web page](#).

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<sup>8</sup> See <https://www.ssa.gov/ssi/eligibility>

<sup>9</sup> See <https://savewithable.com/nh/home.html>

<sup>10</sup> See <https://www.ssa.gov/benefits/disability/qualify.html>

## ***Housing Choice Voucher Program (Section 8)***

The [Housing Choice Voucher Program](#), also known as Section 8, is administered locally by public housing agencies ([PHAs](#)). The PHAs receive federal funds from the U.S. Department of Housing and Urban Development ([HUD](#)) to administer the voucher program.

Housing Choice Vouchers are available to individuals with little or no income. For example, see the [HUD limits for the greater NH area](#). The program works by having the individual pay 30%-40% of their monthly income towards rent and the remaining portion of the rent would be paid by [New Hampshire Housing](#)<sup>11</sup>, also called New Hampshire Housing Finance Authority (NHHFA).

To determine the allowable rent, the program uses what is known as a “[payment standard](#)” for the area the individual is living in. For example, the one bedroom payment standard for Seabrook is \$2,139. This is the total amount allowed and includes any items such as charging for utilities.

As an example, assume the individual will be living in Hollis. Also assume they have an SSI of \$600/month and part time employment of \$300/month, or \$900/month in income. Given the one bedroom standard for Seabrook is \$2,139, the individual would be expected to pay \$270/month (30% of the total income of \$900) and New Hampshire Housing would pay the remaining \$1,869 to the landlord if they were to ask for \$2,139/month in rent. The \$270/month can come from the individual's job, SSI, or other means.

The individual will not qualify for the Housing Choice Voucher Program if they live in the same home as their family, but may be able qualify if they live in a separate unit owned by their family. The separate unit may be an Accessory Dwelling Unit (ADU - sometimes called an “in-law apartment”), or it might be a completely separate house. Such units must pass [Housing Quality Standards](#) (see also the [HUD FAQ](#) on accessibility standards).

Note that [HUD](#) guideline [CFR 982.306\(d\)](#) states that “The PHA must not approve a unit if the owner is the parent, child, grandparent, grandchild, sister, or brother of any member of the family, unless the PHA determines that approving the unit would provide reasonable accommodation for a family member who is a person with disabilities.”

Given this, family members who wish to be a landlord can file a reasonable accommodation with New Hampshire Housing. This reasonable accommodation is to be filed once the individual receives the voucher and the family member(s) are ready to rent to the individual. Although the approval for a reasonable accommodation is a decision made at the time of the request, New Hampshire Housing understands these are typically very reasonable requests.

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<sup>11</sup> New Hampshire Housing was established in 1981 by [RSA 204-C](#)

Finally, there is a long wait list for Housing Choice Vouchers – some applications have taken 7 years to come through. People on the DD Waiver, however, may be able to get a “Mainstream Voucher”<sup>12</sup>, which is a faster track that may result in an approval after about 6-12 months.

Note that wait times can change – there is a limited supply of housing in New Hampshire.

To apply for the Housing Choice Voucher, visit the New Hampshire Housing [web page](#).

## ***Public Housing***

Similar to Housing Choice Vouchers, [Public Housing](#) provides rental housing for eligible low-income families, the elderly, and persons with disabilities. Public Housing comes in all sizes and types, from scattered single-family houses to high rise apartments.

The primary difference between the Housing Choice Voucher and Public Housing programs is who owns and manages the properties. With Housing Choice Vouchers, private landlords own the property whereas Public Housing is government-owned and -operated properties.

Public Housing is made available to renters based on gross annual income, family size, citizenship status, and whether a renter might qualify based on disability or age. The PHA uses this data to calculate the maximum amount of housing assistance allowable.

With Public Housing, [HUD](#) administers Federal aid to local housing agencies, known as Housing Agencies (HA) or Public Housing Agencies ([PHA](#)). Each PHA serves a geographical area that sets its own requirements and manages the housing for low-income residents. As with the Housing Voucher Program, this rent can come from the individual’s job, SSI, or other means.

Note that Public Housing subsidies can be used only for the Public Housing authority’s unit(s) and never with a private landlord. As such, you cannot use a Housing Choice Voucher for Public Housing.

To apply for Public Housing, contact the PHA for your region. You can find the list of local PHAs using the [PHA Contact Information](#) website.

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<sup>12</sup> See [https://www.hud.gov/program\\_offices/public\\_indian\\_housing/programs/hcv/mainstream](https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/mainstream) and <https://www.nhhfa.org/rental-assistance/housing-choice-voucher-program/special-programs/>

## ***Additional Sources of Funding***

### Assistance with Cost of Living Expenses

The New Hampshire Department of Energy has several assistance programs available to help people with energy and utility bills<sup>13</sup>. These include the following:

- Electric Assistance Program ([EAP](#)). The EAP provides eligible customers with a discount on their monthly electric bills. The discounts range from 5% to 86%, depending on the customer's gross household income and household size.
- Gas Assistance Program ([GAP](#)). The Gas Assistance Program can help income eligible residential heating customers with their natural gas winter heating bills.
- Fuel Assistance Program ([FAP](#)). The Fuel Assistance Program provides benefits to qualified New Hampshire households to assist with heating costs. The Fuel Assistance Program can also help households during a heating emergency by securing an emergency delivery of fuel, delaying a shut-off notice, or referring clients to another source of assistance.

### “Special Needs” Trusts

Families can set up a “special needs” trust to help an individual with financial support without disqualifying them for government benefits, such as Medicaid or Supplemental Security Income (SSI). These trusts come in several different varieties<sup>14</sup>. Families should consult with a lawyer who specializes in special needs trusts to see what is the best option for them.

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<sup>13</sup> See <https://www.energy.nh.gov/consumers/help-energy-and-utility-bills>

<sup>14</sup> See <https://www.metlife.com/stories/legal/special-needs-trust/> and <https://www.forbes.com/advisor/legal/estate-law/special-needs-trust/>

## **Housing Choices**

There is no “one-size-fits-all” solution when it comes to housing. Different people thrive in different environments depending upon their preferences and needs. The choices in this section are the more common housing choices.

### ***Live Independently with Support***

Some individuals are able to live relatively independently (e.g., alone or with a roommate) and may only need support to help them with activities such as monthly reporting for DD Waiver services they may be receiving.

#### Considerations

As with any choice, one needs to consider planning for when something unexpected happens. A bus route might cancel a route at the last minute, a care provider may get sick, the individual themselves may get sick, the power might go out, etc.

#### Funding

Individuals may have a job and may also simultaneously receive funding through some of the sources of funding listed in the previous section: the DD Waiver, SSI, and a Housing Choice Voucher or Public Housing subsidy. For example, an individual might attend a day program supported by the DD Waiver, receive a Housing Choice Voucher, and get SSI to help with rent, food, utilities, and other living expenses.

There is also funding available for nonmedical transportation, such as Uber or a taxi, through Medicaid. The individual needs to meet criteria for this and the individual’s service coordinator needs to put in a service authorization and get approval through BDS.

### ***Live With a Family Member***

A common model for many adults with ID/DD is to live with a family member. As with individuals living independently, the individual may receive services via the traditional or PDMS models of the DD Waiver.

The number of hours the individual spends at their day program or with a DSP during the week is dependent upon the needs identified in the individual service agreement that they developed with their service coordinator. The remainder of the support (e.g., nights and weekends) is provided by family members.

An individual's service agreement also includes respite care. Respite care provides temporary relief of care responsibilities for family members, giving them time for activities such as grocery shopping, running errands, going to the gym, seeing a movie, etc.

## Considerations

There are a number of risks with living with a family member. The main consideration is having a plan for when unexpected things happen. Will a family member or someone else be available to provide care if a care provider is unexpectedly absent? Who will drive the individual to their job/program if the normal transportation is not available? What is the long term plan for when the family member is no longer able to provide care?

## Funding

The funding for an individual's DSP or day program as well as respite for family members comes via the DD Waiver. If the individual has a physical, mental, or emotional disability, the family member may also qualify for additional payments known as "Difficulty of Care" payments<sup>15</sup>.

Because the individual is living in the same house as their family member, the individual does not qualify for the Housing Choice Voucher. The individual can, however, qualify for SSI and the family member may charge the individual some level of room and board within SSI guidelines.

To calculate an adult child's portion of room and board with SSI guidelines, all household expenses for food, rent, and utilities should be added together and divided by the number of individuals living in the household. For example, an adult SSI recipient resides with both parents and 3 siblings, and the monthly household expenses total \$2,400.00. The allowable room and board charged to the SSI recipient would be \$400.00 (\$2,400.00 divided by 6 people in the home).

Note that this rental income may need to be reported on the family member's tax return. Consult with your tax preparer for the exact details.

## ***Enhanced Family Care***

Enhanced Family Care – also referred to as "Adult Foster Care", "Adult Family Living", "Roommate" – is based on a shared life approach: instead of living with their family, the individual lives with a Home Care Provider who is not related to them.

All Home Care Providers are fully trained and assisted by a manager and nurse to help shape and follow through on all of the individual's needs. Furthermore, Home Care Providers participate actively in all individual-centered conferences and team meetings, and implement objectives agreed upon at those meetings.

In most cases, the individual lives with a Home Care Provider in the care provider's home. Some individuals, however, may have apartments or homes that they or their families maintain; in these cases, the Home Care Provider(s) move into the individual's home. For example, the individual's family may have built an Accessory Dwelling Unit (ADU). In this situation, the care

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<sup>15</sup> See IRS Code Section 131(c): <https://www.irs.gov/pub/irs-drop/n-14-07.pdf>

provider could move into the ADU with the individual. There may be tax considerations to make in this case and it is advised families talk with their tax specialist.

### Considerations

While there are no rules around family visits to the provider's home, there are restrictions around how often an individual may stay outside the provider home. Such times are known as "out of bed days"; New Hampshire has a restriction of 30 out of bed days per year, but there may be flexibility depending upon the circumstances.

### Funding

Enhanced Family Care is provided through the DD Waiver, and is sometimes called "residential service". The Home Care Provider receives a monthly stipend to cover all expenses for the individual, including room and board, clothing, transportation, respite care, etc. Similar to living with a family member, the Home Care Provider may qualify for additional payments known as "Difficulty of Care" payments.

Note that the payments to Home Care Providers is exempt from federal income tax<sup>16</sup>.

### ***Supportive Housing***<sup>17</sup>

As described in the US [Section 811 Statute](#), Supportive Housing is intended to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that: 1) is designed to accommodate the needs of such persons; 2) makes available supportive services that address the individual health, mental health, and other needs of such persons; and 3) promotes and facilitates community integration for people with significant and long-term disabilities<sup>18</sup>.

Supportive Housing differs from Community Living Facilities ("Group Homes" - covered in the next section) in that individuals in Supportive Housing have separate units that enable them to live independently. Furthermore, the individuals are not governed by a common schedule/routine and are also not required to travel as a group.

A simplified view of Supportive Housing is that it can be similar to an apartment complex where people live relatively independently in their own apartments. There are a few key differences, however, including the following: 1) support staff live in separate units in the same complex and provide on-site supportive services, and 2) there is a common area with a kitchen, dining room, and a living room for socialization and assistance with activities such as food preparation.

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<sup>16</sup> <https://www.irs.gov/individuals/certain-medicaid-waiver-payments-may-be-excludable-from-income>

<sup>17</sup> The Center on Budget and Policy Priorities, a nonpartisan research and policy institute, has a [detailed article](#) on Supportive Housing.

<sup>18</sup> See also the HUD program documentation on [Section 811](#).



## Considerations

A supportive housing environment can provide both independence and a sense of community. Consider, however, what supports the individual may need to become a member of the supportive housing community (if they so desire). That is, some individuals may thrive very well in a supportive housing environment whereas other might have more success in another environment such as Enhanced Family Care.

## Funding

In New Hampshire, Section 811 is currently constrained to people with severe mental illness<sup>19</sup>.

As with all the choices in this document, however, Supportive Housing is designed to serve individuals with low incomes. In some cases this may mean that a provider must anticipate budgeting on the assumption that SSI will be the principal source of rental (and often board) income.

Most Supportive Housing providers will also seek to augment SSI as much as possible with a rent subsidy program such Housing Choice Vouchers (Section 8).

Some projects also use low-income housing tax credits and other affordable housing funding streams to subsidize development and capital costs<sup>20</sup>.

## ***Community Living Facilities***

Community Living Facilities are residential treatment settings that provide supervision in structured settings in community residences. Some of these settings may be staffed 24/7, whereas others may provide a minimum of 20 hours per week. These community residences are sometimes referred to as “group homes” and “congregate settings”.

[RSA 126-A:19](#) establishes constraints around community living facilities and [He-M 1001.03](#) and [He-P 814](#) define the constraints for certification<sup>21</sup> and licensing. A short summary is that a community residence serving 4 or more people requires a license whereas a community residence serving 3 or fewer people only requires certification<sup>22</sup>.

## Considerations

Given that “Congregate Setting” has negative connotations that harken back to the now-closed Laconia State School (watch “[Lost In Laconia](#)” on YouTube), it is important to distinguish between institutions such as the Laconia State School and community living facilities.

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<sup>19</sup> See [Section 811 - New Hampshire Housing](#)

<sup>20</sup> See Appendix: Incentives for Developers

<sup>21</sup> See also DHHS’s page on [Community Residence Certification](#)

<sup>22</sup> See [RSA 126-A:20](#), [RSA 151:2](#) and [He-M 1001](#)

Institutions generally have a very large number of individuals and the living conditions may gradually degrade due to overpopulation, lack of funding, and lack of staff<sup>23</sup>.

Congregate settings, on the other hand, may be an appropriate choice for some individuals, especially in a smaller setting with no more than 3 people. It is important to note the word “choice”: the decision to live in a community living facility must be a choice of the individual and the conditions must provide appropriate support for the individual to thrive.

Having said that, a community residence with a larger number of people may have more staff engaged in support functions such as cleaning and cooking, although residents may participate. A residence with fewer people will be more likely to have the residents performing a share of the chores.

Similarly, a community residence with a larger number of people may be more likely to have people sharing a room and may be more governed by schedule and routine than one with fewer people. Care is also unlikely to be highly individualized.

Furthermore, the schedules in either arrangement may be built around the staff shifts.

Finally, travel outside of the setting is often limited by the availability of a van and the number of staff available. When travel does happen, it is often as a group; traveling as a group limits an individual’s independence and is also not an optimal means for inclusion in the community.

## Funding

Similar to Enhanced Family Care, living in a Community Living Center is funded through an individual’s service agreement created for their DD Waiver.

## About the Author

Will Walker lives with his wife and their adult son who has autism. This document was born out of their drive to secure long term sustainable housing for their son. Will thanks the many people who gave input to and helped review this document.

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<sup>23</sup> As with any solution in this document, these risks need to be taken into account, no matter the size or setting.

## Appendix: Related Laws, Rules, and Regulations

The following is the list of the laws and administrative rules referenced throughout this document.

### *Federal Laws and Regulations*

- [§1915\(c\)](#) of the Social Security Act: States can develop home and community-based services waivers (HCBS Waivers) to meet the needs of people who prefer to get long-term care services and supports in their home or community rather than in an institutional setting.
- [§8013](#). Defines Section 811 for supportive housing for persons with disabilities.
- [24 CFR Part 982](#): Defines the Housing Choice Voucher program.
- IRS - [Certain Medicaid Waiver Payments May Be Excludable From Income](#)

### *NH Laws (RSAs)*

New Hampshire laws are called Revised Statutes Annotated ([RSAs](#)). The following NH RSAs apply to adults with ID/DD:

- [RSA 126-A](#): **Department of Health and Human Services**. Provides an integrated, administrative structure for the design and delivery of a comprehensive and coordinated system of health and human services which is family-centered and community-based for the citizens of New Hampshire.
- [RSA 151](#): **Residential Care and Health Facility Licensing**. Provides for the development, establishment and enforcement of basic standards for the care and treatment of persons in hospitals and other facilities in which medical, nursing or other remedial care are rendered, and for the construction, maintenance and operation of such facilities, which, in the light of existing knowledge, will ensure safe and adequate treatment of such persons in such facilities.
- [RSA 161-F](#): **Elderly and Adult Services**. Provides support for congregate services in order to serve those who might otherwise be placed unnecessarily in institutional care.
- [RSA 167:4](#): **Special Needs Trusts**. A special needs trust to or for the benefit of the disabled beneficiary shall be disregarded for income eligibility.
- [RSA 171-A](#): **Services for the Developmentally Disabled**. Enables the department of health and human services to establish, maintain, implement and coordinate a comprehensive service delivery system for developmentally disabled persons.
- [RSA 204-C](#): **Housing Finance Authority**. Establishes the New Hampshire Housing finance authority.
- [RSA 674:71](#), [RSA 674:72](#), and [RSA 674:73](#). **Accessory Dwelling Units**. See also New Hampshire Housing's document: [New Hampshire's ADU Law Explained \(RSA 674:71 - 73\)](#).

## ***NH Administrative Rules***

When the New Hampshire legislature creates or modifies an RSA, it delegates the specifics of the implementation and enforcement to administrative agencies. These specifics are called [Administrative Rules](#). The following NH Administrative Rules apply to ID/DD:

- Chapter [He-M 500](#): **Developmental Services**. Contains the following relevant parts:
  - **He-M 503: Eligibility**. Establish standards and procedures for the determination of eligibility, the development of service agreements, and the provision and monitoring of services for persons with developmental disabilities.
  - **He-M 505: Area Agencies**. Defines the procedures and criteria for the establishment, designation, and redesignation of area agencies, and to define their role and responsibilities.
  - **He-M 507: Community Participation Services**. Establishes standards for certified community participation services for persons with developmental disabilities or acquired brain disorders.
  - **He-M 513: Respite Services**. Establishes standards for respite services as part of a system of community based services and supports responsive to the changing needs of individuals with developmental disabilities or acquired brain disorders and their families.
  - **He-M 517: HCBS Waivers**. Defines the requirements and procedures for medicaid-covered home and community-based care waiver services for persons with developmental disabilities and acquired brain disorders.
  - **He-M 518: Employment Services**. Establishes the requirements for employment services for persons with developmental disabilities and acquired brain disorders served within the state community developmental services system.
  - **He-M 519: Family Support**. Establishes a framework for the provision of supports and services to care-giving families with an individual member who has a developmental disability or acquired brain disorder.
  - **He-M 521: Living with a Family Member**. Provides minimum standards for residential services or combined community participation and residential services for individuals with developmental disabilities or acquired brain disorders who reside in their families' homes.
  - **He-M 525: PDMS**. Establishes minimum standards for participant directed and managed services for individuals who have a developmental disability or acquired brain disorder.
  
- Chapter [He-M 1000](#): **Housing**. Contains the following relevant parts:
  - **He-M 1001: Community Residences**. Defines the standards and procedures for the certification of community residences funded by the state of New Hampshire for persons with a developmental disability or acquired brain disorder
  
- Chapter [He-P 800](#): **Residential Care and Health Facility Rules**. Contains the following relevant parts:

- **He-P 813: Adult Family Care.** Establishes the minimum standards and procedures for the certification of an adult family care residence.
- **He-P 814: Community Residences.** Sets the licensing requirements for all community residences (CR) at the residential care and supported residential care level licensed pursuant to RSA 151:2.

## Appendix: Incentives for Developers and Property Owners

While this document presents information from the point of view of an adult with ID/DD, this appendix presents information from the point of view of a developer.

### *New Hampshire Housing*

[New Hampshire Housing](#) has several incentives for people to develop housing. These include the following:

- [Low-Income Housing Tax Credits](#) (LIHTC) - provides an incentive for private investment in affordable rental housing. LIHTC is the largest source of federal capital subsidy to create and preserve affordable rental housing. The LIHTC program gives investors a dollar-for-dollar reduction in federal tax liability in exchange for providing funding to affordable housing developments. [New Hampshire Housing](#) has developed a Qualified Allocation Plan ([QAP](#)) to establish the criteria and process for the allocation of LIHTC in New Hampshire.
- [Multifamily Supportive Housing Financing Program](#) - provides financial assistance to owners/sponsors of housing where the housing is provided in tandem with social service programs related to the needs of the residents, including people with disabilities.
- [Non-Profit Predevelopment Loan Program](#) - provides pre-development funds to certain types of nonprofit organizations to assist their efforts to develop affordable housing in New Hampshire.
- [Affordable Housing Fund](#) (AHF) - defined in [RSA 204-C:56](#), provides low-interest loans and grants for the construction, rehabilitation, and/or acquisition of housing affordable to families and individuals with low to moderate incomes. See also the [AHF Fact Sheet](#). Funds from the AHF are generally combined with other funds, including (but not limited to) [Federal HOME](#) funds.

### *USDA Multifamily Housing Programs for Rural Development*

The US Department of Agriculture (USDA) has [Multifamily Housing Programs](#)<sup>24</sup> for rural development that assist rural property owners through loans, loan guarantees, and grants that enable owners to develop and rehabilitate properties for low-income, elderly, and individuals with disabilities and their families.

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<sup>24</sup> See <https://www.rd.usda.gov/programs-services/all-programs/multi-family-housing-programs>

Multifamily Housing works with the owners of its direct and farm labor housing loan properties to subsidize rents for low-income tenants who cannot afford to pay their full rent. Additionally, when a direct loan ends before its initial term, Multifamily Housing provides vouchers to protect eligible tenants who otherwise may face hardship if they cannot find other affordable housing.

## Appendix: Glossary

**Administrative Rule:** The New Hampshire legislature enacts broad sweeping statutes and then delegates the specifics of implementation and enforcement to administrative agencies. These regulations created by the administrative agencies are called [Administrative Rules](#).

**APTD:** [Aid to the Permanently & Totally Disabled](#). APTD is cash assistance for individuals who are between the ages of 18 and 64 and who are physically or mentally disabled. This is the baseline that must be met before being considered for an HCBS Waiver such as the DD Waiver.

**Area Agency:** Defined under [RSA 171-A:2](#), I-b, Area Agencies are “entities established as a nonprofit corporation in the state of New Hampshire which is established by rules adopted by the commissioner to provide services to developmentally disabled persons in the area.”

**CMS:** [Centers for Medicare & Medicaid Services](#). CMS is the federal agency that provides funds to support people with disabilities and defines the rules and regulations around them.

**Community Integration:** Defined in [He-M 517](#), Community Integration means 1) Participation in a wide variety of experiences in settings that are available to and used by the general public; 2) Participation in natural relationships with one’s family, friends, neighbors, and co-workers; and 3) Expansion of one’s personal network of friends to include individuals who do not have disabilities. Examples include social skills training, peer support, mentoring, or coaching.

**Community Participation Services:** Defined in [He-M 507](#), Community Participation Services a) assist the individual to attain, improve, and maintain a variety of life skills, including vocational skills; b) Emphasize, maintain and broaden the individual’s opportunities for community participation and relationships; c) Support the individual to achieve and maintain valued social roles, such as of an employee or community volunteer; and d) Promote personal choice and control in all aspects of the individual’s life and services, including the involvement of the individual, to the extent he or she is able, in the selection, hiring, training, and ongoing evaluation of his or her primary staff and in determining the quality of services. Examples include adult day services, day habilitation, prevocational, and supported employment services.

**Community Residence:** Defined in [He-M 517](#), means either an agency residence or family residence exclusive of any independent living arrangement that: 1) Provides residential services for at least one individual with a developmental disability, in accordance with He-M 503, or acquired brain disorder in accordance with He-M 522; 2) Provides services and supervision for an individual on a daily and ongoing basis, both in the home and in the community, unless the individual’s service agreement states that the individual may be without supervision for specified periods of time; 3) Serves individuals whose services are funded by the department; and 4) Is certified pursuant to He-M 1001, except as allowed in He-M 517.04 (b).

**Community Support Services:** Defined in [He-M 517](#), Community Support Services shall 1) Be available for an individual who has developed, or is trying to develop, skills to live independently

within the community; and 2) Consist of assistance, excluding room and board, provided to an individual to: a. Improve or maintain his or her skills in basic daily living and community integration; and b. Enhance his or her personal development and well-being. Examples include personal care, homemaker, chore, companion, or transportation services.

**Congregate Housing:** Defined in [RSA 151-E:2](#), Congregate Housing is public housing providing congregate services as defined in [RSA 161-F:36](#). Note also that RSA 161-F:36 defines Congregate Housing as low-rent, publicly-owned housing with which there is connected a central dining facility where wholesome and economical meals can be served.

**Congregate Services:** Defined in [RSA 161-F:36](#), Congregate Services are the programs undertaken by qualified service providers to provide assistance, as needed, to residents in order to maintain their independence. Such programs shall include the following services: a) Two nutritionally balanced meals, 7 days per week, served in a central dining facility; b) Regular assistance with housekeeping; c) Personal assistance; d) Transportation to scheduled doctors' appointments; e) Administrative support services, supplied by a qualified service provider.

**DSP:** [Direct Support Professional](#). DSPs support people with disabilities to participate in their communities, including through employment. They may work through a vendor or be a family managed employee (FME).

**FME:** Family Managed Employee. A family managed employee is typically for the PDMS model: instead of a DSP being managed by a vendor, the family manages them. The DSP, however, will be paid by the area agency.

**He-M:** [He-M](#) is the category for NH Administrative Rules relating to the state agency formerly known as Division of Mental Health and Developmental Services. This is the category used for most administrative rules relating to intellectual and developmental disabilities.

**HRST:** Health Risk Screening Tool. The HRST is used to detect health risks and destabilization and by computing a degree of health risk. For the purposes of this document, the HRST is used mostly to determine "Difficulty of Care". See also SIS-A.

**ISA:** Individual Service Agreement. Also called "Service Agreement", "Plan of Care", and "Service Plan". Defined in [RSA 171-A:2](#), X, an Individual Service Agreement is "a written document for a client's services and supports which is specifically tailored to meet the needs of each client."

**PDMS:** Participant Directed and Managed Services. Defined in [He-M 517](#) and detailed in [He-M 525](#), PDMS is a service arrangement whereby the individual or representative, if applicable, directs the services and makes the decisions about how the funds available for the individual's services are to be spent. It includes assistance and resources to individuals in order to maintain or improve their skills and experiences in living, working, socializing, and recreating.



**Provider:** Someone who provides direct care for an individual. For example, a DSP.

**Residential Habilitation:** Assists with daily living skills, personal care, health and safety needs, behavioral support, and community integration in a residential setting. Examples include group homes, shared living arrangements, foster care homes, supported living apartments, or individual homes.

**Respite Services:** Defined in [He-M 513](#), Respite Services provide short-term care for an individual for the temporary relief and support of the family with whom the individual lives. Respite can be provided in various settings, such as the individual's home, a respite provider's home, or a licensed facility.

**Service Coordinator:** Defined in [He-M 503](#), a service coordinator is a person who meets the criteria in He-M 503.08 (e)-(f) and is chosen or approved by an individual and his or her guardian or representative to organize, facilitate and document service planning and to negotiate and monitor the provision of the individual's services and who is: 1) An area agency service coordinator, family support coordinator, or any other area agency or provider agency employee; 2) A member of the individual's family; 3) A friend of the individual; or 4) Another person chosen to represent the individual. Typically, the area agencies assign service coordinators and work with individuals and their families to develop their ISAs, monitor their service delivery and outcomes, advocate for their rights and preferences, and assist them with any issues or concerns.

**Service Provider:** A person who delivers one or more of the services identified in the individual's service agreement. All providers providing services for individuals under the Developmental Disabilities (DD) Waiver, In-Home Supports (IHS) Waiver, and/or Acquired Brain Disorder (ABD) Waiver must be a [Medicaid enrolled provider](#), whether they intend to bill directly or not.

**Supportive Housing:** As described in the US [Section 811 Statute](#), Supportive Housing is intended to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that: 1) is designed to accommodate the special needs of such persons; 2) makes available supportive services that address the individual health, mental health, and other needs of such persons; and 3) promotes and facilitates community integration for people with significant and long term disabilities.

**SIS-A:** Supports Intensity Scale, Adult Version. See the DHHS page on [SIS-A](#). See also HRST.

**Vendor:** An organization that manages providers. With the PDMS model, for example, a family might use a vendor to hire and manage a DSP. The vendor may also have provider staff that runs a day program.