



**STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF HEALTH AND HUMAN SERVICES**  
**OFFICE OF THE COMMISSIONER**

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October 25, 2023

Stephanie Patrick, Chair  
Isadora Rodriguez-Legendre, Vice-Chair  
NH Council on Developmental Disabilities  
2 ½ Beacon Street  
Concord, NH 03301

Dear Stephanie and Isadora:

This letter serves as acknowledgement of your September 25, 2023 letter. I appreciate your concerns and potential solutions for the funding of recreational services for those receiving services through the Developmental Services system. As you know currently, the Centers for Medicare & Medicaid Services (CMS) has not changed its stance that recreational services cannot be paid for under the 1915(c) Home and Community Based Services (HCBS) waivers.

In the biennial operating budget (House Bill 1), the Legislature provides authority to the Department of Health and Human Services (Department) to spend money. In the current operating budget for the biennium ending June 30, 2025, there is no specific appropriation or authority to spend dollars for recreational services. BDS does have the flexibility to provide necessary services and supports to access the recreational activity through the 1915(c) waiver, however as discussed not the actual cost of the recreational or diversional activities.

In accordance with State Law, there are three Bureau of Developmental Services (BDS) accounts that must be used to pay for services under the 1915(c) waivers. Carry forward funds are not available for other purposes outside of the 1915c waivers. The three dedicated non-lapsing funds in RSA 171-A:8-b were established via Chapter 346, Section 79, Laws of 2019, for the three 1915c waivers. The funds were created July 1, 2019, first taking effect during the 2020-2021 biennium. The RSA restricts the Department from using the fund for any other purposes outside of the 1915c waivers or transferring them to any other accounts. There was a significant carryforward from the 2020-2021 biennium into the biennium ending June 30, 2023, because of pandemic's impact on the system. However, when the Department prepared its budget for the current biennium, the Department had to utilize the carryforward from the 2022-2023 biennium to account for and balance out the projected expenses out of acquired brain disorder services, developmental services, and in-home support waiver funds.

Your letter suggests potential short term and long-term solutions to resolve this issue. We acknowledge your request to seek additional funding elsewhere in the BDS budget to pay for recreational activities; however, as previously stated there is no other funding available. In addition, BDS currently does not have any available American Rescue Plan Appropriation (ARPA) dollars. In the event that funds do become available in the ARPA Home and Community-Based Investment Plan, the Department would still need approval from CMS to use the funds to support recreational and/or diversional activities.

Stephanie Patrick, Chair  
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Page 2 of 2

As a longer-term solution, I do want to share with you that the Department will be reaching out to CMS again to ask that they consider funding recreation access as part of the 1915(c) waivers however, we cannot make this ask alone. I encourage you to continue to advocate and educate CMS and others regarding this need. As we get closer to the development of the SFY 2026-2027 budget, the Department will determine if it is feasible to request this item as a prioritized need within the next BDS budget.

Thank you.

Sincerely,



Lori A. Weaver  
Commissioner

cc: Chris Santaniello, Associate Commissioner, DHHS  
Melissa Hardy, Director, Division of Long Term Supports and Services, DHHS  
Nathan White, Chief Financial Officer, DHHS