

13878, eff 2-21-24)

**Readopt with amendment, He-W 608.02, effective 1-1-14 (Document #10495), as amended effective 2-24-16 (Document #11043), to read as follows:**

He-W 608.02 Prohibited Use of Money Payments.

(a) A violation of RSA 167:7-b, I shall have occurred if the electronic benefit transfer (EBT) card assigned to the individual designated as the EBT cardholder, or cash obtained with the EBT card, was used at a business described in RSA 167:7-b, II, as determined by the EBT record of transaction indicating usage of the EBT card at a point-of-sale device or automated teller machine that is located within the walls of the place of business.

(b) A finding of a violation pursuant to (a) above shall result in the application of the suspension provisions at RSA 167:7-b, I, pursuant to (c) below, subject to the administrative appeals process described in He-C 200.

(c) For the purposes of applying suspension provisions in accordance with RSA 167:7-b, I, the following shall apply if the individual designated as the EBT cardholder is a member of the assistance group (AG):

(1) Subject to opportunity for a hearing through the administrative appeals process described in He-C 200, the suspension of financial assistance benefits shall be applied beginning the first semi-monthly payment period following the date that a violation of RSA 167:7-b has been discovered, pursuant to (a) above; and

(2) Financial assistance benefits for the AG during the suspension period shall be determined by:

a. Recalculating eligibility based on removing the individual who has been designated as the EBT cardholder as an eligible individual from the AG, while counting that individual's income, resources, and expenses for the AG in order to determine the sanction amount;

b. Deducting any other sanctions currently being applied to the AG from the amount derived in (2)a. above;

c. Dividing the amount obtained in (2)b. above by 2, to determine the 2 semi-monthly payments pursuant to He-W 670.04; and

d. Removing the sanction amount as determined in (2)c. above from the AG's EBT card for the number of payment periods required by RSA 167:7-b, I.

(d) If the individual who has been designated as the EBT cardholder is not a member of the AG and a violation of RSA 167:7-b, I has occurred pursuant to (a) above, then the following shall apply, subject to a hearing which may be requested through the administrative appeals process described in He-C 200:

(1) The individual who has been designated as the EBT cardholder shall reimburse the state for the funds used at the restricted location within 15 days of the notice of the violation or under such repayment terms as is agreeable to both the department and the individual, pursuant to (h) below; and

(2) The members of the AG shall designate a new EBT cardholder within 15 days of the notice of the violation.

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(e) Failure to reimburse the state within the timeframes pursuant to (d)(1) above shall result in a fraud referral to the department of justice, office of the attorney general.

(f) Failure to designate a new EBT cardholder within the timeframes pursuant to (d)(2) above shall result in termination of financial assistance for the entire AG.

(g) For the purpose of this section:

(1) The phrase “gaming establishment” referenced in RSA 167:7-b, II(c), shall:

a. Include commercial and charitable bingo halls, card halls, or race tracks, even if the gaming provided is through video, rather than live, events; and

b. Not include establishments such as, but not limited to, grocery stores or convenience stores, whose only gaming activity is in the sale of lottery tickets or lucky 7 tickets and the sale of these tickets is secondary to the establishment’s sales of other goods unrelated to gaming;

(2) The phrase “retail establishments which provide adult-oriented entertainment” referenced in RSA 167:7-b, II(d) shall include:

a. Establishments in which greater than 50% of visible inventory being sold or rented, is material, as defined in RSA 650:1, III, in which performers disrobe or perform in an unclothed state for entertainment; and

b. Establishments which provide on or off-site adult-oriented entertainment for such venues commonly referred to as, but not limited to, bachelor parties or peep shows, in which performers disrobe or perform in an unclothed state for entertainment; and

(3) The phrase “off-premises retail licensees that exclusively or primarily sell beer, wine, or other alcoholic beverages” referenced in RSA 167:7-b, II(b) shall:

a. Include any establishments in which greater than 50% of visible inventory is beer, wine, or other alcoholic beverages; and

b. Not include establishments that have been certified as a supplemental nutrition assistance program retailer, pursuant to 7 CFR 278.1.

(h) For purposes of (d)(1) above, repayment terms shall be considered agreeable to both the department and the individual when the individual designated as the EBT cardholder has:

(1) Contacted the special investigations unit to discuss a repayment plan within the time period described in (d)(1) above;

(2) Provided the following information on the repayment plan:

a. Date of birth;

b. Mailing address; and

c. Case number, if the individual is a member in another AG; and

(3) Within 15 days of the date of the repayment plan agreement, returned the repayment plan agreement with the individual’s dated signature attesting to the amount, frequency, and dates

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of the partial payments that the individual shall make until the amount used at the restricted location is paid in full.

**APPENDIX**

<b>Rule</b>	<b>Specific State or Federal Statute or Regulations the Rule Implements</b>
He-W 608.02	RSA 161:2, I; RSA 167:3-c, I; RSA 167:7-b; 42 USC 602(a)(1)(A)(vii); 42 USC 608(a)(12); 42 USC 609(a)(16)