

Committee Report

CONSENT CALENDAR

February 5, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Health, Human Services and Elderly Affairs to which was referred HB 693-FN,

AN ACT relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund. Having considered the same, report the same with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Gary Woods

FOR THE COMMITTEE

COMMITTEE REPORT

| | |
|-------------------|--|
| Committee: | Health, Human Services and Elderly Affairs |
| Bill Number: | HB 693-FN |
| Title: | relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund. |
| Date: | February 5, 2019 |
| Consent Calendar: | CONSENT |
| Recommendation: | INEXPEDIENT TO LEGISLATE |

STATEMENT OF INTENT

This bill required all providers to accept medicaid and uninsured patients or alternatively pay a \$10,000 fee to the Department of Health and Human Services. The aim was to increase the number of providers serving the medicaid population. The committee was concerned about unintended consequences, including the overloading of existing medicaid providers, facilities, and the unquantifiable potential decline in the overall workforce do to the \$10,000 payment.

Vote 18-2.

Rep. Gary Woods
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Health, Human Services and Elderly Affairs

HB 693-FN, relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund. **INEXPEDIENT TO LEGISLATE.**

Rep. Gary Woods for Health, Human Services and Elderly Affairs. This bill required all providers to accept medicaid and uninsured patients or alternatively pay a \$10,000 fee to the Department of Health and Human Services. The aim was to increase the number of providers serving the medicaid population. The committee was concerned about unintended consequences, including the overloading of existing medicaid providers, facilities, and the unquantifiable potential decline in the overall workforce do to the \$10,000 payment. **Vote 18-2.**

COMMITTEE REPORT

COMMITTEE: Health

BILL NUMBER: HB 693-FN

TITLE: relative to aid to persons funded by

Medicaid and for persons who are uninsured
and establishing a special fund

DATE: 4/30/12 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No.

Yes to consent

STATEMENT OF INTENT:

COMMITTEE VOTE: 18-2

RESPECTFULLY SUBMITTED,

Rep. Gary Wm Z
For the Committee

- Copy to Committee Bill File
- Use Another Report for Minority Report

This bill sought to penalize providers/facilities that don't accept Medicaid patients. The goal being to increase the manpower serving this population. However, testimony clearly identified this ~~and would not be met.~~

The unintended consequences of potentially penalizing those facilities already accepting Medicaid pts and disincentivizing providers from seeing them as well.

This bill required all providers to accept Medicaid and uninsured pts or alternatively pay a \$10,000 fee to the Dept HHS. The ~~stated~~ aim ^{was} ~~being~~ to increase the number of providers serving ^{the Medicaid} ~~this~~ population.

~~Because~~ ~~unintended consequences of potentially penalizing those facilities already accepting Medicaid pts and disincentivizing providers from seeing them as well, the aim of increasing the number of providers would not be met.~~

The committee was concerned about unintended consequences including the overloading of existing Medicaid providers, and ~~the disincentivizing of those providers who chose not to see Medicaid patients.~~ facilities, and the ~~unforeseeable~~ and unquantifiable potential decline in the overall workforce due to the \$10,000 payment.

Voting Sheets

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on HB 693-FN

BILL TITLE: relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund.

DATE: February 5, 2019

LOB ROOM: 205

MOTIONS: RETAINED

Moved by Rep. Salloway

Seconded by Rep. Fothergill

Vote: 2-18

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Woods

Seconded by Rep. Acton

Vote: 18-2

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep Susan Ticehurst, Clerk



2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: 693 Motion: ITL AM #: _____ Exec Session Date: 2-5-19

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|-----------------------------------|-------------|-------------|-----------|
| Weber, Lucy M. Chairman | ✓ | | |
| Campion, Polly Kent Vice Chairman | ✓ | | |
| Mackay, James R. | ✓ | | |
| Snow, Kendall A. | ✓ | | |
| Freitas, Mary C. | ✓ | | |
| Ticehurst, Susan J. Clerk | ✓ | | |
| Knirk, Jerry L. | ✓ | | |
| Salloway, Jeffrey C. | | ✓ | |
| Cannon, Gerri D. | ✓ | | |
| Nutter-Upham, Frances E. | | | |
| Osborne, Richard G. | ✓ | | |
| Schapiro, Joe | ✓ | | |
| Woods, Gary L. | ✓ | | |
| McMahon, Charles E. | ✓ | | |
| Nelson, Bill G. | ✓ | | |
| Guthrie, Joseph A. | ✓ | | |
| Fothergill, John J. | | ✓ | |
| Marsh, William M. | ✓ | | |
| Pearson, Mark A. | ✓ | | |
| Acton, Dennis F. | ✓ | | |
| DeClercq, Edward | | | |

OFFICE OF THE HOUSE CLERK

1/14/2019 3:22:00 PM
Roll Call Committee Registers
Report



2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: _____ Motion: _____ AM #: _____ Exec Session Date: _____

Stapleton, Walter A.

TOTAL VOTE:

| | | | | |
|--|--|--|----|---|
| | | | | |
| | | | ✓ | |
| | | | 18 | 2 |

OFFICE OF THE HOUSE CLERK



1/14/2019 3:22:00 PM
Roll Call Committee Registers
Report

2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: 693 Motion: Retain AM #: _____ Exec Session Date: 2-5-19

| <u>Members</u> | <u>YEAS</u> | <u>Nays</u> | <u>NV</u> |
|-----------------------------------|-------------|-------------|-----------|
| Weber, Lucy M. Chairman | | ✓ | |
| Campion, Polly Kent Vice Chairman | | ✓ | |
| MacKay, James R. | | ✓ | |
| Snow, Kendall A. | | ✓ | |
| Freitas, Mary C. | | ✓ | |
| Ticehurst, Susan J. Clerk | | ✓ | |
| Knirk, Jerry L. | | ✓ | |
| Salloway, Jeffrey C. | ✓ | | |
| Cannon, Gerri D. | | ✓ | |
| Nutter-Upham, Frances E. | | | |
| Osborne, Richard G. | | ✓ | |
| Schapiro, Joe | | ✓ | |
| Woods, Gary L. | | ✓ | |
| McMahon, Charles E. | | ✓ | |
| Nelson, Bill G. | | ✓ | |
| Guthrie, Joseph A. | | ✓ | |
| Fothergill, John J. | ✓ | | |
| Marsh, William M. | | ✓ | |
| Pearson, Mark A. | | ✓ | |
| Acton, Dennis F. | | ✓ | |
| DeClercq, Edward | | | |

OFFICE OF THE HOUSE CLERK



1/14/2019 3:22:00 PM
Roll Call Committee Registers
Report

2019 SESSION

Health, Human Services and Elderly Affairs

Bill #: 593 Motion: Retain AM #: _____ Exec Session Date: 2-5-19

Stapleton, Walter A.

TOTAL VOTE:

| | | | | |
|--|---|--|----|--|
| | | | ✓ | |
| | 2 | | 18 | |

Sub-
Committee
Actions

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 693-FN

BILL TITLE: relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund.

DATE: February 5, 2019

Subcommittee Members: Reps. Weber, Campion, McMahon, Nelson, M. Pearson, R. Osborne, Knirk, Freitas, DeClercq, Stapleton, Woods and Salloway

Comments and Recommendations:

MOTIONS: INEXPEDIENT TO LEGISLATE

Moved by Rep. Rep. Woods

Seconded by Rep. Rep. Nelson

Vote: 8-1

Respectfully submitted,

Rep. Mark Pearson
Subcommittee Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

SUBCOMMITTEE WORK SESSION on HB 693-FN

BILL TITLE: relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund.

DATE:

Subcommittee Members: Reps. Weber, Campion, McMahon, Nelson, M. Pearson, Knirk, Freitas, R. Osborne, Woods, DeClercq, Salloway and Stapleton

Comments and Recommendations:

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. Woods Seconded by Rep. Nelson AM Vote: _____

Adoption of Amendment # 8-1

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

MOTIONS: OTP, OTP/A, ITL, Retained (1st Yr), Interim Study (2nd Yr)
(Please circle one)

Moved by Rep. _____ Seconded by Rep. _____ AM Vote: _____

Adoption of Amendment # _____

Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

_____ Amendment Adopted _____ Amendment Failed

Respectfully submitted,

Rep. Mark A. Pearson
Subcommittee Chairman/Clerk

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING ON HB 693-FN

BILL TITLE: relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund.

DATE: January 30, 2019

LOB ROOM: 205 **Time Public Hearing Called to Order:** 11:30 AM

Time Adjourned: 11:55 AM

Committee Members: Reps. Weber, Campion, Ticehurst, MacKay, Snow, Freitas, Salloway, Cannon, Nutter-Upham, R. Osborne, Schapiro, Woods, McMahon, Guthrie, Fothergill, Marsh, M. Pearson and Stapleton

Bill Sponsors:
Rep. P. Schmidt

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

*** 1 Introduced by Rep. Peter Schmidt –**

Attachment #1: Letter from Dr. Betti. Suggests that that committee work with Dr. Betti to create a better bill. Agrees that there is a concern that this bill would force providers into bad contract negotiations. This committee might work on an alternative solution such as a commission.

Lisa Henderson, Leading Age – Maine New Hampshire –

Leading Age is an association of not-for-profit senior living communities in Maine and NH. Opposes the bill. There are access issues, but this bill is not the vehicle for addressing this problem. Would jeopardize the ability of senior living centers to remain open and leave seniors without access to care. Medicaid reimbursement rate is so low members have dropped out. Medicaid and Medicare are voluntary programs. Wonders whether this kind of tax would be constitutional. Targeting a certain type of business for a tax is unconstitutional. No definition of professional staff. Recommends ITL.

*** 2 Eldon Munson NH Association of Residential Care Homes -**

Oppose the bill. Favors concept of improving access to Medicaid in NH. Approach of the bill is punitive. Structure of Medicaid is problematic for the delivery of service to seniors in senior living. There is currently no waiting list for access to assisted living by those on Medicaid. Asks how assisted living facilities are expected to deliver Medicaid services with the current reimbursement rate. Most are small businesses. Those who are paying privately don't want their services diluted by enforced Medicaid services. Fine would be too high for some, based on the number of professional staff. Process of becoming a Medicaid provider is cumbersome and not required in NH. Reimbursement rate is low. Some communities have endowments that allow them to offer services without going through Medicaid. Supports overall idea of improving Medicaid and access. Would be happy to serve on a commission or committee to come up with a refined approach that would better meet the need.

*** 3 Gina Balkus, Granite State Home Health and Hospice -**

Opposes bill. Left written testimony but did not speak.

*** 4 Paula Minnahan, NH Hospital Association –**

Left written testimony but did not speak. Opposes bill.

*** 5 Americans for Prosperity –**

Left written testimony but did not speak.

Respectfully submitted,

A handwritten signature in cursive script that reads "Susan Ticehurst". The signature is written in black ink and is positioned above the typed name.

Rep. Susan Ticehurst, Clerk

House Committee on Health, Human Services & Elderly Affairs
Public Hearing on HB 693-FN

Lat meeting adjourned at 11:25

| | | | |
|-------------|--|--------------------------------------|-------|
| Bill Title: | Relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund. | | |
| Date: | 1/30/19 | | |
| Room: | 205 | Time Public Hearing Called to Order: | 11:30 |
| | | Time Adjourned: | 11:55 |

Committee Members Present:

| | |
|---|--------------|
| X | Shapiro |
| X | Cannon |
| X | Stapleton |
| X | Nutter-Upham |
| X | Marsh |
| X | Salloway |
| X | Fothergill |
| X | Freitas |
| X | Snow |
| X | MacKay |
| X | Ticehurst |
| X | Weber |

| | |
|---|---------|
| | DeClerq |
| X | Osborne |
| | Acton |
| X | Woods |
| X | Pearson |
| | Knirk |
| X | Guthrie |
| | Nelson |
| X | McMahon |
| X | Campion |

Testimony

* Use asterisk if written testimony and/or amendments are submitted.

| * | Attch # | Name | Testimony: |
|---|---------|---|--|
| * | 1 | Introduced by Rep. Peter Schmidt | Attachment #1: Letter from Dr. Betti. Suggests that that committee work with Dr. Betti to create a better bill. Agrees that there is a concern that this bill would force providers into bad contract negotiations. This committee might work on an alternative solution such as a commission. |
| | | Lisa Henderson, Leading Age – Maine New Hampshire | Leading Age is an association of not-for-profit senior living communities in Maine and NH. Opposes the bill. There are |

| | | | |
|---|---|---|---|
| | | | <p>access issues but this bill is not the vehicle for addressing this problem. Would jeopardize the ability of senior living centers to remain open and leave seniors without access to care. Medicaid reimbursement rate is so low members have dropped out. Medicaid and Medicare are voluntary programs. Wonders whether this kind of tax would be constitutional. Targeting a certain type of business for a tax is unconstitutional. No definition of professional staff. Recommends ITL.</p> |
| * | 2 | Eldon Munson NH Association of Residential Care Homes | <p>Oppose the bill. Favors concept of improving access to Medicaid in NH. Approach of the bill is punitive. Structure of Medicaid is problematic for the delivery of service to seniors in senior living. There is currently no waiting list for access to assisted living by those on Medicaid. Asks how assisted living facilities are expected to deliver Medicaid services with the current reimbursement rate? Most are small businesses. Those who are paying privately don't want their services diluted by enforced Medicaid services. Fine would be too high for some, based on the number of professional staff. Process of becoming a Medicaid provider is cumbersome and not required in NH. Reimbursement rate is low. Some communities have endowments that allow them to offer services without going through Medicaid. Supports overall idea of improving Medicaid and access. Would be happy to serve on a commission or committee to come up with a refined approach that would better meet the need.</p> |
| * | 3 | Gina Balkus, Granite State Home Health and Hopsice | <p>Opposes bill. Left written testimony but did not speak.</p> |
| * | 4 | Paula Minnahan, NH Hospital Association | <p>Left written testimony but did not speak. Opposes bill.</p> |
| * | 5 | Americans for Prosperity | <p>Left written testimony but did not speak.</p> |

Respectfully submitted,

Rep. Susan Ticehurst, Clerk

Testimony

Honorable Chairwoman Weber,

I would like to take this opportunity to tell you and the committee how sorry I am that I cannot be personally attending this meeting. Unfortunately, my schedule does not lend itself to short-term changes. I am scheduled to be in surgery today and it is impossible to change these dates.

Please note that any information provided by me in no way reflects anyone else except me. In particular, it does not reflect any views of my employer and I in no way represent them.

Before the presentation, a little bit about me.

James A Betti MD FACS/Board-certified urologist

Dartmouth Medical school in 1985

29 years in practice in New Hampshire on the seacoast

20 years helped run a private practice/small business with 22 employees

9 years senior surgeon Lahey health

2 years vice chairman of the Lahey Urology Department for practice management

3 years member of National American Urological Association committee on coding and reimbursement

3 years member of National American Urological Association subcommittee on insurance

3 years member of the New England Medicare advisory committee

Past president of the Strafford Medical Association

Cited the last 2 years by New Hampshire Magazine as one of New Hampshire's top urologists

Background and information that leads to the need for this legislation

Medicaid is a government health care assistance program that is jointly funded by the federal government and the States. Total spending in 2017 was approximately \$600 billion. In 2017 New Hampshire total spending was approximately \$2 billion. Projections on future Government Medicaid spending show total spending on Medicaid will hit \$1 trillion by 2026.

The total Federal deficit now exceeds \$21 trillion. Medicaid is the fastest growing part of this (along with the interest on the debt) and clearly is unsustainable. New Hampshire chose to expand Medicaid through the ACA known as Obamacare. The money the government used to fund the Medicaid expansion was taken from future Medicare spending. This amounted to the largest transfer of wealth from one generation to another in the history of the United States. Ironically, the money used for Medicare was deficit spending. Instead of using this money to pay down our national debt, a decision was made to spend it on Medicaid. The net effect is that all the money being spent on Medicaid expansion is being essentially stolen from our children and grandchildren. Of course, regular Medicaid spending is also being borrowed against our children's future.

Given the irresponsible fiscal policies of our government (both State and Federal), it is only a matter of time before Medicaid funds are either block granted or drastically reduced. The reason for the proposed legislation is the need for patients in the Medicaid population to be guaranteed access to high

James A. Betti MD FACS

quality healthcare providers. Unless something is done, providers (a lot already do) will just turn their back on the unfortunate.

Briefly, the legislation proposes that all providers (including dentists, PAs, nurse practitioners, and physical therapists), healthcare facilities (including hospitals), surgical outpatient facilities, radiologic outpatient facilities, cosmetic surgical facilities and Reddycare have their licenses linked to taking Medicaid.

Each of these entities will have an opportunity to pay a yearly "buy out" that will be determined by members of the committee.

Briefly, this will ensure that the healthcare providers/institutions themselves will either provide the care or subsidize it. This clearly is the right thing to do; and, without doubt, these providers and institutions can afford this.

The second part of the bill addresses the reality that nonprofit hospitals across the state disproportionately shoulder the Medicaid burden. A ratio is developed that allows the hospitals to be compared to each other in an equal fashion. Hospitals that are shouldering more of the burden will be subsidized by the hospitals that are not taking care of the Medicaid population. The rationale for this is that Medicaid is a statewide issue and the State allows hospitals to have a nonprofit status. Many of the hospitals not serving a large percentage of Medicaid (uninsured) have massive endowments and essentially are not doing their fair share. It is time for this to change. For-profit hospitals pay massive taxes while many nonprofits are poorly run and reward their CEOs with huge salaries and perks.

The rationale to put forward these ideas comes from the concept that it is time for the physicians, health care providers, hospitals and other healthcare facilities to clean up their own house. Now is the time to do it and it will prepare the state for the soon-to-come Medicaid tsunami.

I look forward to sometime in the future personally being part of the process and hopefully answering any of your questions.

Kind regards

James A Betti MD FACS
218 Wallis Rd.
Rye New Hampshire 03870

James.A.Betti@Lahey.org

James A. Betti MD FACS

Testimony Regarding HB 693-FN Eldon Munson

An Act relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund.

Before the House Health, Human Services and Elderly Affairs Committee January 30, 2019

Madame Chairperson, and members of the Committee:

My name is Eldon Munson, and I am President of the New Hampshire Association of Residential Care Homes (NH ARCH). NH ARCH represents the providers of licensed Residential Care (known alternately as assisted living) and the residents of the communities that they serve. The Board of Directors is a volunteer board and we serve our constituency without pay.

I would like to speak today in opposition to the proposed legislation, HB 693. This bill, if enacted, would be detrimental to the delivery of assisted living in NH, would be financial burdensome to the providers, many of whom are small business owners or not for profit providers, and might well have highly negative and unintended consequences. It should be noted that the residential care providers of New Hampshire currently provide care for more than 12,000 seniors in a private enterprise system, and only a small number (perhaps approximately 500) are Medicaid recipients.

Specifically:

- To enforce section 126-A; I, requiring all assisted living providers to care for Medicaid and uninsured persons would cause the providers in many cases to deliver care below cost. The approximately \$51 per day Medicaid rate in assisted living is often insufficient to meet the expenses of service provision for these residents. Rates of mortgages for new buildings compliant with code, labor costs and specialized program require a budget in many facilities that could not be met by Medicaid rates. Furthermore, the language includes service for uninsured residents, which, by definition, would not be reimbursed at all.
- To enforce section 126-A: II on non-participating facilities with the suggested fee of \$10,000 per professional staff member could be hundreds of thousands of dollars of burden for a facility– an unbearable expense to a provider.
- Section 126-A:79 III is difficult to interpret... it seems to restrict paying Medicaid fees to facilities providing Medicaid.

- Section 126-A:80 I requires an audit by the DHHS Commissioner regarding the ratio of Medicaid and uninsured to other compensated services - but does not indicate a purpose for the information once collected.
- Section 126-A:80 II requires an additional audit by the DHHS Commissioner to determine a ratio of Medicaid and uninsured services to endowment units with a fine if the ratio exceeds the state average by 20%. Although the language of this section is unclear, this section appears to fine endowed providers if they do not spend from their endowments for this care. This provision does not consider special conditions or stipulations by which endowments are managed. In any case this provision would severely restrict endowed providers from developing their own system of services using their endowment.

Other concerns regarding this bill:

- There is no clear understanding of the need for Medicaid in Residential Care. At present, the staff of the Department of Health and Human Services does not have evidence of a waiting list for Medicaid or uninsured persons in licensed residential care. This calls into question the need for these provisions in their entirety, or the ability to enforce the establishment of ratios for care in the bill.
- A technical detail exists in the enactment period at the end of the proposed legislation. To put these requirements into action could not be done in 60 days... for facilities that decided to take Medicaid residents application and approval as a new provider of Medicaid is likely to take many months, as the process is lengthy and review requires significant work by the applying facility.

Because of the problems with Medicaid mentioned above – low reimbursement rate, burdensome application procedure, etc., as well as a complex and the unwieldy billing and payment process, the inability of being paid while a newly qualified resident applies for Medicaid, and increasing scrutiny by multiple intrusive inspections and growing Medicaid regulations, some private providers have developed alternate approaches to serving persons who cannot pay full fees for care. These providers have either adopted policies of free care or support through an endowment or other fund to augment the fees for residents in need. If this bill were enacted these providers would be obligated to give up their private support of residents and instead accept Medicaid (or pay a large fee).

Furthermore, the enactment of this legislation could be expected to cause an unknown number of providers to fail financially, and for larger providers to leave the state and new providers to decide not to build new communities in New Hampshire. The effect would be to reduce opportunities to serve residents through Medicaid, rather than encourage the service.

As an alternative to the approach of this bill, it is recommended that a means be found to increase the Medicaid rate so that more providers find accepting Medicaid makes financial and programmatic sense.

In conclusion, I ask this bill be voted in the negative by this committee.

43

GRANITE STATE HOME HEALTH & HOSPICE ASSOCIATION

**Testimony in Opposition to HB 693, re: aid to persons funded by Medicaid
and for persons who are uninsured, and establishing a special fund
January 30, 2019**

Good morning Madam Chairman and members of the Committee. I am Gina Balkus with the Granite State Home Health and Hospice Association, which represents home care, hospice & palliative care providers and the people they serve. Our Association is opposed to HB 693 for several reasons.

First, it's important to know that home care and hospice agencies are considered "facilities" under RSA 151, so they would be subject to this bill. All agencies are licensed – some are licensed as medical providers, while some provide only non-medical care, such as bathing, grooming, meal prep and companionship. There are non-profit and for-profit home care and hospice agencies. Some of the for-profits are owned by national companies, but most are privately-owned, local small businesses.

Secondly, it's critical to know that New Hampshire's home care reimbursement rates, as determined by DHHS, have been largely unchanged since 2010. Some rates, such as those for physical therapy, are the same that they were in 1999 – 20 years ago. In the Choices for Independence program, the rate for one hour of personal care services has increased just 88 cents over the past 12 years. Because Medicaid payments rates do not cover the cost of delivering the care, many home care agencies have no choice but limit the amount of Medicaid or CFI clients they will accept, or they don't accept them at all.

Line 11 on page 1 of HB 693 would mandate that all home care agencies take new clients for whom they will receive meager reimbursement, or none at all. Lines 14 – 16 allow the agencies to opt-out if they pay \$10,000 per full time employee. The owner of a small home care agency that specializes in overnight and live-in care – one of the few agencies in the state that provides this important service – told me she would have to close her agency if this bill passes. She can't find enough staff to serve the clients she has now, she can't afford to hire staff at the low rates Medicaid pays, and she doesn't have the margin to pay \$10,000 fee for every FTE. HB 693 would also go against licensing rules for which states that agencies may not accept new clients if they don't have the capacity to serve them.

Lines 25 – 30 requires an audit of endowment. We are not sure what the intent is here. Privately-owned companies or for-profit entities will not have endowments. A non-profit entity *might* have an endowment. A Board of Trustees determines how any endowment is used. This bill implies that the Commissioner would require that a certain number of Medicaid and uninsured patients be treated, based on some unknown "unit of endowment." This section is tantamount to telling private businesses and public non-profits how they must they use their resources.

Our Alliance advocates for access to health care services for Medicaid and uninsured clients, so we appreciate the sponsor's good intentions. However, forcing providers to take patients that may be unable to serve or pay a fine to opt-out is not the answer to assuring that everyone can access services. On behalf of home care and hospice agencies throughout the state, I urge you to find HB 693 as inexpedient to legislation.





HOUSE HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS COMMITTEE

January 30, 2019

HB 693 – Relative to Aid to Persons Funded by Medicaid and for Persons Who Are Uninsured and Establishing a Special Fund

Testimony

Good morning, Madam Chair and members of the committee. My name is Paula Minnehan, VP, State Government Relations with the New Hampshire Hospital Association (NHHA), representing all 26 of the state’s community hospitals as well as all specialty hospitals.

The NHHA is neutral on HB 693, however, I do want to provide some clarification regarding how hospitals are impacted by this bill. While we appreciate the sponsor’s efforts to ensure more providers are accepting Medicaid as a payment method and treating more un-insured individuals, we are unclear on the approach taken with this bill and what the regulatory oversight challenges may be for the providers and the department of health and human services.

Hospitals in NH accept all patients, regardless of their ability to pay. This is part of their charitable mission and a requirement under the federal Emergency Medical Treatment and Labor Act (EMTALA). Furthermore, all physician practices that are owned and managed by hospitals follow the same policy. Consequently, we believe, if HB 693 were to pass, it would not have any substantive direct impact on the hospitals.

For these reasons, NHHA is not taking a position on HB 693. It is important, however, to clarify that hospitals do treat all patients, regardless of their ability to pay.

Thank you for the opportunity to provide our comments. I am happy to answer any questions.



**AMERICANS FOR
PROSPERITY**
NEW HAMPSHIRE

January 30, 2019

Rep. Lucy Weber, Chairman
House Health, Human Services and Elderly Affair Committee
Legislative Office Building, Room 205
Concord, NH 03301

Re: HB 693-FN-A

Dear Chairman Weber and Members of the Health, Human Services and Elderly Affair Committee,

I am writing today in opposition to *HB 693-FN-A, an act relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund*. This legislation would levy a \$10,000 annual tax on licensed or registered medical professionals or a \$10,000 per licensed or register professional annual tax on facilities that opted against taking patients without health insurance or covered by the state's Medicaid program. I apologize that a prior commitment will keep me out of state for the public hearing.

Before discussing the negative consequences of the legislation, there are two important considerations for the Committee.

First, it is critical to understand the continuum of licensed and registered medical professionals is very broad. It travels from doctors of medicine and dentistry, though other skilled professionals such as psychiatrists, psychologists and alcohol and drug addiction counselors, to massage therapists, athletic trainers and body art practitioners, several of whom would never know the insurance status of their customer base.

Second, the federal Centers for Medicare and Medicaid Services would undoubtedly view this levy as a new provider tax and would be unlikely in the extreme to offer federal Medicaid matching funds, either through enhanced Medicaid rates or through the disproportionate share hospital (DSH) program for any additional payments to providers as a result of this legislation.

Given these factors, the value of adding a new tax on health professionals is bad policy in a number of dimensions. First, it will drive up the cost of care, particularly for the many New Hampshire families who pay out of pocket. As the Committee has heard earlier this session, New Hampshire has the highest usage of high deductible health plans in the nation, and the highest family deductible. These increased costs will magnify an existing problem even further.

(over)

In addition, New Hampshire already faces a shortage of medical professionals. This legislation would exacerbate this problem by giving some practitioners a disincentive to work here, as they could be subject to a \$10,000 annual tax. The would also likely severely disincentivize occasional medical practitioners, such as those who work part-time in New Hampshire as well as those individuals winding down their practices, but who keep a small group of existing clients. Beyond this, some specialties, such as geriatrics, often tend not to take Medicaid or uninsured patients. This legislation would have the effect of driving many of these practitioners not to continue to practice in New Hampshire or to choose another state to practice.

Finally, the \$10,000 per head cost for facilities would act to discourage new and innovative approaches to treating patients, as well as harming existing facilities. If these facilities don't open in New Hampshire or existing facilities here leave, it will reduce competition and choice, which will harm patients by making health care lower quality, higher cost and less accessible.

For all these reasons, we encourage the committee to find HB 693 Inexpedient to Legislate, to send a clear message that we value our health care providers and want to promote choice and competition.

Thank you for your consideration on this important issue for New Hampshire's health care system. If you have any questions, please feel free to contact me at gmoore@afphq.org or 603-303-9297.

Sincerely,

A handwritten signature in blue ink that reads "Greg Moore". The signature is fluid and cursive, with the first name "Greg" and the last name "Moore" clearly distinguishable.

Greg Moore
State Director
Americans for Prosperity-NH

Bill as
Introduced

HB 693-FN - AS INTRODUCED

2019 SESSION

19-0731
01/04

HOUSE BILL

693-FN

AN ACT relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund.

SPONSORS: Rep. P. Schmidt, Straf. 19

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill requires health care practitioners and health care facilities to accept persons who are funded by Medicaid and who are uninsured. A health care practitioner or facility may opt out of this requirement by paying an annual fee to the department of health and human services which shall be deposited into a fund to aid such persons.

.....

Explanation: Matter added to current law appears in *bold italics*.
Matter removed from current law appears [~~in brackets and struck through.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

HB 693-FN - AS INTRODUCED

- Page 2 -

1 126-A:81 Fund Established. There is hereby established a nonlapsing fund to be known as the
2 aid to Medicaid and uninsured persons fund to aid persons who rely on Medicaid and who are
3 uninsured for medical procedures. The fund shall consist of all moneys collected under RSA 126-
4 A:79, II. The fund shall be administered by the commissioner. The commissioner shall adopt rules
5 pursuant to RSA 541-A relative to the qualifications and manner in which the funds shall be
6 distributed to persons who qualify for aid from the fund.

7 2 New Subparagraph; Application of Receipts. Amend RSA 6:12, I(b) by inserting after
8 subparagraph (343) the following new subparagraph:

9 (344) Moneys received under RSA 126-A:79, II which shall be credited to the aid to
10 Medicaid and uninsured persons fund established in RSA 126-A:81.

11 3 Effective Date. This act shall take effect 60 days after its passage.

HB 693-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to aid to persons funded by Medicaid and for persons who are uninsured and establishing a special fund.

FISCAL IMPACT: State County Local None

| STATE: | Estimated Increase / (Decrease) | | | |
|------------------------|--|-------------------------|-------------------------|-------------------------|
| | FY 2020 | FY 2021 | FY 2022 | FY 2023 |
| Appropriation | \$0 | \$0 | \$0 | \$0 |
| Revenue | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |
| Expenditures | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |
| <i>Funding Source:</i> | <input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Aid to Medicaid and Uninsured Persons Fund | | | |

METHODOLOGY:

This bill inserts a new section after RSA 126-A:77 requiring health care practitioners and facilities to provide services for patients funded by Medicaid and uninsured persons. The bill establishes the Aid to Medicaid and Uninsured Persons Fund and allows health care practitioners and facilities to opt out of the requirement by paying an annual fee of \$10,000 for practitioners and \$10,000 per full-time professional staff for facilities. The fees are to be deposited in the fund for the purpose of distributing aid to qualified individuals as determined by the Commissioner of the Department of Health and Human Services and adopted in rules.

The Department states the fiscal impact is indeterminable because the data collection, analysis, auditing, and operational responsibilities assigned to it by the bill are insufficiently detailed. It also notes the bill may conflict with existing Medicaid programs or violate existing federal or state Medicaid, insurance, or professional licensing laws or regulations, but there is insufficient information to determine the impact. However, the Department anticipates an indeterminable amount of additional staff and financial resources would be required to develop, administer, and evaluate the program. There would be an indeterminable increase to revenue to the extent practitioners and facilities opt to pay fees in lieu of providing services.

AGENCIES CONTACTED:

Department of Health and Human Services