

JOINT LEGISLATIVE FISCAL COMMITTEE - SPECIAL AGENDA

Legislative Office Building, Room 210-211

Concord, NH

Friday, April 18, 2014

MEMBERS PRESENT:

Rep. Cindy Rosenwald

Rep. Ken Weyler

Rep. Peter Leishman

Rep. Dan Eaton

Rep. Bernard Benn (Alternate)

Sen. Jeanie Forrester, Vice-Chair

Sen. Bob Odell

Sen. President Chuck Morse

Sen. Sylvia Larsen

Sen. Andy Sanborn

(The hearing convened at 9:03 a.m.)

(1) Chapter 3 (SB 413), Laws of 2014, New Hampshire Health Protection Act.

VICE-CHAIRWOMAN FORRESTER: Going to call this meeting of the Fiscal Committee to order. Today's meeting is for two items relative to Senate Bill 413 and ask Jeff --

JEFFREY A. MEYERS, Assistant Commissioner and Director of Intergovernmental Affairs, Department of Health and Human Services: Yes.

VICE-CHAIRWOMAN FORRESTER: Is the Commissioner here?

MR. MEYERS: He's not, but I'm happy to come up and start if you want me to.

VICE-CHAIRWOMAN FORRESTER: Yes, if you would, please. Your first item is about the New Hampshire Health Protection Act.

MR. MEYERS: Yes, Madam Chair, thank you. Good morning to the Members of the Committee. For the record, I'm Jeff Meyers. I'm the Director of Intergovernmental Affairs at the Department of Health and Human Services.

The first item is the Department's request that the Committee approve the first of several State Plan Amendments under Senate Bill 413 that the Department will be bringing forward to implement the New Hampshire Health Protection Act. The State Plan Amendment before you today concerns eligibility. It is a State Plan Amendment that simply -- it's a three-page Amendment, the purpose of which is to amend our current State Medicaid Plan to include the newly eligible adult population that will receive health benefits under the New Hampshire Health Protection Act. This State Plan Amendment is required by CMS so that these individuals, the newly eligible, are included for coverage under our State Plan. However, they are not being enrolled. By virtue of your approval of this State Plan Amendment, no newly eligible person is being enrolled automatically in either the current Medicaid coverage or the other programs.

In order for -- there's a two-step process, in other words. There's a process to determine eligibility for the new adult population and then there will be a subsequent enrollment process that will follow that.

Senate Bill 413 is very clear. The Department cannot implement any of the programs that it enacted, those being the Health Insurance Premium Program, the Voluntary Bridge to Marketplace Program, or the Premium Assistance Program without first the approval of this Committee; and, secondly, the approval of the Centers for Medicare and Medicaid Services in Washington.

The Department will be bringing a series of State Plan Amendments to this Committee for approval. Next month we will be coming back with the State Plan Amendment that will define the benefits that will be made available to the newly eligible adult

population. We will also be bringing forward a State Plan Amendment that will impose cost-sharing requirements on the newly eligible population. And, thirdly, we will be bringing forward a State Plan Amendment that will allow the State to draw down the 100% Federal funds, the so-called FMAP monies, during the time period for which the New Hampshire Health Protection Act has been authorized by the Legislature from now through December 31st of 2016. So the State Plan Amendment before you this morning is required by CMS so that the State can go forward and begin the eligibility determinations.

Senate Bill 413 is also very clear that with a timeline for when the Department is directed to stand up the programs. The Legislature has targeted May 1st as the commencement of enrollment for the HIPP, mandatory HIPP and Bridge Program, and July 1st has been targeted for coverage of the newly eligible adults in the mandatory HIPP and Voluntary Bridge to Marketplace Programs.

In order that individuals be determined eligible in time -- in that timeframe, CMS has asked us to submit this State Plan Amendment now so that we can continue to work with CMS to define the process by which the Department will undertake outreach, identify individuals in the new adult group, be able to commence an eligibility determination process that after further approvals will result in enrollment into both the mandatory HIPP and the voluntary -- Voluntary Bridge to Marketplace Programs. So all you are doing this morning in approving this particular State Plan Amendment is allowing us to submit this formally to CMS and allowing the Department to begin the eligibility determination process for both the mandatory HIPP and the Voluntary Bridge to Marketplace Programs. Why don't I -- Madam Chair, if you wish, I could stop there and see if there are any questions.

VICE-CHAIRWOMAN FORRESTER: Thank you. Any questions?
Senator Sanborn.

SEN. SANBORN: Thank you, Madam Chair. Jeff, thank you for coming in. I appreciate it. I don't know if these are more directed at you or Commissioner Toumpas is showing or not showing this morning?

MR. MEYERS: He planned to be here. He may have been delayed for some reason. I assume he'll be here shortly.

SEN. SANBORN: I know you and I had a conversation that I'm a little concerned that kind of gives the impression that we are putting the cart before the horse by defining who's eligible without defining what the plan really is. And I guess I'd like your comments on shouldn't we be working first on the benefit we are going to be providing people versus who is going to be getting that benefit?

MR. MEYERS: Well, no one is going to be receiving a benefit, either through the HIPP Program or the Voluntary Bridge Program, until the Department comes back again to this Committee next month with the additional State Plan Amendments, particularly the Alternative Benefit Plan Amendment which defines the benefits that they'll receive. But, as I've explained, in order to begin the process of identifying those individuals and determine eligibility so that we are positioned to go forward once those further approvals have been -- assuming they are given by this Committee so that we can submit those State Plan Amendments to CMS.

Under Senate Bill 413, we can't commence coverage for any program until all State Plan Amendments and all waivers have been approved first by the Fiscal Committee and then approved by the Centers for Medicare and Medicaid. And so we will be back before the Fiscal Committee. We are targeting May 23rd as the date of that meeting to bring the additional State Plan Amendments forward. But in order to be able to be positioned to begin coverage under the time lines that this Legislature has established under Senate Bill 413, CMS has asked us to start the process now. And the first step in the process is this eligibility part.

SEN. SANBORN: Follow-up question.

VICE-CHAIRWOMAN FORRESTER: Follow-up.

SEN. SANBORN: Thank you, ma'am. So when we talk about the plan, which leads me to kind of my concern about why we are trying to find eligible before we find what we're providing for benefit, if I remember correctly, the legislation itself essentially created a -- and the word opportunity might not be the right word -- but acknowledging that if any other state essentially raises that bar on eligibility requirements or benefit outputs, that the State of New Hampshire would follow along that line. And we know that Pennsylvania just announced that they're actually including a work requirement in their CMS plan, which would mean New Hampshire should be doing the same thing, if I remember the legislation correctly. So what plans do we have to do and how do we modify our potential plan to match what some of these other states are doing, and then this work requirement that Pennsylvania has now put forth?

MR. MEYERS: Well, what Senate Bill 413 says is that provisions related to citizenship and -- I should bring it out because I have it here -- but that we have to comply -- the bill says we have to comply with Federal requirements. The -- my understanding -- my recollection is the bill does not contain the language that you just referred to that we have to match some other state's program. I'll find the provision in one minute.

SEN. SANBORN: Thank you. I appreciate that, 'cause I do distinctly remember having that conversation on several occasions, and I don't have the legislation in front of me either so I apologize.

MR. MEYERS: Here it is. It's on -- well, it's on Page 9 of the final version that was chaptered. Any State Plan Amendment or waiver required under the program -- it has the cite -- shall comply with, and it cites several Federal statutes, including the Affordable Care Act, the Federal Medicaid statutes, and the

Health Care Reconciliation Act that amended the Affordable Care Act, and any applicable regulations by CMS govern eligibility for newly adults -- eligible adults regarding citizenship, referral requirements for employment or seeking employment, and allowable income resource restrictions. That language requires the Department to comply with Federal law in adopting any of those items with respect to citizenship, referral requirements, allowable income resource restrictions.

SEN. SANBORN: Final follow-up, if I may?

VICE-CHAIRWOMAN FORRESTER: Yes.

SEN. SANBORN: So if I'm understanding you correctly, what you're suggesting is the State of New Hampshire will only look towards existing requirements from CMS and not look at what other states are requesting of CMS and may or may not get approval for. Am I understanding you correctly?

MR. MEYERS: In regard to what in particular?

SEN. SANBORN: Things like work requirements or co-pays, all of those types of requirements?

MR. MEYERS: We will be bringing forward a cost-sharing State Plan Amendment to this Committee next month, and that State Plan Amendment will identify particular cost-sharing obligations for the newly eligible adult population.

Secondly, when the Department brings forward the Premium Assistance Waiver Application to this Committee, as it must under the Senate Bill later this year, there will be cost-sharing provisions associated with that that we will bring forward as well.

We -- we are going to work with CMS to determine what's approvable. We want to be successful in implementing this program. We're going to comply with Federal law, and we are going to work with the entire Legislature, and particularly this

Committee, in developing State Plan Amendments and waivers that can be approved by this Committee and that can be approved by CMS.

SEN. SANBORN: Thank you, sir.

VICE-CHAIRWOMAN FORRESTER: Other questions?

** REP. EATON: Move the item.

REP. ROSENWALD: Second.

VICE-CHAIRWOMAN FORRESTER: A motion to move the item and second. Any further discussion? All in favor? Opposed?

REP. WEYLER: No.

SEN. SANBORN: No.

REP. WEYLER: Nine to one.

SEN. SANBORN: Two.

REP. WEYLER: Eight to two.

*** {MOTION ADOPTED}

VICE-CHAIRWOMAN FORRESTER: Jeff.

MR. MEYERS: Yes.

VICE-CHAIRWOMAN FORRESTER: Are you prepared to speak to the transfers?

MR. MEYERS: I did not put together, personally put together the transfer. I am generally familiar with it, but there may be questions that I am unable to answer. And so if -- I'm happy to take any questions you have. If there are

things we need to check on, I can step outside in the hallway and make a call and get the answer.

VICE-CHAIRWOMAN FORRESTER: Do we have any idea where the Commissioner is?

MR. MEYERS: I don't, but I can ask my colleague, the Deputy Medicaid Director, to make a phone call and see if she can identify where he is. Thank you.

VICE-CHAIRWOMAN FORRESTER: We'll take a short recess.

MR. MEYERS: Thank you very much. Appreciate it.

(Recess taken at 9:16 a.m.)

(Reconvened at 9:28 a.m.)

(2) **Chapter 3:7, II, Laws of 2014, Department of Health And Human Services; Contracting; Transfer Among Accounts and RSA 14:30-a, VI Fiscal Committee Approval Required for Acceptance and Expenditure of Funds Over \$100,000 from any Non-State Source:**

VICE-CHAIRWOMAN FORRESTER: We're going to come out of recess. Thank you, Commissioner. We are here to -- we are here to discuss the second item which are the transfers, and I wonder if you had anything you wanted to offer, in terms of information about the transfers.

NICHOLAS TOUMPAS, Commissioner, Department of Health and Human Services: Other than an apology for not being here at 9 o'clock. The -- again, the transfer item that you have before you is -- is for us to take and move some things around, do some transfers in order to basically provide the type of resources that we need in order to stand up the New Hampshire Health Protection Program. So much of what we are doing here is taking, as we typically do, we will scrub our accounts looking at what was budgeted, where we are with respect to spending, and then

moving -- moving funds around in order to -- in order to fund something like this.

The -- the areas that we -- because we have over 300 vacancies in the Department that are spread throughout the organization, we will look at those areas in -- both in the area of personnel and benefits as a way in which to be able to move some things, because we haven't hired the people those funds become available. These would be funds that would ordinarily lapse and so, consequently, rather than having to make reductions in other areas, just moving those things to be able to cover the -- cover these projected expenses that we'll have.

VICE-CHAIRWOMAN FORRESTER: Thank you. Questions? Senator Sanborn.

SEN. SANBORN: Thank you, Madam Chair. Commissioner, thanks so much for coming in today. I appreciate it. I have two questions, if I may, Madam Chair, and Commissioner.

The first comes from Page 3 of a memo that you have halfway down where it specifically says that Senate Bill 413, as enacted, did not provide for an appropriation for the implementation of Medicaid Expansion.

MR. TOUMPAS: You're on Page 3?

SEN. SANBORN: I'm on Page 3, sir, halfway down.

MR. TOUMPAS: Okay.

SEN. SANBORN: Paragraph starts in early January 2014. Third paragraph.

MR. TOUMPAS: Hm-hum.

SEN. SANBORN: So the bottom of that paragraph says SB 413, as enacted, did not provide an appropriation for the implementation of Medicaid Expansion or New Hampshire

HealthTrust Program, whatever we are calling it these days. And part of my concern is everything we see, every representation made to the press and the people of this state that if the Federal Government didn't pay for this program 100%, it would stop. So we are here today looking for \$4 million of taxpayer money to implement a program that we told the taxpayers of this state that it wasn't going to cost them any money, and if it did we'd stop it. So it leaves me in a tough spot.

MR. TOUMPAS: Throughout the process, Senator, we -- we had maintained that the 100% was directed towards the services that were -- that were going to be provided and that remains. So any services that are provided for the first three years of the program beginning January 1st of 2014 to go to December 31st of 2016, those -- any services associated with this medical or otherwise are -- are reimbursable at 100% from the Federal Government. And on the administrative -- administrative side of it, it was part of our, again, part of our Medicaid Plan where we get reimbursements anywhere from fifty, to seventy-five, to ninety percent based on -- based on the nature of the expenditures.

SEN. SANBORN: Follow-up, if I may, Madam Chair? Thank you, ma'am. Commissioner, thanks, I appreciate the answer. So being the case that we're -- we are now paying taxpayer money for Medicaid Expansion, can you commit that other than the \$4 million in front of us there will be no more requests that there be taxpayer money to pay for this? Are we done at \$4 million; and if we are not done at \$4 million, what's it going to be?

MR. TOUMPAS: This is the, again, the estimate and the work plan that we have put together really focused on State Fiscal Year 14 and 15. And included in that -- that money was one-time dollars in order to basically stand up the system, system changes and so forth. And then there are ongoing costs that would be associated with, for example, eligibility workers or others that would be there. So we -- we've calculated what those costs are for State Fiscal Year 14 and 15, which is what this transfer is about. The cost associated with what will happen in

'16 and '17 will be a request in our budget when we go at the appropriate time for the '16 and '17 budget.

SEN. SANBORN: Thank you, sir. Madam Chairman, if I may follow-up? And just for clarification, Commissioner, we all know the challenges we are being faced with today with the mental health system. And we know of the suit and the fact we are looking to provide appropriations to the hospital today. But then I see we're pulling \$700,000 out of it to pay for this Medicaid Expansion stand-up provision. So I guess I just question the rationale on the one hand if the state and the lawsuit all think we're not dedicating enough financial resources to mental health, and it's a real concern and I think we all agree with that, that now taking money out of the exact same program to fund another program and it might leave some people concerned.

MR. TOUMPAS: Again, we -- when we have, as you know, when -- when our budget is constructed we have to fully fund every position for which we're authorized. We will never and ever have been at full staffing. So, consequently, whether it's at the New Hampshire Hospital or whether it's at the Glencliff Home, or my office, we'll have somebody leave and that will -- that will create some available dollars. And in this case ordinarily those dollars would have gone to a lapse and here we're looking to fund what we believe is a very critical program for the State.

SEN. SANBORN: Thank you, sir.

VICE-CHAIRWOMAN FORRESTER: Other questions?

** REP. EATON: Move the item.

VICE-CHAIRWOMAN FORRESTER: Senator Morse.

SEN. PRESIDENT MORSE: Yeah. And I'm not feeling well today so I don't want to get into debate, but thoroughly, thoroughly vetted throughout the process were the numbers in here. There's

no -- this Committee approved the ability for you to transfer money. We've approved the ability for lapse movement within the State Government. It's been thoroughly vetted. I thank you for what you've done in the last week bringing me up to speed to the point that I'm able to vote for this today and that was probably five hours' worth of meetings bringing us up to speed financially. So I want everyone to understand the lack of questions this morning isn't because you haven't brought all that forward. I asked everyone to present questions to you ahead of time so I could read them. I haven't seen any responses beyond what I brought you in for in those meetings. So I want everyone to understand this has been vetted all the way. And on the financial part of it I understand it completely, and it was by design. So I would want the Committee to understand that.

** REP. EATON: Move the item.

VICE-CHAIRWOMAN FORRESTER: Do I have a second?

REP. ROSENWALD: Second.

SEN. LARSEN: Second.

VICE-CHAIRWOMAN FORRESTER: Did you get that? All in favor? Opposed?

SEN. SANBORN: No.

REP. WEYLER: No.

REP. EATON: Eight to two.

(3) Date of Next Meeting and Adjournment:

VICE-CHAIRWOMAN FORRESTER: All right. That's - we've completed the tasks for today. The date of the next meeting is -- the regular Fiscal Committee meeting is Friday April 25th at 10 o'clock. And, Jeff, did you want to speak to a late item we have?

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JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: Go ahead, late item.

MR. MEYERS: It's a late item that will be delivered to the LBA on Monday morning. There will be a -- there will be three documents that I'll be bringing forward to the Committee for your review as an information item only. And all these documents pertain to the Section 1115 Demonstration Waiver that is referenced in Senate Bill 413. There is a Concept Paper for the waiver, there is a PowerPoint slide deck that kind of summarizes what's in the Concept Paper, which we'll present next Friday. And, thirdly, there will be a copy of a public notice for the waiver. Federal regulations require the Department to undertake a notice and comment period and hearing with respect to any 1115 waiver. So I'll be bringing forward a copy of the public notice that will be published next Monday to start the comment period. Those will all be under a cover letter that, you know, in a couple of pages or so summarizes what it is that we're bringing forward.

VICE-CHAIRWOMAN FORRESTER: Thank you, Jeff. And this is just information only. We're not expected to act on that?

MR. MEYERS: Correct. The Department will later bring forward in May a final application for an 1115 waiver that we will first preview and give you time to review and then subsequent meeting before June 1st where you can consider and vote on that application.

VICE-CHAIRWOMAN FORRESTER: Senator Larsen.

SEN. LARSEN: Question on future meetings. If there's an outline of dates with -- within Fiscal meeting specifically on the Medicaid Expansion, could we have an outline of those dates so it goes in our calendar?

VICE-CHAIRWOMAN FORRESTER: You should have that.

MR. MEYERS: We do.

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VICE-CHAIRWOMAN FORRESTER: We do.

MR. MEYERS: And I will -- I'll make sure I follow-up and provide that to the Committee again and --

SEN. LARSEN: I've seen a tentative; but, you know, if we are going to really put them in our calendars it helps, you know, way ahead.

MR. MEYERS: Yes.

MR. TOUMPAS: Madam Chair, if I may? There will be one other information item that we will bring forward next week. We have already provided it to the LBA and that is the Dash Board so that we will have the Dash Board through the end of March.

VICE-CHAIRWOMAN FORRESTER: Thank you.

** REP. ROSENWALD: Move to adjourn.

REP. EATON: Second.

VICE-CHAIRWOMAN FORRESTER: All in favor? Opposed?

*** {MOTION TO ADJOURN ADOPTED}

(Meeting adjourned at 9:39 a.m.)

CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

Cecelia A. Trask
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