

# Senate Finance Committee

*Deb Martone 271-4980*

**SB 218-FN**, relative to public assistance for certain persons.

**Hearing Date:** February 7, 2017

**Time Opened:** 2:59 p.m.

**Time Closed:** 3:16 p.m.

**Members of the Committee Present:** Senators Reagan, Giuda, Morse, D'Allesandro and Feltes

**Members of the Committee Absent:** Senator Daniels

**Bill Analysis:** This bill clarifies the definition regarding public assistance for persons with a disability who are eligible to participate in the work incentive program.

**Sponsors:**

Sen. Watters

Sen. Hennessey

Sen. Soucy

Sen. Fuller Clark

Rep. J. MacKay

Rep. Weber

Rep. McMahon

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**Who supports the bill:** Senators Soucy and Fuller Clark; Ryan McDermott.

**Who is neutral on the bill:** Molly Lynch

**Summary of testimony presented in support:**

**Senator Watters, Prime Sponsor:**

- The federal statute for the Medicaid for Employed Adults with Disabilities Program ("MEAD") ends for individuals when they turn 65 years of age, which was the previous full retirement age. That criteria has increased to 66 years of age. Individuals who want to continue working under this program can no longer do so.
- The MEAD Program has generous, enhanced income limits for someone who is under state statute and meets the criteria for disability or for blindness, is able to work, and have a bit higher income than would otherwise qualify them for Medicaid insurance.
- If they make a certain amount of income beyond those limits, there is a monthly premium cost of \$110 for this program.
- Some individuals are aging out of this type of coverage, as indicated in the Fiscal Note of SB 218-FN, and may want to continue to work but cannot.
- Senator Watters has discussed this with the Department of Health and Human Services, in an attempt to develop an estimate of what it would actually cost to do

this, but the Department is experiencing difficulties developing an estimate. It appears a federal statute change would be required. As that has not occurred, the retirement age has increased and some individuals are caught in the middle.

- The issue for us is if we don't have the federal change, we do not receive the 50 percent support from the federal government, and would have to bear the cost ourselves.
- Senator Reagan asked if it would be the same if the language in Line 2 of the bill were changed to read, "...with a disability between 18 and **65** years of age..." That would seem to fit the criteria. Senator Watters noted the current law is "18" and "64". If you are full retirement at 66, you are no longer covered under this program. You have to stop working.
- Senator Feltes asked if Senator Watters would be amenable to changing "64" on Line 2 to 65.
- Senator Watters reminded committee members this will incur some additional state cost for the small number of individuals who want to continue to work under this program.
- As indicated in the Fiscal Note, 35 individuals will turn this age and many of them will be covered by other things and stop working. There are some who might like to work for one more year.
- Senator Reagan sought clarification that the premium cost was \$110 per month. Senator Watters indicated if an individual makes over \$2,799 monthly gross income, the \$110 per month premium kicks in. Senator Reagan added the worst case scenario then would be 35 individuals multiplied by \$110 per month. Senator Feltes pointed out the Fiscal Note states, "Of these 35 individuals, 29 were either eligible for Old Age Assistance..." which is a different bucket, "...or eligible with a deductible and one case was pending a decision." That ultimately means 6 people. Senator Watters agreed it was a small number, and that he was amenable to the suggested language changes to the bill.

#### **Neutral Information Presented:**

#### **Molly Lynch, Legislative Liason, Office of Medicaid Services, New Hampshire Department of Health and Human Services:**

- The Department has strong concerns with SB 218-FN. Currently, the bill as written doesn't comply with the DHHS State Plan, which uses 65 years of age as the criteria. Senator Feltes inquired if the bill passed, wouldn't the Department merely revise the State Plan. Ms. Lynch indicated if the State Plan were amended, it is the Department's belief it would not gain approval from the Centers for Medicaid Services ("CMS"), and that is because it conflicts with the federal statute. This would lead to the loss of the federal match. As Senator Watters alluded to, the Department is finding it difficult to estimate the cost of this legislation because it is dependent upon the medical needs of these individuals. They could need waiver services, which tends to be more expensive. There would also be costs associated with changing the State Plan and the rules, as well as changes to the eligibility system.
- Senator Feltes wondered if the State Plan were located on the Department's

website, and available to the public. Ms. Lynch believes it is not.

- Senator D'Allesandro wondered if the bill was passed and was not consistent with the State Plan, what risk are we running by doing that. Ms. Lynch indicated it would be the loss of federal funds. Senator D'Allesandro stressed committee members should know what the ramifications are before any action is taken on the bill. We wouldn't want to take any action that may cause harm. Ms. Lynch reiterated the Department's perspective that CMS would not approve the change. The MEAD eligibility group is optional; the states may do it. The federal criteria is under the age of 65. Senator D'Allesandro added the only risk we take would be the State's incurrence of payment with General Funds.
- Senator Reagan requested Ms. Lynch research any ramifications of the bill and report back to committee members. Ms. Lynch once again stated she believed we would be risking the federal match. Senator D'Allesandro requested a response in writing from the Department.
- Senator Feltes wondered if the Department would be risking the federal match merely due to this one suggested change. Ms. Lynch indicated it would risk the federal match due to these individuals in particular. Senator Feltes explained if the committee passes the bill, CMS says no, the state then absorbs the remaining cost. He asked if we'd be risking any other Medicaid money. Ms. Lynch indicated no, that was not her understanding.
- Senator D'Allesandro stressed we aren't modifying the State Plan. We would merely change the language of the existing state statute. Ms. Lynch stated if SB 218-FN passed, DHHS would have to revise the State Plan. The state can't administer the program and not be in compliance with the State Plan. Senator D'Allesandro wondered if the State Plan was changed, would it have a negative effect on others.
- Senator Giuda pointed out the Fiscal Note states, "The Department notes it is unlikely the proposed legislation would be eligible for the 50 percent federal match thereby requiring Medicaid services for program participants age 65 and over to be paid with 100 percent General Funds."
- Senator Feltes asked if the Department would be willing to post the State Plan online to enable the public to view it. Ms. Lynch agreed to follow up on the Senator's inquiry.

**Future Action:** Pending

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Date Hearing Report completed: February 8, 2017