Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 544-FN, limiting changes to prescription drug formularies under health benefit plans.

Hearing Date: February 4, 2026

Time Opened: 9:21 a.m. **Time Closed**: 10:05 a.m.

Members of the Committee Present: Senators Rochefort, Birdsell, Prentiss and Long

Members of the Committee Absent: Senator Avard

Bill Analysis: This bill limits modification of prescription drug coverage to the renewal date for the health benefit plan. The bill also provides for continued coverage of certain prescription drugs if they were previously covered under the plan.

Sponsors:

Sen. Fenton	Sen. Long	Sen. Birdsell
Sen. Rosenwald	Rep. M. Pearson	Rep. Crawford
Rep. Mazur		

Who supports the bill: Sen. Fenton, Sen. Rosenwald, John Stewart, Ben Bradley (NH Hospital Association), Holly Stevens (NAMI NH), Angela Boyle (Community Behavioral Health Association), Suzanne Austin, Karen Trudel, Joline Manseau, Elisha Griffin, B Widger, Jill Sinclair, Bob Sinclair, Melanie Kasparian, Valerie Danielson, Francis Hayes, Jessica Wright, Wendy Chase, Nancy Hirshberg, Katie McLaughlin, Suzanna Derynioski, Cathy Stratton (NH Medical Society), Cailynn Aumock, Samuel Burgess (New Futures), and Cara Cabral.

Who opposes the bill: Sabrina Dunlap (Anthem Blue Cross Blue Shield), Paula Rogers (AHIP), Cam Lapine (Cigna), Peter Bragdon (Harvard-Pilgrim), Sarah Colombo, Amanda Rybicki, Ellen Joyce, Tara Higgins, and Kirsten Westrate.

Who is neutral on the bill: No one.

Summary of testimony presented:

Senator Donovan Fenton, Senate District 10

- Senator Fenton explained that this bill is about fairness, predictability, and continuity of care for patients and families who rely on prescription medications.

- This bill says that if an insurer sells a plan with a certain formulary, they should not be able to fundamentally change that formulary mid-year in ways that harm patients.
- This bill does not prevent insurers from managing costs or prohibit formulary changes altogether. Rather, it requires that significant changes occur at plan renewal.
- Senator Fenton explained that he was approached to introduce this legislation by a constituent whose family member lost access to a prescription medication due to a mid-year change. The family had no meaningful recourse, as successful appeals often result in high out-of-pocket costs.
- Senator Fenton noted that loss of coverage for a prescription medication is not considered a qualifying life event to change plans.
- Senator Fenton addressed the fiscal note and acknowledged that limiting mid-year formulary changes could increase carrier costs, resulting in higher premiums. He emphasized that it is important to consider context.
- Several states, including Texas, have adopted similar legislation, and they continue to have functioning insurance markets, insurer participation, and cost-management tools while providing strong patient protection.
- This bill allows insurers to make formulary changes at renewal, apply such changes uniformly across identical plans, remove drugs that are deemed unsafe, and encourage the use of generics and lower-cost alternatives. Senator Fenton emphasized that this bill simply prevents arbitrary mid-year disruptions that shift financial and medical risk to patients who have no ability to respond.
- The fiscal note also acknowledges that increased premiums could result in increased premium tax revenue, with no identified increase in state expenditures.
- Senator Fenton said we must weigh these potential marginal costs against the burden on families when stable treatment is interrupted, including worsened health outcomes, emergency care, lost productivity, and financial hardship. He emphasized that these costs are passed on to patients, employees, and the health care system as a whole.
- Senator Rochefort asked if plans are renewed on a similar timeline in Texas compared to New Hampshire, and Senator Fenton said he would get back to the Committee with an answer.

John Stewart

- Mr. Stewart stated that he is speaking in support of the bill as the constituent who approached Senator Fenton about this legislation.
- He told a personal story about a loved one losing access to an important prescription due to a mid-year change. The letter they received from their insurer stated that they had 60 days to decide what they wanted to do.

- This individual had already been prescribed this medication by their provider and went through a trial-and-error period to find the correct dosage. They were also told to not engage in stress, which this situation exacerbated.
- When Mr. Stewart was researching this issue, he found it was common practice for insurance companies to make formulary changes whenever they want.
- This bill still allows insurers to make decisions and decide what drugs they want to cover, as it only states such changes cannot be implemented until the next plan period. This gives patients and their families adequate time to plan and meet with their providers. Mr. Stewart noted that it can be difficult to see specialists within the 60-day timeframe.
- Senator Birdsell asked if the letter Mr. Stewart's family received included any recommended alternative medications.
- Mr. Stewart explained that while it did include alternative medications, switching medications is like starting all over again with trial and error.
- Senator Birdsell asked how long it took for the individual to see a specialist and start the process of getting a new medication.
- Mr. Stewart said it took close to a month, as they were worried that the 60-days would lapse. He noted that there is an appeal period, but even if the appeal is successful, the medication would be full cost.
- Senator Birdsell asked if the insurer was requiring them to pay full cost of the medication during the 60-day period.
- Mr. Stewart explained that if the appeal was successful, the insurance company would provide the medication but they wouldn't pay their share for it.
- Senator Rochefort asked if Mr. Stewart pursued the appeal process.
- Mr. Stewart said they did not. He explained that he has been through it before, describing the process as long and arbitrary. This individual's concern was to fix the problem before the 60-day period ends, rather than waiting for the appeal process.
- Senator Rochefort explained that while he agrees the process can be long, other times it is a simple phone conversation.
- Mr. Stewart said there is a 72-hour window, sometimes less than 24 hours. In his experience, it may only be approved if the consumer keeps pushing it. Even then, they would be responsible for full cost.
- Senator Rochefort said he has been in this situation before and explained that while that does sometimes happen, other times it is a 5-minute phone call. He noted that New Hampshire has taken steps in the past few years to improve this process. He said he wants to see if there is something that can be streamlined within this process using existing laws.

- Mr. Stewart said he does not know if there is a way to streamline the process in place. He thinks it needs to be revamped to give the average person an understanding and sense of fairness and stability.
- He noted that in his research, he has found that some insurers say this saves them money. He emphasized that when this happens, plan rates do not change in the middle of the year.
- Senator Long asked how close the individual was to refilling their prescription when they received the notification that it would no longer be covered.
- Mr. Stewart said they received the letter 6 months prior to refilling the prescription.

Holly Stevens, NAMI NH

- Ms. Stevens stated that she is speaking in support of the bill.
- Finding the right medication to treat mental illness can be a long process of trial and error. However, once the correct medication is found, individuals are able to live productive and successful lives.
- Psychiatric medications are not interchangeable, as they have different mechanisms of action. Thus, finding a new medication can take a very long time.
- Individuals with mental health conditions who are unable to access appropriate medications can experience homelessness, incarceration, and more frequent hospitalizations.
- Both patients and employers look at the formulary when selecting a plan.
- Ms. Stevens referenced the language of the bill and explained that the word "modification" may disallow additions to the formulary. She recommended potentially using the word "removal" instead and prohibiting insurers from moving medications to higher-cost tiers during the plan year.
- Senator Birdsell asked for clarification on what Ms. Stevens wants to change, and Ms. Stevens emphasized using "remove" and "removal" instead of "modify" and "modification" may address the concern. She noted that Senator Fenton is looking into it as well.

Sabrina Dunlap, Anthem Blue Cross Blue Shield

- Ms. Dunlap stated that she is speaking in opposition to the bill. If the Committee chooses to move forward with the bill, Anthem would like to be included in discussions.
- This bill would significantly limit Anthem's ability to manage their formulary and make timely changes for the benefit of members.
- When formulary changes are made, members and providers can request exceptions.
- Members who are on drugs that will be removed at the beginning of the plan year can be grandfathered in as well.

- Anthem needs the flexibility to make midyear changes to manage safety and cost concerns.
- Prohibiting midyear changes will lead to significant waste in the system, especially when less expensive and therapeutically equivalent drugs become available.
- Ms. Dunlap explained that Anthem tries to promote less-costly biosimilars. In states that limit their ability to make changes to the formulary, they cannot help members move to lower-cost and effective biosimilars.
- Ms. Dunlap stated that bills like this are a way for drug companies to ensure that higher cost drugs stay on formularies, driving up costs for everyone. Anthem calculates that this bill would lead to $10 per member per month increase. For Anthem members in the fully insured market, this would be more than $15 million added to costs every year.
- Ms. Dunlap noted that she has some concerns with the bill language as well, such as the effective date.
- Senator Rochefort asked if premiums get lowered when formulary changes are made for less expensive and therapeutically equivalent drugs to reflect savings.
- Ms. Dunlap explained that they cannot make midyear changes to costs and said she will double-check on it. In the longer term, the idea is to lower costs for lower premiums in the next plan year.
- Senator Rochefort asked if people are notified at time of purchase that the drug formulary may change midyear.
- Ms. Dunlap said she believes it is spelled out for members and they get at least 60-days' notice. Anthem only makes changes at the beginning of the year and once midyear.
- Senator Rochefort said the issue he is seeing is that the contract negotiations health plans make for drug prices are not necessarily lining up with the plan dates of contracting. Ms. Dunlap agreed.
- Senator Rochefort inquired about the difficulty of the appeal process to ensure continuity of care.
- Ms. Dunlap explained that her understanding is if somebody needed to be on something like a high cost specialty drug, there is a process for them or their provider to keep that drug. It is general policy that if there is going to be a change at the beginning of the plan year, people who are already on the drug can stay on it. She emphasized that she can get back to the Committee with more details.
- Senator Prentiss asked who processes and makes the decision on appeals.
- Ms. Dunlap said she will need to get back to the Committee on that, but she believes it would be the medical director.

- Senator Prentiss asked if there are percentages on how many appeals actually happen and how many are granted.
- Ms. Dunlap said she does not have that data, but she can get it. She emphasized that Anthem does not want disruptions for members and most of the time this is pertaining to changes in which there is a biosimilar with a lower cost.
- Senator Birdsell asked why individuals are not allowed to change their plans in these situations to keep coverage of the drug they are taking.
- Ms. Dunlap said her understanding is that they are bound by the Affordable Care Act and do not make the rules around when members can make changes to their plans.
- Senator Birdsell noted that people can change their policy after life changing events and asked if that is federal law.
- Ms. Dunlap said she does not want to misspeak, but she knows that they do not make the rules under the Affordable Care Act.

Paula Rogers, America's Health Insurance Plans

- Ms. Rogers referenced the provision of statute that would be amended by this bill, noting that there is an existing standard for the exception process and notice period.
- As Ms. Rogers understands it, in these situations the obligation of the carrier is to give a 45-day notice during which the drug remains covered. If the exception process is utilized, it is not to exceed 48 hours. Ms. Rogers questioned if there is a higher appeal if the exception process were to not be successful for the member, noting that it is not clear in statute. She said there needs to be more clarity on what happens after the exception process.
- Ms. Rogers explained that there may be some gaps in members' awareness of what their options are and how to access them.
- Senator Rochefort asked if this issue may be solved if paragraph II of this statute is clarified.
- Ms. Rogers said she hopes so, noting that health plans feel the value of this for both patients and the health care dollar. She emphasized that there are many new drugs entering the market recently and said any stability that could be provided while opening a clear consumer pathway is what we are trying to seek here.
- Senator Birdsell noted the statute and stated that patients obviously seem to be unaware of this. She asked if it would be beneficial if these notices stating a medication would no longer be covered included a chart of how to request exceptions.
- Ms. Rogers noted that this provision of law has been changed throughout the past 21 years. She believes the statute includes requirements for clear

notification of what the exception process is. She thinks we need to ensure that this has been locked down.

Cam Lapine, Cigna

- Mr. Lapine addressed Senator Birdsell's earlier questions about qualifying life events and why people cannot change their plans midyear, noting that both of these are covered in the Affordable Care Act.

Peter Bragdon, Harvard-Pilgrim

- Mr. Bragdon expressed concern about the bill, noting that there are operational factors that would especially impact Harvard-Pilgrim as a smaller insurance company.
- Carriers have many companies purchasing plans that all have different start times.
- Harvard-Pilgrim currently has 3 formularies to choose from. To comply with this, they would essentially have to create 3 separate formularies for every 12-month period, meaning they would have manage 36 formularies. This would be expensive and difficult to implement.
- Mr. Bragdon emphasized that increases in costs may get pushed into premiums. He addressed Senator Rochefort's earlier question about premium changes to reflect savings and explained that while premiums remain stable for the year, having more money saved and in reserves puts less pressure on premiums for the following year.
- Mr. Bragdon said he thinks the current statute does try to balance this. He referenced section III of the statute, which covers the notification process and noted that there are potential changes that could be made to clarify the statute.
- Senator Rochefort said he can see how spread pricing may protect companies like Harvard-Pilgrim in a scenario like this, and Mr. Bragdon agreed.

SW
Date Hearing Report completed: February 6, 2026