

CHAPTER 250
SB 249-FN - FINAL VERSION

03/13/2025 0915s
5Jun2025... 2465h

2025 SESSION

25-1011
05/09

SENATE BILL

249-FN

AN ACT relative to the uncompensated care and Medicaid fund.

SPONSORS: Sen. Birdsell, Dist 19

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill revises the funding mechanism for uncompensated care costs under the state Medicaid program, including the distribution of disproportionate share hospital payments. The bill also establishes a committee to study the Medicaid enhancement tax and disproportionate share hospital payments.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to the uncompensated care and Medicaid fund.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 250:1 Uncompensated Care and Medicaid Fund; Definition of Hospital. RSA 167:63, IV is repealed
2 and reenacted to read as follows:

3 IV. "Hospitals" mean general acute care hospitals licensed under RSA 151 that provide inpatient
4 and outpatient hospital services, but shall not include government facilities or special hospitals for
5 rehabilitation.

6 250:2 Uncompensated Care and Medicaid Fund; Disproportionate Share Hospital Fund. RSA 167:64
7 is repealed and reenacted to read as follows:

8 167:64 Uncompensated Care and Medicaid Fund; Disproportionate Share Hospital Fund.

9 I. There is hereby established in the state treasury an uncompensated care and Medicaid fund,
10 which shall consist of the moneys collected pursuant to RSA 84-A. Moneys paid into the fund shall be
11 exempt from any state budget reductions, and the commissioner of the department of health and human
12 services is authorized to expend these funds, together with matching federal funds, as authorized by this
13 section. Investment earnings of the fund shall be credited to the fund. The moneys in the fund shall be
14 nonlapsing and continually appropriated to the department of health and human services for the purpose
15 of making hospital payments and provider payments and to support Medicaid services and Medicaid
16 programs administered by the department of health and human services in accordance with this section.

17 II. Beginning in state fiscal year 2026 and continuing every state fiscal year thereafter, the
18 commissioner of the department of health and human services shall provide Medicaid payments, subject
19 to the payment conditions set forth in this section, to the hospitals in a total state and federal fund
20 equivalent amount determined by the commissioner, subject to any agreements between the state and
21 the hospitals then in effect, of the money collected pursuant to RSA 84-A in the prior state fiscal year.
22 Payments to the hospitals shall be made in accordance with this section.

23 III. The commissioner of the department of health and human services shall determine which
24 payment method or methods are used to make the Medicaid payments subject to this section through
25 Medicaid reimbursement for inpatient or outpatient hospital services, Medicaid supplemental payments,
26 managed care directed payments, disproportionate share hospital payment adjustments, or any other
27 Medicaid payment method allowed by the Centers for Medicare and Medicaid Services (CMS). In
28 determining which Medicaid method or methods to utilize and at what percentage for each method, the
29 commissioner shall seek to prevent to the greatest extent possible year over year hospital reimbursement
30 reductions in the aggregate while at the same time achieving the highest available federal match. The
31 commissioner shall work in collaboration with the hospitals in developing those determinations.

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1 IV. All payments made pursuant to this section shall be subject to approval by CMS, and the
2 department shall secure all necessary waivers or approvals to state plan amendments from CMS.

3 V. Any payments made under this section through directed payments shall comply with 42 CFR
4 438.6 or any other applicable federal regulation or guidance. The commissioner shall consult with and
5 consider feedback from the hospitals prior to submission of a payment plan to CMS for approval. If CMS
6 does not approve the hospital directed payment plan, the commissioner shall seek to provide payments
7 through increased hospital rates, disproportionate share hospital payments, supplemental Medicaid
8 payments, or any other allowable Medicaid payment method that provides for federal fund matching. For
9 purposes of determining the portion of the payments to the hospitals that are attributable to CMS
10 approved directed payments, the amount shall be the total amount available for the hospitals to earn
11 under any directed payment, including, but not limited to, any amount of a directed payment that is at risk,
12 value-based, or subject to performance conditions. In no event shall the state be liable for any payments
13 the hospitals fail to earn under any CMS approved directed payments.

14 VI. In the event the commissioner of the department of health and human services determines
15 there has been a change in federal law, regulations, or CMS guidance that materially impacts payments to
16 the hospitals in accordance with this section or a material change in the amount of money collected
17 pursuant to RSA 84-A, the hospitals and commissioner of the department of health and human services
18 shall collaborate on adjustments, and subject to the commissioner's determination, to the payment
19 method or methods that are used to make the hospital payments subject to this section. In determining
20 which Medicaid method or methods to utilize and at what percentage for each method, the commissioner
21 shall seek to prevent to the greatest extent possible year over year hospital reimbursement reductions in
22 the aggregate, while at the same time achieving the highest available federal match.

23 VII.(a) Disproportionate share hospital payments shall only be made to a hospital that is:

24 (1) A "deemed disproportionate share hospital" as defined by criteria set forth under 42
25 U.S.C. section 1396r-4 and is not otherwise receiving a disproportionate share hospital payment; or

26 (2) Meets the minimum criteria for disproportionate share eligibility under relevant federal
27 statutory changes at 42 U.S.C. section 1396r-4(d).

28 (b) For purposes of this paragraph, a hospital's uncompensated care costs, for purposes of
29 calculating a disproportionate share hospital payment, shall include any charity care cost, and any portion
30 of Medicaid-covered patient care costs unreimbursed by Medicaid payments, that the commissioner
31 determines would meet the criteria under 42 U.S.C. section 1396r-4(g) governing hospital-specific limits
32 on disproportionate share hospital payments under Title XIX of the Social Security Act and the provisions
33 of all federal regulations promulgated thereunder.

34 VIII. Payment of the federal share of any amount payable under this section to the hospitals is
35 contingent upon New Hampshire receiving those federal funds and any necessary CMS approvals that
36 the department is required to secure pursuant to paragraph IV. In no event shall the state be liable for any
37 payments in excess of such available federal appropriated funds. In the event of a reduction or
38 termination of appropriated federal funds by any federal legislative or executive action that reduces,
39 eliminates, or otherwise modifies the federal appropriation or availability of funding for the federal share,

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1 in whole or in part, the commissioner and the hospitals shall collaborate on adjustments, and subject to
2 the commissioner's determination, to the payment method or methods that are used to make the hospitals
3 payments subject to this section. In determining which Medicaid method or methods to utilize and at what
4 percentage for each method, the commissioner shall seek to prevent to the greatest extent possible year
5 over year hospital reimbursement reductions in the aggregate, while at the same time achieving the
6 highest available federal match. The state shall not be required to transfer funds from any other account
7 or source in the event federal funds are reduced or unavailable.

8 IX. The remaining funds available under this section shall be used to make provider payments
9 and to support Medicaid services and Medicaid programs administered by the department in amounts
10 directed by the budget in each year of the biennium, and from this an amount of at least 9 percent of the
11 money collected pursuant to RSA 84-A in the prior state fiscal year shall be used to support Medicaid
12 services and Medicaid programs administered by the department of health and human services with first
13 priority to funding Medicaid service provider payments to community mental health centers, federally
14 qualified health centers, substance use disorder providers, and other Medicaid service providers as
15 determined by the commissioner of the department of health and human services.

16 X. One percent of the funds made available for hospital Medicaid payments shall be placed in a
17 separate class line for purposes of the department administering this section.

18 XI. No hospital shall be entitled to receive any reimbursement under this section unless it meets
19 the definition of a hospital, as defined in RSA 167:63, IV.

20 XII. There is hereby established in the department of health and human services the
21 disproportionate share hospital fund, which shall be kept separate and distinct from all other funds. All
22 disproportionate hospital share hospital revenue received by the department shall be credited to the fund.
23 The moneys in the fund shall be nonlapsing and continually appropriated to the department for the
24 purpose of redistributing disproportionate share hospital funds between and among hospitals for
25 compliance with the federally required disproportionate share hospital examinations.

26 XIII. Prior to implementing any change in the Medicaid payment methodology under paragraph
27 III, VI, or VIII, the commissioner shall submit a document detailing such changes to the fiscal committee of
28 the general court. The document shall be for informational purposes only and fiscal committee approval
29 shall not be required for the department to proceed with implementation.

30 250:3 Application of Receipts; Disproportionate Share Hospital Fund; Reference Change. Amend
31 RSA 6:12, I(b)(397) to read as follows:

32 (397) Moneys deposited in the disproportionate share hospital fund established in RSA
33 167:64, [V] ~~XII~~.

34 250:4 Committee Established. There is established a committee to study the Medicaid enhancement
35 tax and disproportionate share hospital payments.

36 I. The members of the committee shall be as follows:

37 (a) Three members of the senate appointed by the president of the senate. One member
38 shall be from the senate finance committee and one member shall be from the senate health and human

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1 services committee. Two members shall be from the majority party and one member shall be a member
2 of the minority party.

3 (b) Two members of the house of representatives, appointed by the speaker of the house of
4 representatives. One member shall be from the house health and human services committee and one
5 member shall be from the house finance committee.

6 II. Members of the committee shall receive mileage at the legislative rate when attending to the
7 duties of the committee.

8 III. The committee shall:

9 (a) Study the Medicaid enhancement tax in the state of New Hampshire.

10 (b) Study disproportionate share hospital payments in New Hampshire.

11 (c) Study the relationship between the Medicaid enhancement tax and disproportionate share
12 hospital payments in New Hampshire and review the history of this issue in New Hampshire.

13 (d) Study the feasibility of the state of New Hampshire moving to a directed payment plan for
14 disproportionate share hospital payments.

15 (e) Solicit testimony from any person or organization with relevant information or expertise.

16 (f) Draft legislation to address any issues identified around the topics studied and reviewed
17 by the committee. This draft legislation shall be included in the committee's final report.

18 IV. The members of the study committee shall elect a chairperson from among the members.
19 The first meeting of the committee shall be called by the first-named senate member. The first meeting of
20 the committee shall be held within 30 days of the effective date of this section. Three members of the
21 committee shall constitute a quorum.

22 V. The committee shall report its findings and any recommendations for proposed legislation to
23 the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk,
24 the governor, and the state library on or before November 1, 2025.

25 250:5 Effective Date. This act shall take effect July 1, 2025.

Approved: July 15, 2025
Effective Date: July 01, 2025

