

# Senate Health and Human Services Committee

*Sophie Walsh 271-3469*

**SB 136-FN**, establishing an uncompensated care assessment, fund, and committee within the department of insurance.

**Hearing Date:** February 10, 2025

**Time Opened:** 10:30 a.m.

**Time Closed:** 12:02 p.m.

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

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

**Bill Analysis:** This bill establishes an uncompensated health care fund to be administered by the department of insurance and assessed by a surcharge on commercial insurers, reinsurers, and trusts overseeing self-insured plans.

---

**Sponsors:**

Sen. Altschiller

Sen. Fenton

---

**Who supports the bill:** 49 people signed in support of the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

**Who opposes the bill:** 11 people signed in opposed to the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

**Who is neutral on the bill:** 2 people signed in neutral to the bill. Full sign in sheets are available upon request by contacting the Legislative Aide, Sophie Walsh (Sophie.Walsh@gc.nh.gov).

**Summary of testimony presented:**

Senator Debra Altschiller, Senate District 24

- Senator Altschiller stated that this is a project and issue that Senator Innis has been working on in his community and she in hers. They both ended up introducing the same bill.
- There are two words missing from a couple of places that may clear up some of the confusion. Senator Altschiller asked the committee to consider an amendment that would add the words “mental health” on line 2 and line 16.
- This bill is only about mental health care.

- The NH 10-year mental health plan leans into the work of community mental health centers (CMHCs). Within that plan is the Mission Zero Project. Mission Zero is a collaborative effort to eliminate hospital emergency room psychiatric boarding.
- Since the State began this project in February 2021, we have achieved Mission Zero twice: once in December of 2024 and this past weekend.
- Senator Altschiller is in contact with CMHCs in her district, and they are stretched too thin to keep up with these efforts.
- CMHCs are providing care for our most vulnerable people who are uninsured or underinsured, and this comes at a significant cost.
- Our 10 CMHCs have combined uncompensated costs of nearly \$15 million in FY 2024. This accounts for 12% of the total Medicaid revenue of the 10 CMHCs. This has nearly doubled since 2021.
- In an analysis done by the CHMCs, they found that the main drivers of uncompensated care costs are bad debt and write-offs from providing important and medically necessary services that are not paid for by commercial insurers.
- The payer mix for CMHCs is primarily Medicaid, but includes commercial payers and patients with out of pocket payments. While commercial and private payments are a smaller portion, they are a large contributor to uncompensated costs.
- This cost-shifting is having an impact on the CMHCs' operational abilities.
- The effect of this is that CMHC are designated as safety net providers, but they get no safety net funding. Providing care and getting paid for it is the goal; not getting paid for it is unsustainable.
- Senator Altschiller provided a breakdown of the uncompensated care provided.
- Senator Altschiller asked the committee to support the bill and the work of CMHCs across the state.
- Senator Avaré referenced the fiscal note of the bill and asked if the \$553 million dollars was correct.
- Senator Altschiller said the information provided to the NH Insurance Department was clearly not enough. This fiscal note applies to all uncompensated medical care, but she is only looking to provide for uncompensated mental health care.

Jay Couture and Cynthia Whitaker, NH Community Behavioral Health Association

- The 10 CMHCs are part of the NH Community Behavioral Health Association, which helped pull all of the data together that they are submitting to the committee.
- They are in support of this legislation and appreciate the opportunity to talk about the impact uncompensated care has had on them.

- Dr. Whitaker emphasized they are a safety net for community mental health, but without safety net funding. Over the years, in collaboration with the State, they have found ways to manage and mitigate that.
- With Medicaid unwind and people shifting Granite Advantage, their own uncompensated care has expanded significantly.
- Dr. Whitaker's center in Nashua had \$1 million dollars in uncompensated care for many years and last year, unexpectedly, they had \$2.5 million in uncompensated care costs.
- Their philanthropy and municipalities cannot mitigate that. They had to use money that they had intended to use to create a new community center.
- The difference between private practice and the CMHCs is that a private practice can say no, but the CMHCs, by statute, are required as a partner with DHHS to provide mental health care to all of their constituents regardless of their ability to pay.
- They believe they are part of the impact of Mission Zero, but if they don't have help in mitigating uncompensated care, they may have to decrease their services.
- Senator Rochefort said we have an uncompensated care model for hospitals whereby we charge an assessment, the Medicaid enhancement tax, which is used to pull down a federal match. He said it looks like this is emulating that model and asked if they were aware of any federal funds available for mental health care.
- Ms. Couture said they would defer to Roland Lamy.

Roland Lamy, NH Community Behavioral Health Association

- Mr. Lamy's role is to assist the CMHCs with payer-related challenges.
- They have developed an alternative payment model for Medicaid that is unique. They have continued to improve on that model through collaboration with DHHS.
- He provided a spreadsheet to the committee and spoke to the different sections that attempt to identify the source of uncompensated care.
- CMHCs are largely dependent on Medicaid revenue. On average 75% of the revenue to CMHCs is from Medicaid revenue.
- There is an inability of these providers to cost shift. Services are provided virtually for free, so there is no way to compensate for those services by shifting the burden to other payer sources.
- Another section shows the aggregate uncompensated care for each CMHC from FY21 to FY24 and the rate of growth in each of those centers in uncompensated care over that period.
- He explained that they created the other sections on the spreadsheet to try to understand the source of the uncompensated care.

- Their spenddown program is sometimes referred to as the Medicaid In and Out Program where NH consumers have to have qualified expenses at the beginning of each month in order to qualify for Medicaid after. They do this through seeking services at CMHCs or hospital emergency rooms.
- Another source of the problem is cost shares that patients have such as self-pay, deductibles, or copays.
- There are services provided to chronically mentally ill patients. These are services that are ordered by the doctor but not paid for by private insurance coverage. They are generally referred to as home and community-based services and supports, as well as critical case management services, and designed to keep patients out of higher cost settings of care. The state and federal government considers these medically necessary services to be provided to consumers who are chronically mentally ill. They provide those services irrespective of the ability to pay.
- There was a decline in Medicaid revenue from FY21-24 across the system with a simultaneous rise in uncompensated care. The total of those two variables is close to the total of system operating losses in FY24. 9 of their 10 centers had operating losses that in total approach \$20 million over FY24.
- This bill is one solution to address the uncompensated care burden.
- They think this addresses the core of the issue but are open to other suggestions.
- They have met with the Insurance Department and are ready to work with them moving forward.
- Uncompensated care weakens the stability of our system and delays access to care. Everyone will benefit from a strong outpatient system of care.
- We have a history in NH of using assessments in tricky healthcare situations. We used them to fund vaccines, the state reinsurance pool, and programs like Granite Advantage. This bill has synergy with those other mechanisms.
- The program contemplated in this bill is not like the MET. The MET is done on gross revenues and matched with federal funds. This is more about an assessment on commercial covered lives creating a pool of dollars to offset uncompensated care.
- Senator Avar asked if this will help out with cost shifting.
- Mr. Lamy said the cost shift right now is directly to the CMHCs.
- Senator Avar asked who is getting assessed under this bill.
- Mr. Lamy said it assesses roughly 500,000 insured lives in NH to create a funding pool.

Andrew Hosmer, Harvard-Pilgrim

- Harvard-Pilgrim is opposed to this bill.

- They share the concerns with emergency department boarding and support the goal of Mission Zero.
- They believe it is unreasonable to place the blame of uncompensated care on commercial carriers.
- Commercial carriers cover an array of clinical and medically necessary services that are reimbursed to providers throughout the state.
- The bill does not include a definition of uncompensated care and could include a wide variety of costs.
- Mr. Hosmer referenced paragraph two from page two of the fiscal note and explained that they have operated under the presumption that this is the proper definition of uncompensated care.
- They empathize with the providers who do a remarkable job in our communities, but if Medicaid reimbursement makes up 75% of the revenue stream to CMHCs it is not compensating adequately for the services they are rendering to Medicaid patients.
- The idea of charging insurance carriers an assessment to make up for this is unfair and not the proper solution to this problem.
- All of the carriers in NH, including Harvard-Pilgrim, are ready and willing to collaborate with all stakeholders to find solutions to this problem.
- Looking at the last page of the fiscal note, it was determined that \$84 per member per month would be the assessment, but that was for all uncompensated medical care. Reduced in half for just mental health, he suggested that the figure might be cut to \$40 per member per month.
- The total cost of that, for a plan that would cover 50,000 people, would be upwards of \$25 million.
- Mr. Hosmer said he did not know of any carriers that are sitting on pools of money where they could just draw that money down and remain viable in the state.
- This will destabilize the state health insurance system and may result in higher deductibles.
- He acknowledged that the fiscal note will need an update, but emphasized that this is a tax on companies in an already highly regulated environment.

Sam Hawkins, NAMI NH

- Mr. Hawkins emphasized the quality and importance of the services that CMHCs provide.
- NAMI has heard that patients receive care that is not covered by their insurance. Some say that they are not covered because they are not medically necessary.
- NAMI disputes that because members have told them that these services are essential to their recovery and are medically necessary.

- As they understand it, private insurers are passing on the cost of services for their beneficiaries onto the CMHCs.
- He believes that we cannot afford to lose these centers or see a reduction in services.
- New Hampshire needs a solution to fund CMHCs, and SB 136 provides the solution.
- Senator Long asked if he could comment more on what commercial insurers are being asked to do in SB 136.
- Mr. Hawkins replied that there are patients under commercial insurers that are receiving services at the CMHCs that are not covered by their insurer, but they are also unable to pay for it. In these cases, the Mental Health Center is uncompensated for that care and have to pay for it themselves. He emphasized that the beneficiary is receiving care that is crucial to their recovery, but the insurance carrier is not paying for it.
- Senator Rochefort asked if the fee for uncompensated care that insurance providers would be asked to pay is not only paying for their members but for everyone else.
- Mr. Hawkins replied that from what they understand, the fee will pay for the uncompensated care, but he is not sure as to whether the money generated will go to other services.
- Senator Rochefort stated that the fee is for uncompensated care and inquired that it may not be only private insurance members' uncompensated care, but rather everyone's uncompensated care.
- Mr. Hawkins stated that there may be some truth in that statement, but a lot of patients at CMHCs qualify for Medicaid and that care is being paid for by Medicaid. He continued that the uncompensated care that the Centers are faced with is slimmer and that smaller portion is from commercial insurance.

Commissioner D.J. Bettencourt and Michelle Heaton, NH Insurance Department

- Commissioner Bettencourt stated that the Department's fiscal notes tend to include a little more detail than some other Departments provide.
- He acknowledged that it is frustrating to get a fiscal note that does not say very much about the impact of the legislation.
- He was not trying to editorialize on the fiscal note, but rather trying to do right by them and give the committee as much information as possible.
- He has instructed his team to keep the analysis to how the bill is written.
- They can tighten up this fiscal note and redo the analysis for them.
- Changing the legislation to just mental health will change the fiscal note quite a bit.
- He did not understand what some of the CMHCs are struggling with until they were able to have some conversations about the uncompensated care problem.

- In general, he is not a huge fan of assessments.
- His biggest concern is the impacts over time from those assessments on cost.
- Currently, New Hampshire has the lowest average monthly premium in the country. They are always concerned when there is potential that we might lose that distinction.
- He emphasized that one of the biggest barriers to care is costs, and New Hampshire has done an excellent job at keeping them low.
- Insurers who incur new costs will pass them on to consumers either in higher premiums, higher deductibles, or a narrowing of some coverages.
- If they are going to go down that path, they need to make sure there are controls and guardrails in place to contain those costs.
- He believes the definition of uncompensated care needs some detail to ensure that they can control the costs.
- For the past couple of years, the insurance premium tax revenues have come in well over what they estimated due to help from states (NY, CA, and MA) increasing taxes and fees.
- He understands that part of the struggle is consumers with coverage not paying their deductibles and providers are left to eat that cost.
- That issue is hard to address because they do not want to incentivize people to not pay their deductibles.
- Another issue here is that some of the services are not typical medical services within the mental health space and therefore are not covered.
- Ms. Heaton noted that in section 2 paragraph 2, there is reference to the State of New Hampshire Health plan, and she believes what was intended was to be referenced is the State of New Hampshire Employee Plan. The committee may want to clarify that on lines 18-19.
- Senator Avard asked how many employees would be affected.
- Ms. Heaton replied that it may be around 40,000, but she is not sure. She can get back to him with the number.
- On page 2, lines 13-15, she is concerned with how workable this prohibition is.
- She stated that the bulk of insurers who are in this assessable group are self-funded groups, and they are responsible for covering their own costs, so they would have to absorb it. She is not sure how applicable this language is.
- Senator Avard commented that it almost sounds contradictory.
- Ms. Heaton replied yes, the bill language is saying that you can't pass the costs on, but they are self-funded groups and responsible for their own costs. She continued that there is no way to say the employer is not responsible for this as it is already a cost to the employer. They cannot pass this on as increased premium or projected claims costs because they are already liable for this. It may work for the commercial insurances, but they only have a 3% profit margin.

- In paragraphs 9-13, the Department is being tasked with paying out the funds, and without a more detailed description of what uncompensated care is, it would be difficult to disperse the funds.
- The fiscal note was done with the assumption that uncompensated care was all uncompensated care, not just for the mental health space.
- Generally, they would not consider cost-sharing that is not being paid as uncompensated care.
- The covered individual is contractually obligated to pay those costs under their insurance contract.
- If they had more parameters about what uncompensated care was and they limited it to mental health, they could do some more analysis.
- Senator Avard asked if this could include up to 600,000 individuals.
- Ms. Heaton replied yes, they do not know how many covered lives right now are under the 404g assessments, which include commercial insurance and self-funded plans.
- Senator Avard asked if this could be destabilizing because of the insurance companies passing on costs.
- Ms. Heaton confirmed. If the language states they are not able to pass it on in higher premiums is workable, this would be eating into their profit margins, which at 3%, would not leave much money. It may not be feasible for the four carriers in the individual market to continue.
- Senator Avard asked if the 20 million is an annual amount.
- Ms. Heaton said that she believes so.
- Commissioner Bettencourt emphasized that he sympathizes with the providers and the struggle that this is causing, but this is a policy decision for the legislators to make.
- Senator Long asked if the Department is able to articulate what the uncompensated care is that the insurances are creating.
- Ms. Heaton replied that they do not have information from the CMHCs, so they don't know what their numbers look like. For the commercial plans that they regulate, all plans are required to cover mental health services. Some services are not considered clinical care and they are not covered. The Department issued a Bulletin to clarify this and provide guidance on how to bill those services.
- Commissioner Bettencourt stated that mental health is his top priority.
- Senator Long asked if they had any data for what is or is not clinical care as it relates to uncompensated care.
- Ms. Heaton replied that she would get that information for them.
- Senator Long asked if they are working towards having the commercial insurances add on some of those services.

- Ms. Heaton replied that they asked all carriers to reach out to CMHCs to make sure they have contracts and that they are updated. Ultimately, it is up to carriers and the Community Mental Health Centers to negotiate contracts.

Kristine Stoddard, Bi-State Primary Care Association

- Community Health Centers are required by law to treat everyone, regardless of their ability to pay or insurance status.
- They are also required to provide certain types of services known as enabling services that help patients increase their access to care.
- If the patient is uninsured or underinsured, they are required to adjust the cost of services based on the patient's income.
- The difference between the cost of care and what the patient pays is uncompensated care.
- There is an actuarial definition of uncompensated care, and they would ask the committee to use that because it is a common definition across the country for healthcare providers.
- It is important for them to define safety net providers in front of mental health rather than just mental health because they are going to capture non-safety net providers.
- Federally Qualified Health Centers also provide mental health services, and it would be very hard to parse out their mental health services versus their primary and preventive care.
- It would be easier to define safety-net providers as the mental health centers and the federally qualified health centers.
- Community Health Centers have about 36% commercially insured patients, 31% Medicaid, 19% Medicare, and 14% uninsured.
- In 2023, the ten CMHCs had 14.5 million dollars in uncompensated care.
- If we don't address this problem, health centers will have to close sites.
- Over the summer, the State was able to use federal money for emergency stabilization funding.
- Due to the pandemic and the Medicaid unwind, the health centers incurred a large amount of uncompensated care.
- This state has chosen as a policy to assess carriers, to assess tobacco products and different types of entities to pay for health care.
- She is asking them to fix the problem. How they assess the fee is workable, but the problem needs to be addressed.
- If people cannot access the CMHCs, they are going to go to the emergency room, which is more expensive.
- In New Hampshire, CMHCs employ almost 2,000 people. They have 1,000 direct jobs, 380 indirect jobs, and 430 jobs in their service areas.
- Senator Long asked if substance use is included in mental health services.

- Ms. Stoddard explained that as healthcare system, they include substance use disorder services as mental health treatment.

#### Erin Sawicki, Harbor Care

- Ms. Sawicki explained that their health center is designated as a Health Care for the Homeless program, and is legally required to serve everyone regardless of their ability to pay or insurance status.
- This results in a large amount of uncompensated care that they have to find a way to cover.
- From 2023 – 2024 they had 5 million dollars in uncompensated care. This financial burden is unsustainable. They had to eliminate positions within the organization.
- Financial strain pushes employees to do more with less, ultimately jeopardizing patient access and less time for providers to see their patients.
- She believes supporting uncompensated care supports the health and wellbeing of our most vulnerable community members, and makes financial sense for the healthcare system.
- Senator Long asked what percentage of the veteran’s program mental health is.
- Ms. Sawicki replied that the veterans’ programs they have are separate, so they receive some of their healthcare through the VA.

#### Kris McCracken, Amoskeag Health

- Federally Qualified Health Centers have been covered broadly, and they have about 17,000 patients in the Manchester area.
- Mental health and substance use disorder patients are a huge part of what they do with 24 behavioral health providers.
- About 89% of their patients live at or below 200% of the federal poverty level.
- Regardless of their coverage, they often qualify for the sliding scale. They never turn someone away because they cannot afford care.
- They have experienced constant increases in costs and flat rates in funding.
- In response to the losses, they had to close some sites and reduced staff by 40 full-time jobs to stay viable.
- They want to make sure they can be there because if they don’t provide the care, patients will end up needing care in the most expensive means possible.
- To take care of the patient in the safest setting at the lowest cost they can provide is their ultimate goal.
- If they don’t establish a mechanism to start closing some of the cost gaps, they will have to continue to reduce programs.
- Senator Long asked how long the federal funds are appropriated for.
- Ms. McCracken replied that the federal funds have to be spent down by December of 2026.

- Senator Long asked her to explain the two types of health centers.
- Ms. McCracken replied that there are Federally Qualified Health Centers which provide primary care, mental health and other specialties. Then there are CMHCs that provide specific mental health care. They usually collaborate with each other in their communities around how to provide the safety net care.

#### Ken Gordon, Coos County Family Health Services

- Mr. Gordon stated that they serve 12,500 residents of Coos County.
- There has been a move to integrate primary care and mental health for many years now.
- They encourage the committee to consider a broad definition of safety net provider because it is difficult to separate the work of both community health centers.
- There is a crisis in the safety net provider network.
- His organization had 1.8 million dollars in uncompensated care last year. This resulted in them having to cut back staff.
- Mr. Gordon explained that the notion is that with this legislation, costs will be transferred to premiums. They are sensitive to premiums, but ask the committee to recognize that premiums may rise if people do not get the care that they need.
- He agrees that the committee needs to drill down on a clear definition of uncompensated care.

#### Bob MacLeod, Mid-State Health Center

- It is difficult to separate all sorts of services, but it needs to be done.
- CMHCs are barely making it, if at all, and they can't do cost shifting.
- Last year they lost \$720,000. In a good year, their margins are exceedingly small, maybe 1%.
- If we don't work on this, a lot of safety net providers will disappear or limit what services they provide.
- He asked the committee to consider all of the safety net providers when they are working on this legislation.

#### Sabrina Dunlap, Anthem

- Ms. Dunlap stated that she is confused about the scope of the bill and whether it is just mental health or all safety net providers.
- They deeply appreciate the roles of CMHCs and Federally Qualified Health Centers, and the work that they do.
- She plans on contacting many of the people who spoke today to see if there is anything else they can do outside of the legislative process.
- There needs to be a broader discussion about how to address this situation.

- She doesn't think the approach of just doing an assessment on commercial insurers is the best route to take.

Jenny O'Higgins, Department of Health and Human Services

- CMHCs were hit significantly by the Medicaid unwind.
- They continued to provide services as they usually do, but were not getting reimbursed.
- They are now struggling with staffing, which lowers costs but creates fewer opportunities to create revenue.
- This also affects the wait lists and their Mission Zero plan.
- In August of 2024, they received an approved award of 5 million dollars to address some of the losses. The Department used that as basis for a prioritized needs request.
- The operating losses indicate that uncompensated care does exceed that amount.
- The 5 million in the prioritized need would support the costs associated with deliberate integrated physical and behavioral health care by the State certified Community Behavioral Health Clinics that serve individuals with any mental health or substance use conditions.
- The goal of that program is to improve the health and wellness of New Hampshire residents experiencing mental health or substance use challenges, and reduce the more costly settings of care.
- This can alleviate the need for acute inpatient psychiatric beds at New Hampshire Hospital and the other designated receiving facilities.
- New Hampshire can anticipate that there will be an increase in the uncompensated care burden as we go forward.
- Senator Birdsell asked how much she thinks it will be in addition to the 5 million dollars.
- Ms. O'Higgins heard from CMHCs today it is more in the 15-million-dollar range.

Roland Lamy, NH Community Behavioral Health Association

- Senator Rochefort asked what percentage of the clinics' uncompensated care is from patients who are covered by a commercial plan that does not cover the services.
- Mr. Lamy replied that in the spreadsheet he gave the committee, their total uncompensated care is about 15 million dollars. The amount associated with commercial, and Medicare bad debt was about 5.5 million dollars. Services provided but not covered is another 3.5 million dollars. So, roughly 8.5 million out of 15 million is commercial insurance.

SW

Date Hearing Report completed: February 18, 2025