SB 606-FN - AS AMENDED BY THE SENATE

02/19/2026 0689s

2026 SESSION

26-2063
05/08

SENATE BILL ***606-FN***

AN ACT relative to insurance coverage for biomarker testing.

SPONSORS: Sen. Birdsell, Dist 19; Sen. Innis, Dist 7

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill requires the New Hampshire Medicaid program to provide coverage for biomarker testing under certain circumstances.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to insurance coverage for biomarker testing.

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

1 New Subdivision; Managed Care Law; Biomarker Testing. Amend RSA 420-J by inserting after section 26 the following new subdivision:

Biomarker Testing

420-J:27 Definitions. In this subdivision:

I. “Biomarker” means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes, or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered. Biomarkers include but are not limited to gene mutations, characteristics of genes, or protein expression.

II. “Biomarker testing” means the analysis of a patient’s tissue, blood, or other biospecimen for the presence of a biomarker. Biomarker testing includes but is not limited to single-analyte tests, multi-plex panel tests, protein expression, and whole exome, whole genome, and whole transcriptome sequencing.

III. "Clinical utility" means a biomarker test result that provides information used in the formulation of a treatment or monitoring strategy that informs a covered person's outcomes and impacts the treating provider's clinical decisions. The most appropriate test may include both information that is actionable and some information that cannot be immediately used in the formulation of a clinical decision.

IV. “Consensus statements” mean statements developed by an independent, multidisciplinary panel of experts utilizing a transparent methodology and reporting structure and with a conflict of interest policy. These statements are aimed at specific clinical circumstances and base the statements on the best available evidence for the purpose of optimizing the outcomes of clinical care.

V. “Nationally recognized clinical practice guidelines” mean evidence-based clinical practice guidelines developed by independent organizations or medical professional societies utilizing a transparent methodology and reporting structure and with a conflict of interest policy. Clinical practice guidelines establish standards of care informed by a systematic review of evidence and an assessment of the benefits and risks of alternative care options and include recommendations intended to optimize patient care.

420-J:28 Biomarker Testing; State Medicaid Plan Coverage Requirements.

I. Biomarker testing shall be covered by the New Hampshire Medicaid program for beneficiaries when the biomarker test is determined as medically necessary by the New Hampshire Medicaid program for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of an enrollee's disease or condition when the test provides clinical utility and is demonstrated by the following medical and scientific evidence, including but not limited to any of the following:

(a) Labeled indications for an FDA-approved or -cleared test;

(b) Indicated tests for an FDA-approved drug;

(c) Warnings and precautions on FDA-approved drug labels;

(d) Centers for Medicare and Medicaid Services (CMS) National Coverage Determinations or Medicare Administrative Contractor (MAC) Local Coverage Determinations; or

(e) Nationally recognized clinical practice guidelines and consensus statements.

II. If utilization review, including but not limited to prior authorization, is required, the utilization review entity, or any third party acting on behalf of the New Hampshire Medicaid program shall approve or deny a prior authorization request and notify the beneficiary, and the ordering health care provider.

2 New Section; Medicaid Coverage of Biomarker Testing. Amend RSA 167 by inserting after section 4-f the following new section:

167:4-g Biomarker Testing; Medicaid Coverage Requirements.

I. The state Medicaid plan shall cover biomarker testing, as defined in RSA 420-J:27, II, in accordance with the requirements of this section when the biomarker test is determined as medically necessary by the New Hampshire Medicaid program for the beneficiary.

II. Biomarker testing shall be covered for the purposes of diagnosis, treatment, appropriate management, or ongoing monitoring of the beneficiary's disease or condition when the department of health and human services determines that the test provides clinical utility, as defined in RSA 420-J:27, III and is demonstrated by the following medical and scientific evidence and determined as medically necessary by the New Hampshire Medicaid program, including but not limited to any of the following:

(a) Labeled indications for an FDA-approved or -cleared test;

(b) Indicated tests for an FDA-approved drug;

(c) Warnings and precautions on FDA-approved drug labels;

(d) Centers for Medicare and Medicaid Services (CMS) National Coverage Determinations or Medicare Administrative Contractor (MAC) Local Coverage Determinations; or

(e) Nationally recognized clinical practice guidelines and consensus statements.

III. Risk-bearing entities contracted under the state Medicaid plan to deliver services to beneficiaries shall provide biomarker testing at the same scope, duration and frequency as the Medicaid program otherwise provides to enrollees.

IV. The state Medicaid plan shall ensure coverage, as outlined in paragraph II, is provided in a manner that limits disruptions in care including the need for multiple biopsies or biospecimen samples.

V. If utilization review, including but not limited to prior authorization, is required, the state Medicaid plan, utilization review entity, or any third party acting on behalf of an organization or entity subject to this section shall approve or deny a prior authorization request and notify the enrollee, the enrollee's health care provider, and any entity requesting authorization of the service within 14 days for non-urgent requests or within 72 hours for urgent requests.

VI. The enrollee and participating provider shall have access to a clear, readily accessible, and convenient process to request an exception to a coverage policy of the state Medicaid plan or by risk-bearing entities contracted to the program. The process shall be made readily accessible to all participating providers and enrollees online.

VII. The department of health and human services shall submit to the Centers for Medicare and Medicaid Services any amendment to the state Medicaid plan required to provide coverage for biomarker testing in accordance with this section.

VIII. The provisions of this section shall only take effect provided that there is sufficient funding included in the operating budget for the biennium ending June 30, 2029.

3 Effective Date. This act shall take effect July 1, 2027.

LBA
26-2063
03/27/2026

SB 606-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2026-0689s)

AN ACT relative to insurance coverage for biomarker testing.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2026	**FY 2027**	**FY 2028**	**FY 2029**
Revenue	$0	$0	$0	$0
Revenue Fund(s)	None			
Expenditures*	$0	$0	$170,000 - $600,000 state funds; $330,000 - $1.3 million federal funds	$170,000 - $600,000 state funds; $330,000 - $1.3 million federal funds
Funding Source(s)	General funds, federal funds, other funds			
Appropriations*	$0	$0	$0	$0
Funding Source(s)	None			

***Expenditure = Cost of bill** ***Appropriation = Authorized funding to cover cost of bill**

METHODOLOGY:

This bill requires the state Medicaid program to cover biomarker testing when medically necessary. Per actuarial estimates based on paid and denied claims, the Department of Health and Human Services estimates the bill will increase total expenditures by between $500,000 and $1.9 million per year. Since the federal share of Medicaid costs ranges from 50 percent for the standard Medicaid program to 90 percent for the Granite Advantage Program, the state share of costs is anticipated to range from $170,000 to $600,000 per year, with the remainder being federally funded. Although the state share of Granite Advantage costs is covered by various non-general fund revenue sources, the bulk of state Medicaid expenditures are paid for with state general funds. Therefore, for the purposes of this fiscal note, it is reasonable to assume that the bill will result in annual general fund expenditures of approximately $170,000 to $600,000 per year.

It should be noted that section 1 of the bill places Medicaid biomarker coverage within RSA 420-J, which is typically reserved for non-Medicaid insurance mandates. Section 2 duplicates much of the language of section 1, but locates it within RSA 167:4, which governs eligibility for certain types of public assistance. It is unclear whether this duplication was intentional. Regardless, the bill takes effect on July 1, 2027, so any budgetary impact would not occur until the FY28/29

biennium. With respect to section 2 (but not section 1), the bill explictly states that coverage shall only take effect in the event that sufficient funding is included in the operating budget for the FY28/29 biennium.

AGENCIES CONTACTED:

Department of Health and Human Services