Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 121-FN, requiring notice to the insurance department of the discontinuance of certain types of insurance, including Medicare Advantage Plans.

Hearing Date: January 29, 2025

Time Opened: 11:54 a.m. **Time Closed**: 12:11 p.m.

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

Members of the Committee Absent : Senator Avard

Bill Analysis: This bill requires an insurance company to provide notice to the insurance department of its decision to discontinue or significantly reduce a line of business currently offered in the state. The bill similarly directs an insurance company offering Medicare Advantage Plans to provide notice to the insurance department of its decision to terminate its contract with the CMS, to cease offering Medicare Advantage Plans in a particular county, or to significantly modify the plans offered.

The bill is a request of the insurance department.

Sponsors:
Sen. Avard

Who supports the bill: D.J. Bettencourt (NH Insurance Department), Daniel Richardson, Curtis Register, and Patricia Anastasia.

Who opposes the bill: Lindsay Nadeau (NH Association of Domestic Insurance Companies & American Property Casualty Insurance Association), Mike McLaughlin (Allstate Insurance), and Sabrina Dunlap (Anthem).

Who is neutral on the bill: Paula Rogers (AHIP).

Summary of testimony presented:

Senator Regina Birdsell, Senate District 19

- Senator Birdsell stated that she is introducing SB 121-FN on behalf of Senator Avard, which would require insurance companies to provide notice to the Insurance Department of decisions to discontinue or significantly reduce a line of business currently offered in the state.

- The bill similarly directs an insurance company offering Medicare Advantage Plans to provide notice to the Insurance Department of its decision to terminate its contract with Centers for Medicare & Medicaid Services (CMS) to cease offering Medicare Advantage Plans in a particular county or to significantly modify the plans offered.
- This bill is a request of the Insurance Department.

D.J. Bettencourt, New Hampshire Insurance Department

- Commissioner Bettencourt explained that there was a recent disruption in the Medicare Advantage market, with carriers deciding if they were going to continue offering Medicare Advantage Plans and what those plans would entail.
- This posed a challenge for the Department, as they do not regulate Medicare Advantage Plans. They are overseen by the federal government.
- Commissioner Bettencourt explained that because the public doesn't make distinctions between what the Department does and does not oversee, they received an influx of inquiries from senior citizens regarding the situation.
- While many carriers effectively communicated next steps to consumers, others published more technical language that was difficult for consumers to understand.
- The public often uses the Department as an educational resource. The Department's consumer division receives around 7,000 calls per year from consumers. Approximately 6,000 of those calls are constituents with questions regarding their policy.
- While the Department does not regulate Medicare Advantage Plans, they do regulate Medicare supplemental products. Thus, it is important that the Department understands what is happening between carriers and Medicare Advantage Plans.
- The Department experienced uncertainty regarding the carriers' actions when the federal government provided carriers with the opportunity to take advantage of Medicare supplemental products without underwriting to assist consumers affected by the disruption.
- Commissioner Bettencourt explained that the Department had to individually call every carrier to gain clarity on the situation.
- This bill is being introduced to avoid that confusion in the future.
- Commissioner Bettencourt reviewed the provisions of the bill. It states that carriers should notify the Department if they are no longer writing Medicare Advantage altogether, if they are choosing not to within a particular location, or if they are significantly modifying their language.
- Commissioner Bettencourt acknowledged that there may be concerns regarding the language "significantly modifies the offering." He assured the committee

that this language is used in the federal notice requirements, so carriers should understand its meaning.

- He also acknowledged that there may be concerns regarding the 120-day written notice requirement. While the standard notice period is 90-days at the federal level, this bill is using a 120-day notice to keep it consistent with New Hampshire statute.
- Commissioner Bettencourt explained that there has been confusion between SB 121-FN and a separate bill addressing this issue with property and casualty insurance carriers. An amendment to SB 121-FN will be introduced to address these concerns and sync the language.
- Senator Long referenced the "significantly modifies the offering" language and asked if carriers could add to that coverage.
- Commissioner Bettencourt explained that carriers can do that. While some carriers were getting out of this space, others were adding more products online to provide for the new pool of people seeking replacement coverage.
- Commissioner Bettencourt explained that while the Department does not regulate Medicare Advantage, they do license the companies. Therefore, this bill requires companies to comply with this notice requirement in addition to the other requirements they must already comply with.
- He emphasized that this bill has been drafted to be as simple as possible and is not designed to be a burden on carriers.
- Senator Long asked if consumers contacting the Department shared the language they are receiving from carriers. He noted that he has seen this language, and it can be confusing.
- Commissioner Bettencourt explained that this language can be very technical in nature because it is crafted by well-versed attorneys, but the public needs more simple and straightforward language.

Lindsay Nadeau, NH Association of Domestic Insurance Companies & American Property Casualty Insurance Association

- Ms. Nadeau stated that Orr & Reno represents two associations making up a majority of the property and casualty insurance market in New Hampshire: the New Hampshire Association of Domestic Insurance Companies (NHADIC) and the American Property Casualty Insurance Association (APCIA).
- Ms. Nadeau explained that this bill also impacts other areas of insurance. She will be speaking primarily on the first two sections of the bill.
- Ms. Nadeau is in opposition to the bill as originally drafted due to the conflict with the aforementioned separate bill and the use of the term "significantly modifies the offering."

- Ms. Nadeau acknowledged that the Insurance Department is working to address their concerns regarding the separate bill in an amendment.
- The term "significantly modifies the offering" is neither defined nor used in the property and casualty insurance space.
- Ms. Nadeau explained that New Hampshire law in the property and casualty insurance space generally requires notice to be given to agents if a carrier is going to withdraw a line of business. Thus, Orr & Reno typically advises their clients to give the Department a curtesy call in these situations.
- Senator Rochefort clarified that the potential amendment from the Department would be for SB 121-FN and not the separate bill.
- Ms. Smith of the Insurance Department affirmed that the amendment is for SB 121-FN.

Paula Rogers, AHIP

- Ms. Rogers stated that she has a concern regarding the 120-day notice currently listed in the bill.
- She asked the committee to consider implementing a 90-day notice for regulatory purposes because that is what is currently used at the federal level.