Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 120-FN, relative to insurance coverage for biomarker testing.

Hearing Date: January 29, 2025

Time Opened: 11:16 a.m. **Time Closed**: 11:53 a.m.

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

Members of the Committee Absent: Senator Avard

Bill Analysis: This bill requires health insurance coverage for biomarker testing. The bill also requires the state Medicaid plan to include coverage for biomarker testing.

Sponsors:

Sen. Innis	Sen. Watters	Sen. Prentiss
Sen. Rosenwald	Rep. Potucek	Rep. Wallner

Who supports the bill: Sen. Innis, Mike Rollo (American Cancer Society Cancer Action Network), Nanci Carney, Jenny Horgan (Alzheimer's Association), Kerry Dennis (Alzheimer's Association), Kathy Harvard (Alzheimer's Association), Nancy Biederman, Sen. Rosenwald, Jon Hoffman (American Kidney Fund), Bev Cotton, Rep. Mary Jane Wallner, Jake Berry (New Futures), Curtis Register, Judith Jones (New Futures & the New Hampshire Alliance for Healthy Aging).

Who opposes the bill: Peter Bragdon (Harvard-Pilgrim), John Reynolds (National Federation of Independent Business – NH), Sabrina Dunlap (Anthem), Paula Rogers (AHIP), Lindsay Nadeau (Cigna), Daniel Richardson, and Julie Smith.

Who is neutral on the bill: David Chorney & Rob Berry (DHHS).

Summary of testimony presented:

Grant Bosse, New Hampshire Senate Deputy Chief of Staff

- Mr. Bosse stated that he is introducing SB 120-FN on behalf of Senator Innis.
- Mr. Bosse explained that advances in modern medicine are increasingly reliant on precision medicine, and we are finding that effective treatments need to be tailored to the individual patient.
- Biomarker testing is used as a method to determine proper course of treatment.

- Nearly 60% of all cancer drugs approved in the last five years require or recommend biomarker testing before use, helping to increase both survivability and quality of life for cancer patients.
- Biomarker testing can also confirm an Alzheimer's diagnosis and distinguish between Alzheimer's and non-Alzheimer's dementia.
- In a recent survey, 66% of oncology providers reported that insurance coverage is a barrier to appropriate biomarker testing for their patients.
- This bill would require that insurance cover biomarker testing when the test is supported by medical and scientific evidence. It would also add biomarker testing to the State Medicaid Plan.
- Biomarker testing is a tool we can use to improve treatment and outcomes, avoid unnecessary medical interventions, and lower costs across the New Hampshire health care system.

Mike Rollo, American Cancer Society Cancer Action Network (ACS CAN)

- Mr. Rollo said he is speaking in support of this bill.
- Progress in improving cancer outcomes increasingly involves the use of precision medicine, and biomarker testing is an important step in accessing precision medicine.
- There is currently limited access to biomarker testing.
- In a recent survey of oncologists, 66% reported that insurance coverage is a significant or moderate barrier to appropriate biomarker testing for patients.
- In New Hampshire, it has been reported that 77% of policies reviewed were more restrictive than National Comprehensive Cancer Network (NCCN) guidelines for biomarker testing for advanced breast cancer, non-small cell lung cancer, melanoma and prostate cancer.
- Mr. Rollo emphasized this is evidence that there are Granite Staters who could likely benefit from biomarker testing who are likely being left behind.
- Biomarker testing is not indicated or appropriate for all cancer patients.
- Mr. Rollo stated that he is not advocating for universal biomarker testing.
- He explained that there are countless examples of cancer patients (and other patients) in New Hampshire for whom biomarker testing led to decisions to forgo unnecessary treatment or resulted in transformations away from ineffective treatment.

Nanci Carney

- Ms. Carney stated that she is a cancer survivor and shared a personal story about her cancer journey. Ms. Carney had a small growth removed, was diagnosed with melanoma, and underwent a wide excision surgery. In place of a sentinel lymph node biopsy, her doctor recommended a biomarker genomic test to determine the risk of metastasis or recurrence.

- Ms. Carney opted to do the biomarker testing and later, after she had completed the testing, received a notice from her insurer that her claim was denied because it was not medically necessary and she must pay $8,500.
- She was told by her insurer that they would have covered the biopsy procedure, which would have been more expensive.
- Ms. Carney is currently working on an appeal to her insurance provider.
- Ms. Carney said she does not think it is right that the ability to pay is equated to the ability to get care, and emphasized that it is only fair that everyone has available and equal healthcare.

Peter Bragdon, Harvard-Pilgrim
- Mr. Bragdon stated that he is speaking in opposition to this bill.
- He explained that this is a one-size-fits-all approach with broad requirements that would require coverage for all biomarker testing.
- As of three years ago, there are over 27,000 biomarker tests available.
- Harvard-Pilgrim has teams of specialists in every field that assess available research and evaluate what coverage should be.
- Mr. Bragdon noted that the fiscal note of the bill states indeterminable costs, which he explained means large costs.
- He recommended that the bill be voted inexpedient to legislate or that a mandate review be completed to better assess the situation.
- Senator Rochefort asked how many biomarkers Harvard-Pilgrim covers.
- Mr. Bragdon stated that he is not sure what the exact number is, but assured the committee that Harvard-Pilgrim covers many biomarker tests.
- He explained that the Affordable Care Act requires biomarkers with certain ratings from the United States Preventive Services Task Force be covered under essential health benefits.
- Mr. Bragdon explained that a one-size-fits-all approach is not the best option when there are ways to evaluate and determine the best course for biomarkers.
- Senator Prentiss stated that it would be helpful if all present insurance carriers provided information regarding coverage criteria for biomarkers to the committee.

Sabrina Dunlap, Anthem
- Ms. Dunlap stated that she is speaking in opposition to the bill.
- She explained that Anthem's biggest concern is around medical necessity and suggested that if universal coverage is not the goal, medical necessity should be tied in.
- Anthem currently provides wide coverage for biomarker testing that is medically necessary.

- Anthem's Medical Director has concerns with the listed evidence of effectiveness in Section 2 of the bill.
- Ms. Dunlap explained that the bill's language regarding health carriers ensuring that coverage is provided in a manner that limits disruption in care is vague.
- Ms. Dunlap noted that the listed turnaround times are at odds with the existing turnaround times in the state that were updated last year.
- Ms. Dunlap suggested that the effective date be amended to January 1st.
- Ms. Dunlap said she understands the good intentions behind this bill and appreciates the stories, but has concerns about medical necessity from the big-picture health policy perspective.
- Senator Rochefort asked if Anthem would be open to having a conversation about exploring the expansion of coverage in certain areas.
- Ms. Dunlap said she is always happy to have a conversation.
- She noted that the medical necessity piece is the criteria they use to determine that biomarker testing will actually be appropriate and improve outcomes.

Paula Rogers, AHIP

- Ms. Rogers stated that she understands where the sponsors of this bill are coming from.
- Biomarker testing legislation has erupted in the last three to four years.
- Ms. Rogers referenced Ms. Carney's testimony and said she is curious about patients being denied coverage post-service. She questioned if there is an excess of rejections, on what basis they are rejected, and if it is rational and based on feasible clinical guidelines.
- Ms. Rogers described the four definitions provided in Section 1 of the bill as broad. She said there is a distinct set of biomarker testing causing the issue here, and that more information is needed about it.
- Ms. Rogers noted that a mandate study was just completed in Massachusetts.
- Ms. Rogers stated that while it is important to get our arms around this, this is a monumental bill that should be considered carefully.
- She said it will be interesting to assess how the fallout develops in states that have adopted these laws.

Jenny Horgan, Alzheimer's Association

- Ms. Horgan stated that she is speaking in support of this legislation.
- In New Hampshire, there are currently over 26,500 individuals living with Alzheimer's or other dementia. There are many more Granite Staters who have not been formally diagnosed.
- Current diagnosis of Alzheimer's relies largely on documenting cognitive decline, at which point Alzheimer's has already caused severe brain damage.

However, experts believe that biomarkers offer a promising path to improve dementia detection, diagnosis, and treatment.

- Insurance coverage for biomarker testing is currently not keeping up with scientific discoveries and progress in treatment.
- Existing health care disparities and challenges to obtaining a dementia diagnosis may be exacerbated if new biomarker testing opportunities cannot be accessed when appropriate.
- Ms. Horgan emphasized that this bill will provide equity for New Hampshire residents to access these forms of tests through their insurance provider if their doctor requests it and if scientific and evidenced-based medical recommendations support their use.
- Without this legislation, dementia diagnoses may take up to two years, delaying treatments that are most effective in the early stages of the disease, increasing the costs of care, and decreasing quality of life.
- Ms. Horgan stated that 16 states have already adopted legislation to cover both public pay and private pay, 22 more have enacted only private pay, and 2 more have enacted only public pay.

Kerry Dennis, Alzheimer's Association

- Ms. Dennis stated that she is speaking in support of this bill.
- She has been diagnosed with early-stage younger-onset Alzheimer's Disease, and her journey in obtaining a diagnosis has been challenging.
- Ms. Dennis shared her diagnosis story. She began struggling with day-to-day tasks at work and continued to worsen for the next few years, all while trying to advocate for herself to her primary care provider who did not believe she had the disease.
- She shared that most doctors are not formally trained in diagnosing Alzheimer's.
- Ms. Dennis explained that access to biomarkers and diagnostic testing will give people facing similar challenges to her better opportunities for early diagnosis.
- Ms. Dennis stated that this access puts a critical tool in the hands of medical professionals to help take the guesswork out of the diagnostic process.
- It will also provide better opportunity to monitor progression of disease and effectiveness of treatment.

Kathy Harvard, Alzheimer's Association

- Ms. Harvard stated that she is in support of this bill.
- She explained that currently the wait for testing is long, the cost is overwhelming, and the clock is ticking for those who may benefit from treatment if diagnosed in the early stages of Alzheimer's.
- In the early stages, Alzheimer's can be difficult to identify. This is true for both family members and the medical community.

- Biomarker testing changes this; it opens the door for diagnoses, the possibility for treatment, the ability to plan, and considerable cost-savings.
- Ms. Harvard shared a personal story about her husband's diagnosis with Alzheimer's Disease. At age 59 he was abruptly fired from his job, was diagnosed with mild cognitive impairment 9 months later, and 2 years later was diagnosed with younger-onset Alzheimer's after completing biomarker testing.
- Had anyone known Ms. Harvard's husband was suffering from the symptoms of Alzheimer's at the time, he could have received disability support and medical insurance from his employer.
- Ms. Harvard said this bill will ensure that financial barriers to biomarker testing are removed, making it accessible to those who need it the most.

Rob Berry and David Chorney, Department of Health and Human Services

- Mr. Berry introduced himself as general counsel to the Division of Medicaid, and Mr. Chorney introduced himself as the State's Deputy Medicaid Director.
- Mr. Berry explained that the completed fiscal note is on its way, and they anticipate an expense between $1 million and $2.5 million in general fund dollars and other State expenditures.
- This could vary greatly depending on any amendment to the bill that further narrows what medical and scientific necessity is for tests.
- The Department would be able to further lower costs if biomarker testing is maintained on a case-by-case basis in a prior authorization format.
- Mr. Chorney stated that Medicaid covers medically necessary biomarker testing.
- When doing so, they look for FDA approval, test indications for the test, Medicare coverage determinations, and complete a clinical utility test in collaboration with their Medical Director. This looks for clinical value in the biomarker test to the treatment the patient is going to receive.
- Mr. Chorney explained that it is a cost-containment effort, so they would like to see if the clinical utility and clinical value aspect could be incorporated into the bill with an amendment. This would preserve the Medicaid Department's ability to ensure there is clinical value in the biomarker test being covered and that the patient is getting the underlying treatment.
- Senator Rochefort confirmed that Medicaid is covering biomarker testing to some degree.
- Mr. Chorney confirmed that they do cover biomarker testing to some degree, but they do not cover all biomarker tests.
- They receive requests to cover certain biomarker tests, which they review to ensure they have both FDA approval and clinical utility and value.
- Senator Rochefort confirmed this is done on a case-by-case basis, and Mr. Chorney confirmed.

- Senator Rochefort referenced the fiscal note, acknowledging that it was noted that earlier detection and targeted treatments could offset costs through improved outcomes. He said it could be nice to see some numbers on that.
- Mr. Chorney agreed and said they could complete further analysis.
- Senator Birdsell asked them to repeat the projected price, and Mr. Chorney said it is approximately $1-2.5 million for Medicaid only. He noted that it is subject to how the legislature determines the national or scientific consensus of what qualifies as biomarker testing, and whether or not in the medical necessity determination there is a clinical value or clinical utility aspect.

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Date Hearing Report completed: February 4, 2025