

Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 131-FN-A, relative to long-term care eligibility and making an appropriation therefor.

Hearing Date: February 12, 2025

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

Members of the Committee Absent: None

Bill Analysis: This bill establishes provisional eligibility for Medicaid nursing facility services as part of the long-term care application process and makes an appropriation to the department of health and human services for this purpose.

Sponsors:

Sen. Rochefort
Rep. Edwards

Sen. Avard

Sen. Birdsell

Who supports the bill: Sen. Abbas, Brendan Williams (NHHCA), Kathy Bizarro-Thunberg (NH Hospital Association), Kate Horgan (NH Association of Counties), Michael Sitar (NHAFC), Kathy Corey Fox (St. Joseph Hospital), Cheryl Steinberg (NH Legal Assistance), Charles Powell (NH Health Care Association), Chuck Crush (Salemhaven), Laura McIntyre (Granite State Home Health & Hospice Association), Lisabritt Solsky Stevens (Office of Public Guardian), Polly Champion (NH State Commission on Aging), and Judith Jones (New Futures & The NH Alliance for Healthy Aging).

Who opposes the bill: No one.

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

Summary of testimony presented:

Senator David Rochefort, Senate District 1

- Senator Rochefort explained that he was asked to file this legislation, and he was happy to do so because he has so many nursing homes in his district.
- He has noticed a consistent trend of long delays in approval of residents' Medicaid applications.

- Oftentimes when an individual applies for Medicaid when going into a nursing home, the facility will accept the patient after the application is submitted and prior to approval.
- Nursing homes receive little to no funds from Medicaid while waiting for this approval. They are providing service and care while the application is in process and absorbing the costs.
- This can last for months and even upwards of a year in some cases.
- This situation poses an unfair burden on facilities that are already struggling to stay afloat.
- If unaddressed, this situation will result in facilities not being able to take care of their needs to keep their facilities open.
- This bill seeks to solve this problem by creating provisional eligibility for applicants whose Medicaid applications have been pending for 90 days.
- Once the Medicaid application is later granted or denied, the facility shall repay the State once they begin receiving those payments. They will repay the State what they received during the provisional eligibility period if there is any differential.
- Provisional eligibility will automatically terminate 18 months from the application date, unless there is a final determination on the Medicaid application before that.
- This would drastically reduce the financial pressures on New Hampshire nursing homes.
- Provisional eligibility will serve as a type of bridge financing. This will allow facilities to better manage their finances during the Medicaid application process.
- Senator Rochefort explained that while the fiscal note has not yet been completed, he did put \$1.5 million as an estimate. He emphasized that this is just a guess.
- He urged the committee to not focus on the fiscal note, and instead focus on the policy.
- Senator Prentiss asked if this would assist with concerns the committee has heard about hospitals being unable to discharge patients because they do not have a long-term care facility to go to.
- Senator Rochefort said this will help and the effort is to help ease this burden.
- Senator Prentiss stated that this is a bridge to move us forward and start moving people to where they need to be. Senator Rochefort confirmed.
- Senator Birdsell asked if nursing homes will get back-pay for the expenses incurred while they were taking care of the patient in the nursing home.
- Senator Rochefort said someone else testifying will explain the finer details.

Senator Daryl Abbas, Senate District 22

- Senator Abbas stated that he is speaking in support of this bill.
- This is essential to the long-term viability of nursing home facilities in his district.
- These facilities are waiting 6-9 months for Medicaid reimbursements.
- This creates a serious cash-flow issue, which requires them to make difficult decisions.
- One of the facilities in his district has about 92 residents, and about 40 of them are on Medicaid. They have about \$700,000 waiting on reimbursements.

Brendan Williams, NH Health Care Association

- Mr. Williams stated that he is speaking in support of this bill.
- The Lafayette Center in Franconia has only 72 beds, but is waiting on over \$500,000 in payments. This poses a burden on their ability to pay vendors and recruit and retain staff.
- Mr. Williams emphasized that no one is looking for a handout, but they are looking to get paid for the services they are providing.
- This idea has been adopted in other states.
- Mr. Williams acknowledged that a relatively large amount of money would be needed to set up this revolving fund, but assured the committee that this will form a sort of bridge loan system with money going in and out.
- He emphasized that the State will not be out of money when applications are not approved.
- Mr. Williams answered Senator Birdsell's earlier question and explained that a facility would be made whole if the Medicaid application is approved. This could take some time, however.
- He emphasized that he is not here to throw the Department under the bus or any family members that may be difficult getting paperwork in. Qualifying for Medicaid is a complicated process.
- This bill will help the system as a whole, including hospitals.

Kathy Bizarro-Thunberg, NH Hospital Association

- Ms. Bizarro-Thunberg stated that she is in support of this bill.
- It is part of a broader, three-legged effort to lower complex barriers to transfer patients out of hospital beds and into a more appropriate level of care.
- She explained that she is speaking on behalf of Ben Bradley, who presented a 'Barriers to Discharge' report at a prior hearing that illustrated hospitals' perspective on patients getting stuck in hospital beds while waiting for long-term care. This is particularly the case when Medicaid is not being paid.
- While these patients are safe in hospital beds, it is no longer medically necessary for them to be in a hospital.

- From the hospitals' perspective, this is a great partnership to both ensure that long-term care facilities receive the reimbursement that they need for patients and ensure that patients receive the treatment they need at the correct level of care.

Kate Horgan, NH Association of Counties

- Ms. Horgan stated that she is in support of this bill.
- She appreciates the flexibility provided in the legislation, as this program is not mandatory.
- She explained that nursing home administrators in the county are not the only ones making decisions, as they also must answer to both the commissioners and the delegation.
- She also appreciates the last line of the bill, which outlines that counties will not be responsible for paying for this. She reminded the committee about the county cap, and that counties are responsible for 100% of the nonfederal share.

Charles Powell, NH Healthcare Association

- Mr. Powell stated that he is the primary drafter of this bill, and he has worked on it in cooperation with DHHS.
- This is an existential problem for many, if not all, facilities.
- This bill has great potential to alleviate the burden that facilities are experiencing.
- Under this bill, the Department will grant provisional eligibility for a Medicaid applicant to a facility that requests it once an application has been pending for 90 days.
- If no approval has been attained at the 12-month mark from the initial filing of the Medicaid application, the facility must file a petition for appointment of a special Medicaid representative to continue the provisional eligibility.
- A special Medicaid representative is a professional authorized by law to collect and complete Medicaid applications.
- This requirement is intended to ensure that the application is completed and prosecuted to a conclusion and to ensure that the Department's informational needs are met.
- This requirement ensures that provisional eligibility is only in place for as long as necessary.
- Provisional eligibility can continue for 18 months, unless it is otherwise terminated.
- Mr. Powell noted that an amendment will be needed to address simple housekeeping issues regarding the termination language in the bill.

- This bill does not require a non-reimbursable expenditure, otherwise called a wasting fund. Instead, it is a revolving fund that will be replenished for the facilities who request and participate in provisional eligibility.
- This is because when a Medicaid application is later approved, the facility must pay the money back to the fund. Even if it is denied, they must pay the money back.

Chuck Crush, Salemhaven

- Salemhaven is one of the few independent not-for-profit nursing homes in New Hampshire operated by an all-volunteer board of directors.
- It serves as both a short-term rehab and long-term facility.
- They employ 146 people and have 92 residents, 40 of which currently receive Medicaid. This pays them about \$255 per day for nursing care, food, activities, and some medical supplies.
- They have 13 residents that are pending Medicaid. Some of these residents have been with Salemhaven for a year with no confirmed payer source. Salemhaven continues to provide the needed care that these patients deserve.
- The Medicaid application process should typically take around 90 days.
- Mr. Crush said he believes the Department is doing the best they can with the resources they have.
- Salemhaven has monthly calls with the Department to review the pending Medicaid cases. They usually get through one or two per call.
- The pending-Medicaid patients they are treating equate to approximately \$800,000 in past due money. The cash flow impact equates to around \$24,000 per week.
- Salemhaven works to ensure they are paying their employees and the associated benefits, which represent around 75% of operating costs.
- They must ensure they have food, utilities, medical supplies, and meet regulatory requirements. This year they will pay \$370,000 in food, \$519,000 in plan operations, and \$1.5 million in employee benefits not including salary.
- Mr. Crush said he hopes this will be a pathway forward to solving this challenge for Salemhaven and other New Hampshire providers.

David Chorney, Department of Health and Human Services

- Mr. Chorney stated that the fiscal note was recently submitted, and the Department will be happy to work on this in the Finance Committee.
- Senator Avard asked what the ballpark cost is. Mr. Chorney explained that they assume around 50-60% of nursing facilities would take advantage of this opportunity. To start up the revolving fund, an estimated \$20 million would be needed.

- Senator Long clarified that this money will be reimbursed, and Mr. Chorney confirmed. The Department sees this as a revolving fund with funds paid out being repaid. If a Medicaid application is approved for an individual, Medicaid would make a payment to the nursing facility at the Medicaid rate and that payment would have the facility rate that has State funds and matching federal funds.
- Mr. Chorney said the only nuance would be if a nursing facility went bankrupt.
- He believes this bill would help with the cash flow issues that facilities are currently facing.
- Senator Rochefort noted that this could prevent bankruptcies, and Mr. Chorney agreed.
- Senator Birdsell clarified that this would be money they would be getting paid anyway once approved, and Mr. Chorney confirmed. He noted that not all applicants will ultimately get approved because some will not qualify for financial reasons.
- Senator Birdsell clarified that those not approved would have to pay back, and Mr. Chorney confirmed.