

Senate Health and Human Services Committee

Sophie Walsh 271-3469

SB 135-FN, relative to rate setting parity for Medicaid state plan case management services.

Hearing Date: February 6, 2025

Time Opened: 11:24 a.m.

Time Closed: 12:09 p.m.

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

Members of the Committee Absent: None

Bill Analysis: This bill directs the department of health and human services to annually establish rates for Medicaid state plan case management services to create rate parity for such services within the program.

Sponsors:
Sen. Avard

Who supports the bill: Carolyn Virtue (Granite Case Management) and Heidi Kroll (Life Coping).

Who opposes the bill: No one.

Who is neutral on the bill: Henry Lipman & Melissa Hardy (DHHS).

Summary of testimony presented:

Senator Kevin Avard, Senate District 12

- Senator Avard stated that this bill directs the Department of Health and Human Services to annually establish rates for Medicaid State Plan case management services and to create rate parity for such services in the program.
- Centers for Medicare & Medicaid Services (CMS) requires rate parity for the same services since 2018.
- The federal requirements direct DHHS to work towards achieving the same case management rate parity.
- The language in this bill is currently required by both State and federal regulations.

Carolyn Virtue, Granite Case Management

- Ms. Virtue submitted written testimony to the committee that includes study committee reports among other items. One study committee was chaired by Senator Rosenwald and the other was chaired by former Senator Giuda.
- Parity is required by CMS, and there is statutory language that has been added in New Hampshire statute to reiterate federal requirements.
- Ms. Virtue referenced a chart demonstrating the rate disparity that exists today. She explained that any assertion that Choices for Independence (CFI) case management is waiver case management is false. CFI case management is a State Plan service for which there is a State Plan Amendment.
- Ms. Virtue referenced a New Hampshire DHHS rate study from July 28th, 2024. The case management rate setting parity requirements were not a component of the methodology used to set the rate. One other issue with the report is that it states that the case management rate was benchmarked against itself.
- She explained this is important because sometimes the Department tries to make this distinction between case management and targeted case management. CMS defines these as the same medical service delivered to a patient.
- Case management consists of services that help recipients gain access to needed medical, social, educational, and other services. This is true regardless of the target population.
- Case management and care management are two separate and distinct services defined in federal regulations.
- This is a matter of relatively simple math. The math should be applied in accordance with State and federal regulations. We should not need this bill after everything the legislature has done.
- Ms. Virtue explained that she is aware that the Department disagrees that the DAADS rate, otherwise known as the designated area agency rate, contains components of case management. She has highlighted such components in written testimony submitted to the committee.
- Senator Long asked who the second study committee was chaired by. Ms. Virtue explained that one of the study committees was chaired by former Senator Giuda and was dated October 31st, 2022, and the second was chaired by Senator Rosenwald and was dated January 29th, 2020. She noted that Senator Rosenwald's committee was interesting because the Department brought in an expert who said they must have parity.
- Senator Long confirmed that Ms. Virtue earlier said that the bill's language is what they currently must follow. Ms. Virtue stated that it is in State and federal law, but it is not being followed.
- Senator Rochefort asked how we know this law will be followed, if passed.
- Ms. Virtue responded that at some point, there must be compliance with the rate setting parity. Ms. Virtue has heard excuses and reasons as to why they do not want to, but the bottom line is that regardless of what they want to do, there are requirements for what they must do.
- Ms. Virtue recommended that the bill be amended to say that if departments do not follow the law, they will be eliminated. She recognized this is drastic but emphasized that this has been going on since 2018.

- Ms. Virtue emphasized that in regards to the DAADS rate, CMS told the Department that all the case management had to come out of the area agencies. A lot of it is still there due to the rate disparity.
- Senator Avar asked what the difference is between care and case management, and why there is confusion over this matter.
- Ms. Virtue explained that case management is a medical service delivered to a patient without conflict of interest. The provider is responsible for ensuring patient choice and that the patient's needs are met. Care management is usually a function of an insurance company or Managed Care Organization (MCO). While it may involve approval of patient service, they have no obligation to the patient because their obligation is to the fiduciary.
- Ms. Virtue acknowledged that while sometimes their hands are tied, there are helpful care managers.

Henry Lipman and Melissa Hardy, Department of Health and Human Services

- Mr. Lipman introduced himself as the Medicaid Director and Ms. Hardy introduced herself as the Division Director for Long-Term Supports and Services.
- Mr. Lipman said that he hopes to untangle this issue and that he greatly respects the work that Ms. Virtue does.
- They agree that there should be parity.
- When HB 2 was implemented in 2023, they defined parity as for the same billing code there should be the same rate.
- This definition comes with one exception, as Community Mental Health Centers (CMHCs) have a higher case management rate compared to some others. It was decided that it would not be prudent to bring the mental health centers' rates down because they are struggling.
- Mr. Lipman explained that he believes Ms. Virtue understands parity differently from the Department.
- They feel as though they have met the legislative intent of having the same billing code have the same rate, with the exception of CMHCs.
- Mr. Lipman acknowledged there is a legitimate argument to be made that perhaps how we look at parity should be beyond just what the code is.
- Mr. Lipman said he believes part of the issue is how things get out of line with some budget years being harder than others.
- Senator Avar explained that coming out of the previous conversations, he thought some commitments had been laid out. He asked Mr. Lipman what has changed so that this parity would be reached.
- Mr. Lipman explained that to address the issue of what DD agencies were going to lose in the conversion process surrounding area agencies, there was a rate process developed in collaboration with and approval of CMS.
- He understands what Ms. Virtue is saying, but the Department doesn't necessarily see it the same way.
- He understood his commitment at the time to match code-for-code, which he made sure happened. If there is a broader definition of parity that the

legislature wants them to address, they would be open to doing it, assuming there would be an appropriation.

- Senator Avard asked what DD stands for to clarify for the broader community watching, and Mr. Lipman stated that it stands for developmental disabilities.
- Senator Rochefort clarified that one party understands parity to mean one thing and the Department understands it to mean another, resulting in a disparity. Mr. Lipman confirmed.
- Senator Rochefort referenced lines 7-8 and asked if they consider that in their evaluation of parity.
- Mr. Lipman said they do, and that HB 2 had a more expansive definition that would incorporate that. He noted that there are certain constraints to remain compliant in certain areas. Thus, in 2023 it took them months after the passage of HB 2 to fully work through every area that needed to be addressed.
- Mr. Lipman said that they want to be faithful to the citation in HB 2. He emphasized that the situation may be seen differently from a different perspective, but they never purposefully didn't do what was asked of them and never intend to.
- Senator Rochefort said it sounds like HB 2 is where the Department is constrained and questioned if they would still be constrained if this bill passed as written.
- Mr. Lipman said he thinks code-for-code is one standard, and if you want to look at it more broadly than CMS and the Social Security Administration, that would be a different standard.
- Senator Avard asked what size appropriation would be needed if this is passed. Mr. Lipman said he would like to update the fiscal note.
- Ms. Hardy explained that there are specific area functions that area agencies do on behalf of the Department as an administrative function, one of those areas being determining eligibility for developmental services.
- They have to be able to sustain their area agencies in doing those administrative functions prior to any case management or service coordination services.
- This is what the DAADS function was originally determined to do, in addition to some more administrative support in areas above and beyond what is considered service coordination under the area agency and the developmental service system.
- They see this as different from case management services. They submitted that plan to get an administrative claiming rate to CMS which was approved as a 50/50 match of State and General Funds.
- Senator Avard asked what the federal requirements are for parity.
- Mr. Lipman explained that there is a general provision that applies to every type of rate. He said that if cost reports were completed, it may provide more clarity. He noted that nursing homes complete cost reports.
- Senator Avard asked if requiring them to have cost reports would help.
- Mr. Lipman said he thinks it will help everybody. They would outline allowable costs and allow for more comparisons between spread of costs. Mr. Lipman emphasized that this is a long-term effort.

Heidi Kroll, Life Coping

- Life Coping is a case management agency that provides services.
- Ms. Kroll is in support of this bill. She agrees with the information and testimony shared by Ms. Virtue.
- From their perspective, they are seeing additional funding in the DAADS rate that case managers are providing. Some services, such as Independence Services, have the lowest reimbursement rate compared to other waiver services.
- Ms. Kroll emphasized that they are looking for parity and said it was interesting to hear the Department's perspective that they might not see it the same way.
- There has been a number of times that this type of language has been put into budgets, including HB 2.
- Ms. Kroll said they look forward to seeing what may come out of the conversations and what the policy options may be.
- Senator Rochefort asked if they would be willing to work with DHHS, and Ms. Kroll said she would be.
- Senator Avard asked if the DD community is getting the short end of the stick in this situation.
- Ms. Kroll said she does not believe that is the issue. The issue is that when case managers are performing their services and helping individuals with all of the work that goes into providing case management services, they are being reimbursed less than those same services that would be provided if it was a developmentally disabled person.
- Senator Avard asked if cost reporting would help everybody in this situation.
- Ms. Kroll said this is the first she has heard of it, so she would have to get more information. She noted that there could be some confidentiality or competitive issues because they are private businesses.
- Ms. Virtue said she thinks it is important that cost reporting is across-the-board if implemented.