SB 119-FN - AS AMENDED BY THE HOUSE

22May2025... 1867h

2025 SESSION

25-0362
05/06

SENATE BILL ***119-FN***

AN ACT relative to Medicaid pharmaceutical services and relative to standing orders for Ivermectin.

SPONSORS: Sen. Gray, Dist 6

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill:

I. Directs pharmacists to dispense brand name drugs to Medicaid beneficiaries when the brand name drug is on the department of health and human services preferred drug list.

II. Allows a pharmacist to follow a standing order from a physician, physician assistant, or advance practice registered nurse to dispense Ivermectin without a prior prescription.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to Medicaid pharmaceutical services and relative to standing orders for Ivermectin.

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

1 Purpose and findings. The general court hereby finds that:

I. The state of New Hampshire has a substantial interest in ensuring that the Medicaid program is able to provide beneficiaries the greatest access possible to necessary pharmaceutical products. A means of achieving access is to attain best net cost possible on pharmaceutical products.

(a) The net cost of a pharmaceutical product is determined by subtracting the pharmaceutical manufacturer rebate revenue the Medicaid program receives from the total drug cost.

(b) The department of health and human services will continue to optimize its Medicaid preferred drug list to provide Medicaid beneficiaries with medically necessary access to pharmaceutical products.

(c) Collectively, this will allow for the lowest net cost and improve access to therapies and streamline prescribing for providers through a more standardized preferred drug list across all Medicaid pharmacy programs.

II. Accordingly, the general court finds that, RSA 126-A:3, V must be amended to remove any barriers to these policy goals.

2 Department of Health and Human Services; General Provisions. Amend RSA 126-A:3, V to read as follows:

V. Pharmacists shall substitute generically equivalent drug products for all legend and non-legend prescriptions paid for by the department of health and human services, [~~including the Medicaid program,~~] unless the prescribing practitioner specifies that the brand name drug product is medically necessary. Such notification shall be in the practitioner's own handwriting ***or as otherwise authorized by law or regulation*** and shall be retained [~~in the pharmacist's file~~] ***by the pharmacy. Pertaining to Medicaid, pharmacists shall dispense brand name drug products to Medicaid beneficiaries when the brand name drug product is listed on the department's Medicaid preferred drug list, and not substitute generically equivalent drugs***. The provisions of paragraph III shall not apply to the dispensing by a pharmacy for medical assistance reimbursement for legend and non-legend drugs. The commissioner, in consultation with pharmacy providers, shall establish medical assistance reimbursement for legend and non-legend drugs. For Medicaid fee for service [~~clients~~] ***beneficiaries***, no prior authorization [~~for generically equivalent drugs shall be required~~] ***shall be required for generic drug products unless the drug class is***

recommended by the drug utilization review board for clinical appropriateness and safety utilization review.

3 New Section; Pharmacists and Pharmacies; Ivermectin; Dispensing. Amend RSA 318 by inserting after section 47-m the following new section:

318:47-n Ivermectin; Dispensing.

I. In this section, "standing order" means a written and signed prescription authored by one or more physicians licensed under RSA 329:12, one or more advanced practice registered nurses licensed under RSA 326-B:18, or one or more physician assistants licensed under RSA 328-D. Such standing order shall allow the pharmacist licensed under RSA 318:18 to dispense Ivermectin under the delegated prescriptive authority of the physician, physician assistant, or advanced practice registered nurse, specify a screening protocol for each patient, specify a requirement to document screening performed and the prescription in the patient's medical record, and include a plan for referring for evaluation and treatment of adverse events; provided that the standing order shall not be used if the patient is pregnant or under 18 years of age. Any such prescription shall be regarded as being issued for a legitimate medical purpose in the usual course of professional practice.

II. Licensed pharmacists following standing orders may dispense Ivermectin to persons in this state without a prior prescription. Pharmacies may charge a fee for consultation with the patient.

III. A pharmacist, pharmacy, physician, physician assistant, advanced practice registered nurse, or a medical facility that employs a pharmacist, physician, physician assistant, or advanced practice registered nurse, issuing or following standing orders shall be prohibited from seeking personal financial benefit by participating in any incentive-based program or accepting any inducement that influences or encourages therapeutic or product changes or the ordering of tests or services.

IV. A pharmacist, physician, advanced practice registered nurse, or physician assistant shall be held to the same standard of care as when prescribing and dispensing any other medication.

V. The pharmacist shall provide each recipient of Ivermectin pursuant to this section with an information sheet written in plain language, which shall include, but is not limited to, potential adverse effects, drug interactions, Food and Drug Administration-approved indications for Ivermectin use, the importance of follow-up care, and health care referral information.

VI. The board of medicine shall not deny, revoke, suspend, or otherwise take disciplinary action against a physician or physician assistant based on a pharmacist's failure to follow standing orders provided the provisions of this section are satisfied. The board of nursing shall not deny, revoke, suspend, or otherwise take disciplinary action against an advanced practice registered nurse based on a pharmacist's failure to follow standing orders provided the provisions of this section are satisfied. The board of pharmacy shall not deny, revoke, suspend, or otherwise take disciplinary

action against a pharmacist who follows standing orders based on a defect in those standing orders provided the provisions of this section are satisfied.

4 New Section; Physicians and Surgeons; Prescription and Administration of Ivermectin. Amend RSA 329 by inserting after section 31-b the following new section:

329:31-c Prescription and Administration of Ivermectin. The board of medicine shall not deny, revoke, suspend, or otherwise take disciplinary action against a physician based on a pharmacist's failure to follow standing orders provided the provisions of RSA 318:47-n are satisfied.

5 New Section; Nurse Practice Act; Prescription and Administration of Ivermectin. Amend RSA 326-B by inserting after section 37 the following new section:

326-B:37-a Prescription and Administration of Ivermectin. The board of nursing shall not deny, revoke, suspend, or otherwise take disciplinary action against an advanced practice registered nurse based on a pharmacist's failure to follow standing orders provided the provisions of RSA 318:47-n are satisfied.

6 New Section; Pharmacists and Pharmacies; Prescription and Administration of Ivermectin. Amend RSA 318 by inserting after section 16-f the following new section:

318:16-g Prescription and Administration of Ivermectin. The board of pharmacy shall not deny, revoke, suspend, or otherwise take disciplinary action against a pharmacist who follows standing orders based on a defect in those standing orders provided the provisions of RSA 318:47-n are satisfied.

7 New Section; Physician Assistants; Prescription and Administration of Ivermectin. Amend RSA 328-D by inserting after section 6-a the following new section:

328-D:6-b Prescription and Administration of Ivermectin. The board of medicine shall not deny, revoke, suspend, or otherwise take disciplinary action against a physician assistant based on a pharmacist's failure to follow standing orders provided the provisions of RSA 318:47-n are satisfied.

8 Effective Date. This act shall take effect July 1, 2025.

LBA
25-0362
Revised 2/17/25

SB 119-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to Medicaid pharmaceutical services.

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

Estimated State Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
Revenue	$0	$12,700,000	$38,100,000	$50,800,000
Revenue Fund(s)	Pharmacy Rebate Revenue			
Expenditures*	$0	($1,100,000)	($3,400,000)	($4,500,000)
Funding Source(s)	General and 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 directs pharmacists to dispense brand name drugs to Medicaid beneficiaries when the brand name drug is on the Department of Health and Human Services preferred drug list. The bill also directs the Department to develop a standing order for certain Medicaid-covered, over-the counter medications, medical supplies, and laboratory tests when deemed medically necessary and cost effective by the Department.

The Department of Health and Human Services indicates this bill would result in net savings to the Medicaid program for the coverage of pharmaceutical drugs. The Department actuaries estimate the up-front cost to purchase brand name drugs over generics will be offset by increased rebate revenue to result net savings of in $1.1 million FY 2026, $3.4 million in FY 2027 and $4.5 million in FY 2028. Currently, RSA 126-A:3, V requires the Medicaid program to prioritize coverage for generic drug products over brand name drug products unless the brand name is specified as medically necessary by a prescribing provider. The Department may enter into rebate agreements with manufacturers of brand name drug products which may result in the brand name drug product having a lower net cost than the generically equivalent drug product. Net cost is determined by subtracting pharmaceutical manufacturer rebate revenue from the total drug cost.

The Department's contracted actuaries conducted an analysis of the drug products paid for by the Medicaid program that, under this bill, could be shifted from generic equivalents to brand names and the potential cost savings that might occur.

- In FY 2026 the Medicaid program would expend an estimated $9.4 million in total expenditures for pharmacy services, however, the expenditures would be offset by an estimated $12.7 million in additional total rebate revenue for a total net savings of $3.3 million in total funds. Subtracting the federal share of the savings yields a total state fund savings of $1.1 million ($1 million general funds and $100k non-federal funds). This assumes that it would take six months to implement the bill after the effective date.

- In FY 2027, the Medicaid program expend $28.2 million in total for pharmacy services, however, the expenditures would be offset by an estimated $38.1 million in total rebate revenue for a total net savings of $9.9 million. Subtracting the federal share yields a total state savings of $3.4 million ($3 million general funds; $400k in non-federal funds).

- In FY 2028, the Medicaid program would expend $37.6 million in total for pharmacy services. The expenditures would be offset by an estimated $50.8 million in total rebate revenue for a total net savings of $13.2 million. Subtracting the federal share yields a total state savings of $4.5 million ($4 million general funds; $500k in non-federal funds).

Section 3 of the bill provides the Department with the ability to achieve savings by taking advantage of market conditions and more quickly adapting to advances in medical care and treatment which will result in additional cost savings. This provision gives the Chief Medical Officer the ability to write standing orders for over-the-counter medications, medical supplies and laboratory tests where doing so would result in cost savings to the Medicaid program.

AGENCIES CONTACTED:

Department of Health and Human Services