

HB 1268 - AS AMENDED BY THE SENATE

11Mar2026... 0887h
11Mar2026... 1098h
05/07/2026 1737s
05/07/2026 1872s

2026 SESSION

26-2511
12/06

HOUSE BILL **1268**

AN ACT modifying the structure and administration of home education programs and relative to pharmacy benefits managers, managed care laws, notice of drug pricing options and pharmacy benefit manager business practices.

SPONSORS: Rep. Noble, Hills. 2; Rep. Drago, Rock. 4; Rep. Drye, Sull. 7; Rep. Freeman, Belk. 8; Rep. Granger, Straf. 2; Rep. Layon, Rock. 13; Rep. Tom Mannion, Hills. 1; Rep. Mazur, Hills. 44; Rep. Osborne, Rock. 2; Rep. Peternel, Carr. 6; Sen. Murphy, Dist 16; Sen. Sullivan, Dist 18

COMMITTEE: Education Policy and Administration

AMENDED ANALYSIS

This bill:

I. Replaces the current framework for home education programs in New Hampshire by modifying the definitions, administration, and requirements of such programs.

II. Establishes a parental right to home education for his or her own child, and a right to maintain privacy in information related to the administration of their home education program.

III. Removes cross-references to both the previous framework for home education programs and considerations of education in the assessment of child neglect.

IV. Directs the state board of education to repeal certain administrative rules relative to the prior framework.

V. Requires written agreement to be formed between pharmacy benefits managers and health carriers before benefits managers can operate.

VI. Amends pharmacy benefits manager reporting and examination requirements.

VII. Raises the value of the maximum administrative fine that can be levied for violations of the state's pharmacy benefits manger laws.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT modifying the structure and administration of home education programs and relative to pharmacy benefits managers, managed care laws, notice of drug pricing options and pharmacy benefit manager business practices.

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

- 1 1 Short Title. This act shall be known as the "Home Education Freedom Act".
- 2 2 Access to Public School Programs by Nonpublic, Public Chartered Schools, or Home Educated
- 3 Pupils; Home Schools Cross-Reference Added. Amend RSA 193:1-c, II to read as follows:
- 4 II. Nothing in this section shall be construed to require a parent to establish a home
- 5 education program which exceeds the requirements of RSA 193:1 *or RSA 193-A*.
- 6 3 Home Education; Definitions and Administration of Program Modified. RSA 193-A:1-5 is
- 7 repealed and reenacted to read as follows:
- 8 193-A:1 Definitions.
- 9 I. "Certificate of completion" means an optional document signed by the parent of a home
- 10 educated child certifying that the child has completed a home education program.
- 11 II. "Child" means a child or children at least 6 years of age and under 18 years of age who is
- 12 a resident of New Hampshire.
- 13 III. "Optional declaration of home education" means an optional written statement that the
- 14 student is home educated and meets the New Hampshire compulsory attendance requirements,
- 15 signed by a parent which identifies a home educated student by name, date of birth, and current
- 16 address.
- 17 IV. "Home educated student" means a student receiving an education provided, coordinated,
- 18 or directed by a parent for his or her own child. This definition shall not include a student
- 19 participating in the education freedom account program established in RSA 194-F.
- 20 V. "Parent" means a parent, guardian, or person having legal custody of a child.
- 21 VI. "Resident district" means the school district in which the child resides.
- 22 193-A:2 Program Established; Purpose. The general court recognizes that the right of a parent
- 23 to direct the education of their child is a natural right. A parent may elect to educate his or her own
- 24 child at home in accordance with this chapter.
- 25 193-A:3 Optional Declaration of Home Education. A declaration of home education shall not be
- 26 required, except to obtain access to public school programs pursuant to RSA 193:1-c or upon
- 27 withdrawal from a public school.

HB 1268 - AS AMENDED BY THE SENATE

- Page 2 -

1 193-A:4 Parental Right to Home Education; Independence of Home Education, Program
2 Schedule, Privacy, and Termination of Program.

3 I. A parent shall have the right to establish a home education program for his or her own
4 child, regardless of ability, disability, developmental status, or educational needs.

5 II. The resident district superintendent shall work with parents upon request in meeting the
6 goals of their home education program. No superintendent, school board, school principal, other
7 school district official, local official, or state official shall propose, adopt, or enforce any policy or
8 procedure governing home educated students except for policies related to the courses and programs
9 described in RSA 193:1-c.

10 III. Dates and hours of instruction shall not be required to coincide with the resident district
11 calendar. The academic term of a home education program shall not be required to coincide with the
12 resident district academic year.

13 IV. Except in the circumstance where a student is included in the resident district's average
14 daily membership in attendance or ADMA pursuant to RSA 198:38 or by participating in the
15 statewide assessment, the home educated child shall not:

16 (a) Have their data tracked through the statewide longitudinal data system (SLDS) as
17 defined by RSA 189:65; or

18 (b) Have their student information collected pursuant to RSA 193-E:5.

19 V. Participation in a home education program pursuant to this chapter shall be presumed as
20 education required by law. Therefore in proceedings under RSA 169-C the state shall not:

21 (a) Use such participation as evidence of, or as a basis for finding, failure to provide
22 education as required by law;

23 (b) Consider such participation in a home education program as a negative factor in
24 assessing the adequacy of meeting a child's education needs; and

25 (c) Use the lack of notice, records, evaluations, or assessments in a home education
26 program operated consistent with this chapter as a failure to provide education as required by law.

27 VI. Any information submitted to any state agency, school district, or government entity
28 regarding a home education program shall be confidential and shall not be disclosed to any other
29 state agency, federal agency, or third party without the written consent of the parent. Such
30 disclosure by a government employee acting in an official capacity, shall constitute a violation of
31 RSA 91-A:8, IV.

32 VII. A home education program is terminated when a home educated student is enrolled full
33 time in a public school, a public charter school, a nonpublic school, or the education freedom account
34 program established in RSA 194-F.

35 193-A:5 Optional Certificate of Completion. A parent may certify the completion of a home
36 education program pursuant to this chapter.

37 I. A certificate of completion may include the following information:

HB 1268 - AS AMENDED BY THE SENATE

- Page 3 -

- 1 (a) Name and date of birth of the child;
- 2 (b) Names of the parents;
- 3 (c) Date of completion of the home education program; and
- 4 (d) Signature of the parent.

5 II. If a parent submits the certificate of completion to the commissioner of the department of
6 education, within 30 days of receipt the commissioner shall issue a certificate of completion which
7 shall include the home education student has completed a home education program in the state of
8 New Hampshire pursuant to RSA 193-A.

9 4 Education Freedom Accounts; Home Education Notification Requirement Removed. Amend
10 RSA 194-F:2, IX to read as follows:

11 IX. A home education program pursuant to ~~[RSA 193-A:5]~~ **RSA 193-A** is terminated upon
12 the commencement of a student's participation in ~~[an]~~ **the** EFA program. ~~[A parent shall provide~~
13 ~~notification pursuant to RSA 193-A:5 when a student starts participating in an EFA program.]~~ **If**
14 **the student is accessing programs pursuant to 193:1-c, a parent shall notify the resident**
15 **district that the student is now participating in the EFA program.**

16 5 Costs of Capital Outlay and Operation; Cross-Reference to Exception Removed. Amend RSA
17 195:7, II to read as follows:

18 II. Home education pupils who do not receive services from the cooperative school district ~~;~~
19 ~~except an evaluation pursuant to RSA 193-A:6, II,~~ shall not be included in the average daily
20 membership relative to apportionment formulas.

21 6 Procedure for Formation of Cooperative School District; Cross-Reference to Exception
22 Removed. Amend RSA 195:18, III(e)-(g) to read as follows:

23 (e) The method of apportioning the operating expenses of the cooperative school district
24 among the several preexisting districts and the time and manner of payment of such shares. Home
25 education pupils who do not receive services from the cooperative school district~~;~~ ~~except an~~
26 ~~evaluation pursuant to RSA 193-A:6, II]~~ shall not be included in the average daily membership
27 relative to apportionment formulas.

28 (f) The indebtedness of any preexisting district which the cooperative school district is to
29 assume.

30 (g) The method of apportioning the capital expenses of the cooperative school district
31 among the several preexisting districts, which need not be the same as the method for apportioning
32 operating expenses, and the time and manner of payment of such shares. Capital expenses shall
33 include the costs of acquiring land and buildings for school purposes, including property owned by a
34 preexisting district; the construction, furnishing and equipping of school buildings and facilities; and
35 the payment of the principal and interest of any indebtedness which is incurred to pay for the same
36 or which is assumed by the cooperative school district. Home education pupils who do not receive

HB 1268 - AS AMENDED BY THE SENATE

- Page 4 -

1 services from the cooperative school district [~~except an evaluation pursuant to RSA 193-A:6, II,~~
2 shall not be included in the average daily membership relative to apportionment formulas.

3 7 Child Protection Act; Definitions; Neglected Child; Home Education Program Participation
4 Exempted. Amend RSA 169-C:3, XIX to read as follows:

5 XIX. "Neglected child" means a child:

6 (a) Who has been abandoned by his or her parents, guardian, or custodian; or

7 (b) Who is without proper parental care or control, subsistence, education as required by
8 law, or other care or control necessary for the child's physical, mental, or emotional health, when it
9 is established that the child's health has suffered or is likely to suffer serious impairment; and the
10 deprivation is not due primarily to the lack of financial means of the parents, guardian, or custodian;
11 or

12 (c) Whose parents, guardian or custodian are unable to discharge their responsibilities
13 to and for the child because of incarceration, hospitalization or other physical or mental incapacity;

14 Provided, that no child who is, in good faith, under treatment solely by spiritual means through
15 prayer in accordance with the tenets and practices of a recognized church or religious denomination
16 by a duly accredited practitioner thereof shall, for that reason alone, be considered to be a neglected
17 child under this chapter. ***A child participating in a home education program under RSA 193-
18 A or an education program funded through an education freedom account under RSA 194-
19 F shall not be considered a neglected child under this chapter solely on the basis of such
20 participation.***

21 8 Department of Education; Rulemaking; Cross-Reference Added. Amend RSA 21-N:9, II(g) to
22 read as follows:

23 (g) Home study, ***as authorized by RSA 193:1, I (c).***

24 9 Agency Directive; Repeal of Administrative Rules. Immediately upon passage of this act, the
25 state board of education shall undertake and complete expedited repeal of rules Ed 315, as described
26 in RSA 541-A:19-a.

27 10 Repeal. The following are repealed:

28 I. RSA 193-A:6, relative to the record keeping and evaluation of home education programs.

29 II. RSA 193-A:10, relative to the home education advisory council.

30 III. RSA 193-A:11, relative to the authority of school district officials in governance of home
31 education programs.

32 11 Pharmacy Benefits Managers; Definitions. Amend RSA 402-N:1, VIII to read as follows:

33 VIII.(a) "Pharmacy benefits manager" means a person, business, or other entity, including a
34 wholly or partially owned or controlled subsidiary of a pharmacy benefits manager ***or of a licensed
35 health insurer***, that, pursuant to a contract with a health carrier, manages the prescription drug
36 coverage provided by the health carrier ***for health coverage as defined in RSA 420-G:2, IX,***
37 including, but not limited to, providing claims processing services for prescription drugs, performing

1 drug utilization review, processing drug prior authorization requests, adjudication of grievances or
2 appeals related to prescription drug coverage, contracting with network pharmacies, and controlling
3 the cost of covered prescription drugs.

4 (b) "Pharmacy benefits manager" shall not include any:

5 (1) Health care facility licensed in this state;

6 (2) Health care professional licensed in this state;

7 (3) Consultant who only provides advice as to the selection or performance of a
8 pharmacy benefits manager; *or*

9 (4) Service provided to the Centers for Medicare and Medicaid Services~~[-or]~~.

10 ~~[(5) Health insurer licensed in this state if the health insurer or its subsidiary is
11 providing pharmacy benefits management services exclusively to its own insureds.]~~

12 12 Pharmacy Benefits Managers; Registration to do Business; Rulemaking; Penalties. Amend
13 RSA 402-N:2, III(a) to read as follows:

14 (a) ~~[For each separate violation, a penalty in the amount of \$2,500]~~ ***An administrative***
15 ***fine not to exceed \$5,000 per violation.***

16 13 New Section; Written Agreements. Amend RSA 402-N by inserting after section 2 the
17 following new section:

18 402-N:2-a. Written Agreement.

19 I. No pharmacy benefits manager shall act as such without a written agreement between
20 the pharmacy benefits manager and the health carrier. The written agreement shall be retained as
21 part of the official records of both the health carrier and the pharmacy benefits manager for the
22 duration of the agreement and for 5 years thereafter. The agreement shall contain all provisions
23 required by this chapter, except insofar as those requirements do not apply to the functions
24 performed by the pharmacy benefits manager.

25 II. The written agreement shall include the following:

26 (a) A statement of duties that the pharmacy benefits manager is expected to perform on
27 behalf of the health carrier.

28 (b) A statement that the pharmacy benefits manager shall maintain and make available
29 to the health carrier complete books and records of all transactions performed on behalf of the health
30 carrier.

31 (c) The instructions for how the pharmacy benefits manager will undertake the duties
32 delegated by the health carrier.

33 III. In cases in which pharmacy benefits manager administers benefits for more than 100
34 covered lives in New Hampshire on behalf of the health carrier, the health carrier may, at least
35 semi-annually, conduct an on-site or virtual audit of the operations of the pharmacy benefits
36 manager.

1 14 Pharmacy Benefits Manager Reporting. RSA 402-N:6 is repealed and reenacted to read as
2 follows:

3 402-N:6 Pharmacy Benefits Manager Reporting.

4 I. Each pharmacy benefits manager shall submit to the commissioner annually a report
5 containing a list of health benefit plans it administered and the rebates it collected from
6 pharmaceutical manufacturers that were attributable to patient utilization in the state of New
7 Hampshire during the prior calendar year. The report submitted to the commissioner shall include
8 the following information:

9 (a) The aggregate dollar amount spent on drugs prior to rebates;

10 (b) The aggregate dollar amount of all rebates that pharmacy benefit manager received
11 from all pharmaceutical manufacturers;

12 (c) The aggregate dollar amount of all administrative fees that the pharmacy benefit
13 manager received;

14 (d) The aggregate dollar amount of all health carrier administrative service fees that the
15 pharmacy benefit manager received;

16 (e) The aggregate dollar amount of all rebates that the pharmacy benefit manager
17 received from all pharmaceutical manufacturers and did not pass through to health plans or health
18 carriers;

19 (f) The aggregate dollar amount of all administrative fees that the pharmacy benefit
20 manager received from all pharmaceutical manufacturers and did not pass through to health plans
21 or health carriers;

22 (g) The aggregate retained rebate percentage; and

23 (h) Across all of the pharmacy benefit manager's contractual or other relationships with
24 all health plans or health carriers, the highest aggregate retained rebate percentage, the lowest
25 aggregate retained rebate percentage, and the mean aggregate retained rebate percentage.

26 II. Information reported to the commissioner pursuant to this section shall be confidential
27 and protected from disclosure under the commissioner's examination authority and shall not be
28 considered a public record subject to disclosure under RSA 91-A. Based on this reporting, the
29 commissioner shall make public aggregated data on the overall amount of rebates collected on behalf
30 of covered persons in the state, but shall not release data that identifies a specific health carrier or
31 pharmacy benefit manager.

32 III. The commissioner shall prescribe the format of the report and procedure for filing the
33 report. Any forms, templates, or guidance regarding the report required by the section shall be
34 exempt from the requirements of RSA 541-A.

35 IV. This section shall not apply to data related to Medicaid, the Medicaid Care Management
36 program, the Ryan White HIV/AIDS program administered by the department of health and human

HB 1268 - AS AMENDED BY THE SENATE

- Page 7 -

1 services, self-funded plans, the state employee health benefit plan, or any other plan outside the
2 jurisdiction of the commissioner.

3 15 Pharmacy Benefits Managers; Authority to Examine and Directly Bill Pharmacy Benefits
4 Managers for Examinations. RSA 402-N:7 is repealed and reenacted to read as follows:

5 402-N:7 Authority to Examine and Directly Bill Pharmacy Benefits Managers for Examinations.

6 I. The acts of the pharmacy benefits manager shall be considered the acts of the health
7 carrier on whose behalf it is acting. A pharmacy benefits manager may be examined as if it were the
8 health carrier pursuant to RSA 400-A:37 and the commissioner may directly bill a pharmacy benefits
9 manager for the costs of any examination.

10 II. The commissioner may investigate the acts of a pharmacy benefits manager pursuant to
11 RSA 400-A:16.

12 III. The pharmacy benefits manager shall make all records and books of account available to
13 the examiners or consultants and shall otherwise facilitate the performance of the examination or
14 investigation.

15 16 Managed Care Law; Provider Contract Standards. Amend RSA 420-J:8, XV to read as
16 follows:

17 XV.(a) All contracts between a carrier or pharmacy benefit manager and a contracted
18 pharmacy shall include:

19 (1) The sources used by the pharmacy benefit manager to calculate the drug product
20 reimbursement paid for covered drugs available under the pharmacy health benefit plan
21 administered by the carrier or pharmacy benefit manager.

22 (2) A process to appeal, investigate, and resolve disputes regarding the maximum
23 allowable cost pricing. The process shall include the following provisions:

24 (A) A provision granting the contracted pharmacy or pharmacist at least 30
25 business days following the initial claim to file an appeal;

26 (B) A provision requiring the carrier or pharmacy benefit manager to investigate
27 and resolve the appeal within 30 business days;

28 (C) A provision requiring that, if the appeal is denied, the carrier or pharmacy
29 benefit manager shall:

30 (i) Provide the reason for the denial; and

31 (ii) Identify the national drug code of a drug product that may be purchased
32 by contracted pharmacies at a price at or below the maximum allowable cost; and

33 (D) A provision requiring that, if an appeal is granted, the carrier or pharmacy
34 benefits manager shall within 30 business days after granting the appeal:

35 (i) Make the change in the maximum allowable cost; and

36 (ii) Permit the challenging pharmacy or pharmacist to reverse and rebill the
37 claim in question.

1 **(3) All claims adjudications, appeals, and utilization review processes shall**
2 **comply with the requirements of RSA 420-J and rules promulgated thereunder.**

3 (b) For every drug for which the **health carrier or** pharmacy benefit manager
4 establishes a maximum allowable cost to determine the drug product reimbursement, the **health**
5 **carrier or** pharmacy benefit manager shall:

6 (1) Include in the contract with the pharmacy information identifying the national
7 drug pricing compendia or sources used to obtain the drug price data.

8 (2) Make available to a contracted pharmacy the actual maximum allowable cost for
9 each drug.

10 (3) Review and make necessary adjustments to the maximum allowable cost for
11 every drug for which the price has changed at least every 14 days.

12 (c) [Repealed.]

13 (d) [Repealed.]

14 **(e) Grant at least 7 days' advance notice of the initial on-site audit for each**
15 **audit cycle. A pharmacy that requests an additional 7 days prior to the commencement of**
16 **an audit shall be granted 7 additional days.**

17 17 Managed Care Law; Retroactive Denials Prohibited; Exceptions. Amend RSA 420-J:8-b, III
18 to read as follows:

19 III. A health carrier shall notify a health care provider at least 15 days in advance of the
20 imposition of any retroactive denials of previously paid claims. The health care provider shall have 6
21 months from the date of notification under this paragraph to determine whether the insured has
22 other appropriate insurance, which was in effect on the date of service. Notwithstanding the
23 contractual terms between the health carrier and provider, the health carrier shall allow for the
24 submission of a claim that was previously denied by another insurer due to the insured's transfer or
25 termination of coverage. **If the health care provider files an appeal within 15 days of the date**
26 **of the notice by the health carrier, the recoupment of the previously paid claim shall occur**
27 **only after the appeal and external review process has concluded.**

28 18 New Subparagraphs; Standards for Accident and Health Insurance; Establishing Excess Cost
29 Sharing. Amend RSA 415-A:7, I by inserting after subparagraph (b) the following new
30 subparagraphs:

31 (c) "Pharmacy benefits manager" means "pharmacy benefits manager" as defined in RSA
32 402-N:1, VIII.

33 (d) "Spread pricing" means the model of drug pricing in which the pharmacy benefit
34 manager charges a health benefit plan a contracted price for drugs, and the contracted price for the
35 drugs differs from the amount the pharmacy benefit manager directly or indirectly pays the
36 pharmacist or pharmacy for the drugs, pharmacist services, or drug and dispensing fees.

HB 1268 - AS AMENDED BY THE SENATE

- Page 9 -

1 19 Standards for Accident and Health Insurance; Establishing Excess Cost Sharing. Amend
2 RSA 415-A:7, IV(b) to read as follows:

3 (b) A civil fine not to exceed [~~\$2,500~~] **\$5,000** may be imposed for each violation.
4 [~~Repeated violations of the same provision shall constitute separate civil offenses.~~]

5 20 New Paragraphs; Standards for Accident and Health Insurance; Establishing Excess Cost
6 Sharing. Amend RSA 415-A:7 by inserting after paragraph V the following new paragraphs:

7 VI. An insurer providing health coverage as defined in RSA 420-G:2, IX to a group shall
8 disclose at the time the plan is sold how rebates will be treated in accordance with this section and,
9 if a pharmacy benefits manager is used to administer the prescription drug benefit, whether spread
10 pricing is used to compensate the pharmacy benefits manager.

11 VII. Nothing in this section shall prohibit the use of spread pricing.

12 21 Effective Date.

13 I. Sections 11-20 of this act shall take effect January 1, 2027.

14 II. The remainder of this act shall take effect July 1, 2026.

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