

SB 17-FN - AS INTRODUCED

2025 SESSION

25-0269

05/08

SENATE BILL **17-FN**

AN ACT relative to insurance cost-sharing calculations.

SPONSORS: Sen. Innis, Dist 7

COMMITTEE: Health and Human Services

ANALYSIS

This bill provides that, when calculating an enrollee's contribution to cost-sharing requirements, the insurer or pharmacy benefits manager shall include any amount paid by the enrollee or paid on their behalf. The bill includes a limited exception for health savings account-qualified high deductible health plans if application of the requirement would result in account ineligibility under the Internal Revenue Code.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 insurance cost-sharing calculations.

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

1 1 New Section; Accident and Health Insurance; Fairness in Cost-Sharing Calculations. Amend
2 RSA 415 by inserting after section 27 the following new section:

3 415:28 Fairness in Cost-Sharing Calculations.

4 I. In this section, "cost-sharing requirements" means any coinsurance, copayment,
5 deductible or out-of-pocket maximum.

6 II. When calculating an enrollee's overall contribution to any cost-sharing requirements
7 under an individual or group policy, plan, or contract of accident or health insurance providing
8 benefits for medical or hospital expenses, the insurer or pharmacy benefit manager shall include any
9 amounts paid by the enrollee or paid on behalf of the enrollee. This requirement shall not apply in
10 the case of a prescription drug for which there is a generic alternative, unless the insured has
11 obtained prior authorization, a step therapy protocol, or the insurer's exceptions and appeals
12 process. If under federal law, application of this requirement would result in health savings account
13 ineligibility with section 223 of the federal Internal Revenue Code, this requirement shall apply for
14 health savings account-qualified high deductible health plans with respect to the deductible of such a
15 plan after the enrollee has satisfied the minimum deductible under section 223, except for with
16 respect to items or services that are preventive care pursuant to section 223(c)(2)(C) of the federal
17 Internal Revenue Code, in which case the requirements of this paragraph shall apply regardless of
18 whether the minimum deductible under section 223 has been satisfied.

19 III. When applying paragraph II to the calculation of an enrollee or insured's contribution to
20 the annual limitation on cost-sharing set forth in 42 U.S.C. sections 18022(c) and 300gg-6(b), an
21 individual or group policy, plan, or contract of accident or health insurance, or pharmacy benefit
22 manager shall include expenditures for any item or service covered by such insurer or pharmacy
23 benefit manager and included within a category of essential health benefits as described in 42 U.S.C.
24 section 18022(b)(1).

25 IV. This section shall apply to a group policy, plan, or contract of accident or health
26 insurance providing benefits for medical or hospital expenses delivered, issued for delivery, or
27 renewed on or after January 1, 2026.

28 2 New Section; Health Service Corporations; Fairness in Cost-Sharing Calculations. Amend
29 RSA 420-A by inserting after section 32 the following new section:

30 420-A:33 Fairness in Cost-Sharing Calculations.

31 I. "Cost-sharing requirements" has the same meaning as in RSA 415:28.

1 II. Every health service corporation and every similar corporation licensed under the laws of
2 another state that issues or renews any policy, plan, or contract of individual or group accident or
3 health insurance providing benefits for medical or hospital expenses, or pharmacy benefit manager
4 when calculating an enrollee's overall contribution to any cost-sharing requirements shall include
5 any amounts paid by the enrollee or paid on behalf of the enrollee. This requirement shall not apply
6 in the case of a prescription drug for which there is a generic alternative, unless the insured has
7 obtained prior authorization, a step therapy protocol, or the insurer's exceptions and appeals
8 process. If under federal law, application of this requirement would result in health savings account
9 ineligibility with section 223 of the federal Internal Revenue Code, this requirement shall apply for
10 health savings account-qualified high deductible health plans with respect to the deductible of such a
11 plan after the enrollee has satisfied the minimum deductible under section 223, except for with
12 respect to items or services that are preventive care pursuant to section 223(c)(2)(C) of the federal
13 Internal Revenue Code, in which case the requirements of this paragraph shall apply regardless of
14 whether the minimum deductible under section 223 has been satisfied.

15 III. When applying paragraph II to the calculation of an enrollee or insured's contribution to
16 the annual limitation on cost-sharing set forth in 42 U.S.C. sections 18022(c) and 300gg-6(b), an
17 individual or group policy, plan, or contract of accident or health insurance, or pharmacy benefit
18 manager shall include expenditures for any item or service covered by such insurer or pharmacy
19 benefit manager and included within a category of essential health benefits as described in 42 U.S.C.
20 section 18022(b)(1).

21 3 New Section; Health Maintenance Organizations; Fairness in Cost-Sharing Calculations.
22 Amend RSA 420-B by inserting after section 26 the following new section:

23 420-B:27 Fairness in Cost-Sharing Calculations.

24 I. "Cost-sharing requirements" has the same meaning as in RSA 415:28.

25 II. Every health maintenance organization and every similar corporation licensed under the
26 laws of another state that issues or renews any policy, plan, or contract of individual or group health
27 insurance providing benefits for medical or hospital expenses, or pharmacy benefit manager when
28 calculating an enrollee's overall contribution to any cost-sharing requirements shall include any
29 amounts paid by the enrollee or paid on behalf of the enrollee. This requirement shall not apply in
30 the case of a prescription drug for which there is a generic alternative, unless the insured has
31 obtained prior authorization, a step therapy protocol, or the insurer's exceptions and appeals
32 process. If under federal law, application of this requirement would result in health savings account
33 ineligibility with section 223 of the federal Internal Revenue Code, this requirement shall apply for
34 health savings account-qualified high deductible health plans with respect to the deductible of such a
35 plan after the enrollee has satisfied the minimum deductible under section 223, except for with
36 respect to items or services that are preventive care pursuant to section 223(c)(2)(C) of the federal

SB 17-FN - AS INTRODUCED

- Page 3 -

1 Internal Revenue Code, in which case the requirements of this paragraph shall apply regardless of
2 whether the minimum deductible under section 223 has been satisfied.

3 III. When applying paragraph II to the calculation of an enrollee or insured's contribution to
4 the annual limitation on cost-sharing set forth in 42 U.S.C. sections 18022(c) and 300gg-6(b), an
5 individual or group policy, plan, or contract of accident or health insurance, or pharmacy benefit
6 manager shall include expenditures for any item or service covered by such insurer or pharmacy
7 benefit manager and included within a category of essential health benefits as described in 42 U.S.C.
8 section 18022(b)(1).

9 4 Effective Date. This act shall take effect 60 days after its passage.

**SB 17-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to insurance cost-sharing calculations.

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	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
<i>Revenue Fund(s)</i>	General Fund Insurance Premium Tax Revenue			
Expenditures*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill provides that, when calculating an enrollee's contribution to cost-sharing requirements, the insurer or pharmacy benefits manager shall include any amount paid by the enrollee or paid on their behalf. The bill includes a limited exception for health savings account-qualified high deductible health plans if application of the requirement would result in account ineligibility under the Internal Revenue Code.

The Insurance Department indicates this bill, if enacted, would amend RSAs 415, 420-A, and 420-B by requiring that when insurers or pharmacy benefit managers (PBM) calculate an enrollee's contribution to cost-sharing requirements both the amount paid by the enrollee and amounts paid on behalf of the enrollee are included except in the case that qualified high deductible health plans would be ineligible if this requirement is applied. This provision applies

to both medical and pharmacy benefits. Prescription drugs for which there is a generic alternative would also be excluded unless approval based on prior authorization or appeal applies.

The Department acknowledges that the language in the bill considers prescription drugs (e.g., small molecule drugs) and their respective generic equivalents. However, the bill does not specifically recognize the branded biologics market and its biosimilar equivalents, which are often branded as well. Across a continuum of prescription drugs, the latter substances may be more likely to be associated with manufacturer co-pay assistance coupons, as they are usually higher-cost drugs. The Department states that insurers employ precise actuarial methods to estimate premium costs, based on the previous years' claims experience. These estimates are used to design plans to achieve an optimal balance of premium and cost sharing attributes to meet a myriad of market characteristics. If extraneous revenue sources are applied to assisting enrollees in meeting their cost-sharing responsibilities, and/or these costs are met with non-real dollars, this would disrupt the economics of cost-estimation among the affected health insurers, and consequently, drive premiums upward. The extent of the increased premium pressure is indeterminable at this time, as the sources of the extraneous cost sharing subsidies is not tractable. An increase in insurance premiums will lead to an increase in insurance premium tax revenue to the state general fund and increased expenditures to county and local governments to the extent these entities pay insurance premiums for health and pharmacy benefits.

The Department of Administrative Services indicates that because RSA 415, RSA 420-A and RSA 420-B only apply to fully insured commercial health insurance plans, the impact on the State of NH Employee and Retiree Health Benefit Plan (HBP) would be zero. The HBP is a self-funded health plan covering participants eligible for the active employee HBP and the nonMedicare Retiree HBP where the cost of claims is paid by the State. The Medicare eligible Retiree Health Benefit Plan is a fully insured Medicare Advantage with Prescription Drug (MA-PD) plan that is governed by the laws and rules of the federal Centers for Medicare and Medicaid Services (CMS). Therefore, the State HBP is not governed by the laws of NH Insurance Department.

AGENCIES CONTACTED:

Departments of Insurance and Administrative Services