

SB 119-FN - AS INTRODUCED

2025 SESSION

25-0362

05/06

SENATE BILL ***119-FN***

AN ACT relative to Medicaid pharmaceutical services.

SPONSORS: Sen. Gray, Dist 6

COMMITTEE: Health and Human Services

ANALYSIS

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 bill is a request of the department of health and human services.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

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

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

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

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

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

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

16 2 Department of Health and Human Services; General Provisions. Amend RSA 126-A:3, V to
17 read as follows:

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

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

3 3 New Paragraph; Department of Health and Human Services; General Provisions. Amend RSA
4 126-A:3 by inserting after paragraph V the following new paragraph:

5 V-a.(a) When deemed medically necessary and cost effective by the department of health
6 and human services' chief medical officer, a standing order may be issued by the chief medical officer
7 for certain Medicaid covered over-the-counter (non-legend) medications, medical supplies, and
8 laboratory tests. Such standing order shall be reviewed annually by the chief medical officer for
9 continuation or discontinuation of the standing order.

10 (b) No health care professional, acting in good faith and with reasonable care, who issues
11 a standing order, or who dispenses, or distributes over-the-counter (non-legend) medications,
12 medical supplies, or laboratory tests by standing order shall be subject to any criminal or civil
13 liability, or any professional disciplinary action, for any action authorized by this paragraph or any
14 outcome resulting from an action authorized by this paragraph.

15 4 Effective Date. This act shall take effect July 1, 2025.

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
<i>Revenue Fund(s)</i>	Pharmacy Rebate Revenue			
Expenditures*	\$0	(\$1,100,000)	(\$3,400,000)	(\$4,500,000)
<i>Funding Source(s)</i>	General and other funds.			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	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