SB 129-FN - AS INTRODUCED

2025 SESSION

25-1025
05/09

SENATE BILL ***129-FN***

AN ACT relative to establishing an uncompensated health care fund to be administered by the department of insurance and assessed by a surcharge on commercial insurers, reinsurers, and trusts overseeing self-insured plans.

SPONSORS: Sen. Innis, Dist 7

COMMITTEE: Health and Human Services

ANALYSIS

This bill establishes an uncompensated health care fund to be administered by the department of insurance and assessed by a surcharge on commercial insurers, reinsurers, and trusts overseeing self-insured plans.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

25-1025
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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to establishing an uncompensated health care fund to be administered by the department of insurance and assessed by a surcharge on commercial insurers, reinsurers, and trusts overseeing self-insured plans.

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

1 Statement of Purpose. The general court recognizes that a contributor of uncompensated care costs to non-profit safety net health care providers in the state of New Hampshire is related to the practices of commercial health insurance carriers. Federal Medicaid law has recognized that additional resources are necessary to support the financial stability of safety net providers for uninsured and Medicaid recipients; a state law to similarly support safety net providers for recipients of commercial insurance and self-insured plans is appropriate, timely, and necessary. Therefore, the general court hereby creates an uncompensated health care fund to be administered by the department of insurance, to be assessed with a surcharge on commercial insurers, reinsurers, and trusts overseeing self-insured plans, and to be allocated to qualified non-profit safety net health care providers.

2 New Section; Uncompensated Care Fund. Amend RSA 400-A by inserting after section 39-b the following new section:

400-A:39-c Uncompensated Health Care Fund, Assessment, and Advisory Committee.

I. There is hereby established in the state treasury an uncompensated health care fund, which shall be kept separate and distinct from all other funds. All moneys in the fund shall be nonlapsing and continually appropriated to the insurance department for the purposes of this section.

II. The insurance department shall establish an uncompensated health care assessment charged to licensed health insurance carriers, reinsurers, and trusts overseeing self-insured plans in the state of New Hampshire. Self-insured plans subject to the assessment shall include the state of New Hampshire health plan; municipal self-insured health plans; any trust or association health plan registered in the state of New Hampshire; self-insured plans that contract for reinsurance services with New Hampshire-regulated carriers; and self-insured companies with more than 100 employees who contract with the state of New Hampshire. All such assessments collected by the department shall be deposited in the fund established in paragraph I.

III. The commissioner shall establish an uncompensated health care advisory committee to recommend criteria for determining the annual level of uncompensated care to be funded through assessments as well as the allocation formulas for qualified non-profit safety net health care providers.

IV. Members of the uncompensated health care advisory committee shall include:

(a) Three representatives of health insurance carriers licensed in the state of New Hampshire.

(b) Two representatives of community mental health centers, nominated by the New Hampshire Community Behavioral Health Association.

(c) Two representatives of community health centers, nominated by Bi-State Primary Care Association.

(d) Two representatives of substance use disorder providers, nominated by the governor.

(e) One member of the state senate, appointed by the senate president.

(f) One member of the state house of representatives, appointed by the speaker of the house of representatives.

(g) The commissioner of the department of health and human services, or designee.

(h) Two public members, appointed by the commissioner.

V. The advisory committee shall be charged with advising the commissioner to ensure the assessment mechanism is consistent with RSA 404-G:1, VII.

VI. The costs of the uncompensated care plan assessment shall not be treated as recoverable costs by the carriers and shall not be passed on to individuals and employer groups through an add-on to premium costs or projected claims costs.

VII. A first-year assessment shall be collected from all health care insurance carriers and self-insured health plans listed in paragraph II, subject to the program and based on a per member, per month calculation.

VIII. The department shall establish an annual need for the program which takes into account the uncompensated care cost information gathered from qualified safety net providers eligible for uncompensated care payments distributed by the fund.

IX. The department shall establish a method to calculate uncompensated costs for each eligible provider that would take into account operating losses, bad debt write-offs, and medically necessary care write offs related to inadequate commercial benefits.

X. Eligible providers shall apply for uncompensated health care funds and provide information required by the department as established annually with consistent timeframes outlined by the department. The department shall establish an annual level of assessment based on information provided by the eligible providers.

XI. Any funds collected via assessment but not expended shall lapse to the following year and reduce the size of the subsequent year's assessment.

XII. The department is authorized to expend a reasonable portion of the uncompensated care fund to administer the program, including retaining consultants.

XIII. The commissioner may adopt rules under RSA 541-A that provide for the administration of this section in accordance with state agency accounting principles and practices.

3 New Paragraph; Individual Health Insurance Market; Uncompensated Health Care Fund. Amend RSA 404-G:1 by inserting after paragraph VI the following new paragraph:

VII. Establish an assessment mechanism to fund the uncompensated health care fund as defined in RSA 404-G:2, X and as established in RSA 400-A:39-c.

4 New Paragraph; Individual Amend RSA 404-G:2 by inserting after paragraph IX the following new paragraph:

X. "Uncompensated health care fund" means the uncompensated health care fund established in RSA 400-A:39-c.

5 New Subparagraph; Dedicated Fund Added. Amend RSA 6:12, I(b) by inserting after subparagraph (399) the following new subparagraph:

(400) Moneys deposited in the uncompensated health care fund established in RSA 400-A:39-c.

6 Applicability. If this act becomes law on or before July 1, 2025, the uncompensated health care fund program shall take effect on January 1, 2026. During the 6 months following the passage of this act, the department shall establish an appropriate assessment level and shall notify carriers by September 1, 2025, in order for rate filings and carrier notices to occur within a reasonable timeframe. Collections of such assessments will be implemented consistent with RSA 404-G:1, VII, where carriers will be assessed quarterly beginning in calendar year 2026. The department shall direct its administrator to distribute uncompensated health care funds in a reasonable timeframe following the collection of 2 consecutive quarters.

7 Effective date. This act shall take effect 60 days after its passage.

LBA
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SB 129-FN- FISCAL NOTE
AS INTRODUCED

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FISCAL IMPACT:

Estimated State Impact				
	FY 2025	**FY 2026**	**FY 2027**	**FY 2028**
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Revenue Fund(s)	General Fund			
Expenditures*	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source(s)	General Fund, Highway Fund, and Various Agency Funds and NH Insurance Department's Budget			
Appropriations*	$0	$0	$0	$0
Funding Source(s)	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 establishes the Uncompensated Health Care Fund in the State Treasury to support providers delivering medically necessary care to uninsured individuals. The fund will be financed through assessments on licensed health insurance carriers, reinsurers, and certain self-insured health plans in New Hampshire, with costs not recoverable by carriers or passed on to consumers. An advisory committee, including representatives from health providers, insurance carriers, and government officials, will support the program's implementation, including determining assessment levels and allocation formulas. The Insurance Department will oversee the program, calculate uncompensated care costs, and administer payments to eligible providers.

The bill includes provisions for annual assessments, rulemaking, administrative costs, and a timeline for implementation beginning in 2026.

The Insurance Department states the term "uncompensated care" is ambiguously defined, potentially encompassing a wide range of costs such as care for uninsured patients, unpaid cost-sharing amounts, or even services not deemed medically necessary. For analysis purposes, the Department assumes "uncompensated care" is limited to medically necessary care for uninsured individuals ineligible for government programs who do not pay for services. Concerns have been raised about unintended consequences, such as disincentivizing insurance coverage and payment of medical expenses, along with potential fiscal impacts.

Additionally, the Department states this bill prohibits payors from passing the assessment costs to consumers through premium increases, potentially reducing profit margins and prompting health insurers to exit the NH market. This could reduce premium tax revenues and increase "uncompensated care" by limiting access to affordable insurance. Furthermore, the assessment might trigger retaliatory taxes in other states, increasing costs for NH domestic insurers and encouraging re-domestication to other states, thereby diminishing the state's tax base. For self-funded plans, including the State, absorbing assessment costs without adjusting claims projections is difficult, burdening employers and municipalities, which may raise taxes to cover the assessment.

In 2023, New Hampshire's uninsured rate was estimated at 4.7%. With total medical expenditures for 2022 at approximately $11.75 billion, an estimated $552.38 million would be required annually to cover the medical costs of the uninsured population. The Department would need to hire at least 12 additional staff to manage the new responsibilities associated with collecting assessments and distributing funds. These positions would include claims processors, business administrators, a tax auditor, an administrative secretary, and a supervisor, at a total increase of expenditures of $1.31 million in FY 2026, $1.633 million in FY 2027 and $1.70 million by FY 2028. Additional costs for office space, IT resources, and equipment are substantial but currently indeterminable.

Position	Per Position Cost	Number of Positions	Total Cost (FY 2026)	Total Cost (FY 2027)	Total Cost (FY 2028)
Claims Processor III	$115,000	6	$690,000	$858,000	$894,000
Business Administrator III	$115,000	3	$345,000	$429,000	$447,000
Tax Auditor III	$95,000	1	$95,000	$118,000	$122,000
Supervisor VI	$105,000	1	$105,000	$131,000	$136,000

Administrative Secretary	$78,000	1	$78,000	$97,000	$100,000
Total Cost for All Positions:			$1,313,000	$1,633,000	$1,699,000

Lastly, the Department states assessment base for this bill, while larger than existing bases, is also indeterminable. Assuming approximately 550,000 covered lives, an annual assessment base of $553.70 million would be needed. This translates to an $83.89 per member per month (PMPM) premium impact. The bill has significant financial and administrative challenges on the state, with notable costs associated with personnel, infrastructure, and the potential premium increases for covered lives.

Additionally, the General Fund, Highway Fund, and various agency funds will see an increase in expenditures as the assessments established by the bill apply to self-insured plans, including those operated by the state of New Hampshire. The State, as a self-insured payor, would be subject to these assessments, potentially increasing its costs for providing health benefits to state employees and Non-Medicare retirees. The bill prohibits passing these costs onto individuals or employer groups through increased premiums or claims cost adjustments, meaning there would be an indeterminable increase on State expenditures.

It is assumed the fiscal impact of this bill will occur after FY 2025.

AGENCIES CONTACTED:

Insurance Department and Department of Administrative Services