

HB 1099 - AS AMENDED BY THE SENATE

10Mar2022... 0491h
05/05/2022 1852s
05/05/2022 1880s
05/05/2022 1963s

2022 SESSION

22-2422
05/10

HOUSE BILL **1099**

AN ACT relative to medical freedom in immunizations, re-establishing the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers Market Nutrition Program, establishing an association health plan pilot program, and relative to expanding Medicaid to include certain postpartum health care services and making an appropriation therefor.

SPONSORS: Rep. Torosian, Rock. 14; Rep. Littlefield, Belk. 3; Rep. Andrus, Merr. 1; Rep. J. Smith, Carr. 5; Rep. True, Rock. 4; Rep. Green, Rock. 13; Rep. Blasek, Hills. 21

COMMITTEE: Health, Human Services and Elderly Affairs

AMENDED ANALYSIS

This bill:

I. Clarifies that no person shall be required to receive a Covid-19 vaccination in order receive benefits or services from the department of health and human services.

II. Re-establishes the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers Market Nutrition Program and makes an appropriation for this purpose.

III. Requires the insurance commissioner to establish a pilot program for association health plans.

IV. Directs the department of health and human services to submit a state plan amendment to temporarily expand postpartum coverage under Medicaid, establishes a quarterly reporting requirement, and makes an appropriation to the department for this purpose. The program expansion is repealed March 31, 2027.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to medical freedom in immunizations, re-establishing the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers Market Nutrition Program, establishing an association health plan pilot program, and relative to expanding Medicaid to include certain postpartum health care services and making an appropriation therefor.

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

1 1 Communicable Disease; Medical Freedom in Immunizations. Amend RSA 141-C:1-a, I to read
2 as follows:

3 I. Every person has the natural, essential, and inherent right to bodily integrity, free from
4 any threat or compulsion by government to accept an immunization. Accordingly, no person may be
5 compelled to receive an immunization for COVID-19 in order to secure, receive, or access any public
6 facility, any public benefit, or any public service from the state of New Hampshire, ***the New***
7 ***Hampshire department of health and human services***, or any political subdivision [~~thereof~~] ***of***
8 ***the state of New Hampshire***, including but not limited to counties, cities, towns, precincts, water
9 districts, school districts, school administrative units, or quasi-public entities.

10 2 New Section; Special Supplemental Nutrition Program for WIC Farmers Market Nutrition
11 Program. Amend RSA 132 by inserting after section 12-e the following new section:

12 132:12-f WIC Farmers' Market Nutrition Program. There is established in the department of
13 health and human services the New Hampshire Farmers' Market Nutrition Program for participants
14 in the Special Supplemental Nutrition Program for Women, Infants and Children (WIC). The
15 program shall distribute food instruments to eligible WIC participants to redeem for locally grown
16 fresh fruits, vegetables and herbs at authorized New Hampshire farmers' markets in compliance
17 with 7 C.F.R. 248 that are redeemable only at designated New Hampshire farmers' markets. The
18 commissioner shall adopt rules under RSA 541-A to implement this program.

19 3 Appropriation; WIC Farmers' Market Nutrition Program. There is hereby appropriated to the
20 department of health and human services the sum of \$300,000 for the fiscal year ending June 30,
21 2023, which shall be nonlapsing, for the purpose of funding the WIC Farmers' Market Nutrition
22 Program in RSA 132:12-f. The governor is authorized to draw a warrant for said sum out of any
23 money in the treasury not otherwise appropriated.

24 4 Association Health Plans; Pilot Program. No later than January 1, 2023, the commissioner
25 shall develop and implement a pilot program for the establishment of association health plans
26 (AHP). The pilot program shall include all state-mandated health plan coverage, and no state-

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mandated health plan coverage shall be exempt. Membership in an AHP may be based on profession, line of business, or geographic region, and shall be open to any eligible person regardless of age or health history or status. The pilot program shall be limited to 1,000 participants and shall comply with the United States Department of Labor AHP final rule published in 83 Fed. Reg. 28912 (June 21, 2018) codified at 29 C.F.R. 2510. The commissioner shall adopt rules, pursuant to RSA 541-A, relative to eligibility, application, and selection procedures, and necessary operational provisions of the pilot program. No later than January 1, 2024, and annually thereafter, the commissioner shall submit a report on the status of the pilot program to the speaker of the house of representatives, the president of the senate, the governor, and the chairpersons of the house and senate standing committees with jurisdiction over insurance matters.

5 Repeal. Section 4 of this act, relative to the association health plan pilot program, is repealed.

6 Title. Sections 6-9 of this act shall be known and may be cited as the "Healthy Moms, Healthy Babies Act of 2022".

7 New Paragraph; Medicaid Enhancement for Children and Pregnant Women. Amend RSA 167:68 by inserting after paragraph III the following new paragraph:

IV.(a) Pursuant to the state option under the American Rescue Plan Act of 2021 to expand maternity care under Medicaid and section 1902(e)(16) of the Social Security Act (42 U.S.C. section 1396a(e)), the commissioner of the department of health and human services shall submit, no later than August 15, 2022, a Medicaid state plan amendment to the federal Centers for Medicare and Medicaid Services to establish and implement 12 months of continuous coverage for the entire postpartum period. This benefit shall be available to anyone who received medical assistance under the state plan for all pregnancy-related and postpartum medical assistance available under the state plan.

(b) The purpose of the program shall be, through ensuring continuous coverage for a 12-month postpartum period, to increase identification and mitigation of preventable pregnancy related and pregnancy associated morbidity and mortality, including those related to substance use disorder and mental illness.

(c) The medical assistance provided for a pregnant or postpartum woman under this section shall, consistent with Section 1902(e)(16) include all items and services covered under the state plan that are not less in amount, duration, or scope, or are determined by the Secretary to be substantially equivalent, to the medical assistance available for an individual described in subsection (a)(10)(A)(i); and be provided for the individual while pregnant and during the 12-month period that begins on the last day of the individual's pregnancy and ends on the last day of the month in which such 12-month period ends.

(d) On January 1, 2023, the commissioner shall begin submitting quarterly reports to the oversight committee on health and human services, the legislative committees with jurisdiction over health and human services, and the governor regarding the department's progress in obtaining

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1 and implementing the state plan amendment. The quarterly reports shall include the department's
2 plans for reducing administrative burdens for enrollees and the department's efforts to expand
3 access and participation to voluntary, evidence-based maternal home visiting programs, pursuant to
4 subparagraph (a). Reports submitted under this paragraph shall also be posted on the department's
5 website.

6 (e) The department shall include in its biennial request for appropriations under RSA
7 9:4, not less than \$200,000 for each fiscal year, for the purpose of providing the postpartum health
8 care services required under this paragraph.

9 8 Appropriation. The sum of \$200,000 for the biennium ending June 30, 2023 is hereby
10 appropriated to the department of health and human services for the purpose of expanding
11 postpartum health care services under the state Medicaid plan as provided in section 7 of this act.
12 The governor shall determine if any discretionary funds appropriated in the American Rescue Plan
13 Act of 2021, Public Law 117-2, or any other federal funds, can be used for this purpose, and the
14 commissioner shall expend such federal funds for this purpose. Any remainder shall be appropriated
15 from the general fund. The governor is authorized to draw a warrant for the general fund portion of
16 such sum from any money in the treasury not otherwise appropriated.

17 9 Prospective Repeal. RSA 167:68, IV, relative to Medicaid coverage of postpartum health care
18 services for a 12-month period, is repealed.

19 10 Effective Date.

20 I. Section 1 of this act shall take effect 60 days after its passage.

21 II. Sections 2 and 3 of this act shall take effect July 1, 2022.

22 III. Section 5 of this act shall take effect July 1, 2025.

23 IV. Section 9 of this act shall take effect March 31, 2027.

24 V. The remainder of this act shall take effect upon its passage.

HB 1099- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTS #2022-1852s, #2022-1880s, and #2022-1963s)

AN ACT relative to medical freedom in immunizations, re-establishing the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Farmers Market Nutrition Program, establishing an association health plan pilot program, and relative to expanding Medicaid to include certain postpartum health care services and making an appropriation therefor.

FISCAL IMPACT: ☒ State ☐ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$200,000	\$300,000	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input checked="" type="checkbox"/> Other - Matching Federal Funds			

METHODOLOGY:

This bill addresses various subject matters, and information relative to their respective fiscal impacts will be discussed in turn.

Section 1, Relative to Medical Freedom in Immunizations

This section amends existing RSA 141-C:1-a, I to clarify that no person shall be compelled to receive a COVID-19 vaccine in order to receive services or benefits from the NH Department of Health and Human Services. This provision is not expected to have a fiscal impact.

Sections 2-3, Relative to a Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)

These sections establish a NH farmer's market program for participants in the women, infants, and children (WIC) nutrition program. The program will supply locally grown fresh produce to WIC participants through the distribution of vouchers redeemable at designated NH farmers' markets. Section 3 of the bill contains a nonlapsing general fund appropriation of \$300,000 for this purpose in FY23. The Department of Health and Human Services states that the program may be eligible for matching federal funds, but has not identified the percentage match that it expects to receive. With respect to utilization, the Department states the appropriation and possible federal match could be used to provide a \$30 one-time benefit to the estimated 11,977 low-income women and children enrolled in the WIC program.

The Department anticipates needing a 0.25 full-time equivalent (FTE) Program Assistant II position (labor grade 15) in order to administer the new program. The bill does not authorize the establishment of new positions.

Sections 4-5, Relative to A Pilot Program for the Establishment of Association Health Plans

These sections require the insurance commissioner to establish a pilot program for association health plans. The Insurance Department indicated it can assume the responsibilities associated with these sections with its existing infrastructure with no impact to the operating fund. Where the program is limited to 1000 participants, the Department assumes the impact on premium tax, if any, will be small.

Sections 6-9, Relative to Medicaid Enhancement for Children and Pregnant Women

These sections require the Department of Health and Human Services to submit a state plan amendment expanding postpartum coverage under Medicaid. The Department notes that currently, the state provides Medicaid coverage to pregnant women with incomes up to 196 percent of the federal poverty level (FPL) for 60 days postpartum, which would be extended to 12 months under the bill. In addition, the Granite Advantage Program currently covers individuals with incomes up to 138 percent of the FPL. Accordingly, the Department states these sections will effectively provide 10 months' worth of postpartum coverage for those between 138 percent and 196 percent of the FPL. As of December 2021, the Department was awaiting guidance from the federal Centers for Medicare and Medicaid Services (CMS) regarding the availability of an enhanced Federal Medical Assistance Percentage (FMAP) for these services. Depending on the FMAP available and the number of individuals eligible for the extended coverage, the Department estimates an annual increase in state general fund expenditures of \$200,000 to \$1,000,000 per year.

Section 8 of this bill contains an appropriation of \$200,000 in the FY 2022/23 biennium. If federal funds are available under the American Rescue Plan Act of 2021 (ARPA), those shall be used first, with state general funds used for the remainder. The bill further directs the Department to include an amount not less than \$200,000 per year in its biennial budget request for the purpose of ongoing funding for the program.

AGENCIES CONTACTED:

Departments of Insurance and Health and Human Services