

CHAPTER 145
SB 127-FN - FINAL VERSION

02/22/2023 0574s
18May2023... 1457h

2023 SESSION

23-0886
07/04

SENATE BILL ***127-FN***

AN ACT relative to certain programs administered by the department of health and human services.

SPONSORS: Sen. Bradley, Dist 3

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill:

I. Clarifies and re-routes fees paid by methadone providers to the special fund for administration of opioid treatment programs.

II. Alters the definition of personal care services provider for the purposes of reimbursement by the department.

III. Alters the payment structure to residential care facilities for features outside of room and board.

IV. Eliminates the long term care facility reporting requirement to the department of health and human services regarding the Nursing Facility Quality Assessment (NFQA).

V. Removes the requirement for a beverage license if the facility is only offering bottled beverage direct to consumer and already holds a retail food license from the state health department or self-inspecting jurisdiction.

VI. Removes payment of premiums from the MEAD program.

VII. Aligns public assistance benefits within this state with federal regulations.

VIII. Alters the reporting requirements of the state office of rural health.

IX. Extends the commission to study the delivery of public health services through regional public health networks report date and prospective repeal to 2024.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Three

AN ACT relative to certain programs administered by the department of health and human services.

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

1 145:1 Controlled Drug Act; Professional Use of Narcotic Drugs. Amend RSA 318-B:10, VII(f) to read
2 as follows:

3 (f) The department shall assess a fee to be paid by providers of methadone detoxification
4 and maintenance programs for certification and administration by the department. ~~[The fee shall be \$8~~
5 ~~per client based on the annual client census of the previous calendar year. If the provider had no clients~~
6 ~~in the previous calendar year, then the fee shall be \$1,000.]~~ ***The initial fee shall be \$1,000. Annually***
7 ***thereafter, the fee shall be \$8 per client based on the annual client census of the previous calendar year.***

8 All moneys collected by the department from fees authorized under this subparagraph shall be deposited
9 into the ~~[general fund]~~ ***special fund for administration of opioid treatment programs established in RSA***
10 ***172:8-c.***

11 145:2 New Hampshire Substance Use Disorder Services System; Special Fund for Administration of
12 Opioid Treatment Programs. Amend RSA 172:8-c to read as follows:

13 172:8-c Special Fund for Administration of Opioid Treatment Programs. There is hereby established
14 a special fund for administration of opioid treatment programs. The fund shall be composed of fees
15 collected by the commissioner in accordance with ~~[RSA 172:14, II]~~ ***RSA 318-B:10, VII(f)***, and shall be
16 used to carry out the provisions of this chapter including, but limited to, acting upon the application for the
17 certification, permit, or training of opioid treatment programs. The fund shall be nonlapsing and shall be
18 continually appropriated to the commissioner for the purposes of this chapter to support program
19 operations for certification and administration of the department of health and human services oversight of
20 opioid treatment programs.

21 145:3 Personal Care Services; Definitions. Amend RSA 161-I:2, XII to read as follows:

22 XII. "Personal care services provider" means a person who:

23 (a) Is selected by:

- 24 (1) The eligible consumer;
- 25 (2) The eligible consumer's legal guardian;
- 26 (3) The eligible consumer's representative; or
- 27 (4) A person granted power of attorney by the eligible consumer; and

28 (b) Is employed by a home health agency or other qualified agency to provide personal care
29 services; and

30 (c) Is not:

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- (1) The eligible consumer's legally responsible relative, except as authorized pursuant to RSA 161-I:3-a;
- (2) The eligible consumer's legal guardian, *except as authorized pursuant to RSA 161-I:3-a*;
- (3) The eligible consumer's representative; or
- (4) A person granted power of attorney by the eligible consumer, *except as authorized pursuant to RSA 161-I:3-a*.

145:4 Personal Care Services; Authorization of Legally Responsible Relative, Guardian or Person Granted Power of Attorney. Amend RSA 161-I:3-a to read as follows:

161-I:3-a Authorization of Legally Responsible Relative, *Guardian, or Person Granted Power of Attorney*. The department may authorize reimbursement to a legally responsible relative, *a guardian, or a person granted power of attorney by the eligible consumer* who provides personal care to an eligible consumer with special health care needs residing at home. Such reimbursement shall occur only when the department determines that the needs of the eligible consumer, the unavailability of appropriate providers or suitable alternative care services, and cost efficiencies make utilization of a legally responsible relative, *guardian, or person granted power of attorney by the eligible consumer* for the provision of such services necessary and appropriate. Reimbursement shall be limited to care that is medically necessary due to specific health needs and shall not be made for care generally expected and provided by a legally responsible relative. The department shall not authorize reimbursement to a legally responsible relative until a plan and rules adopted pursuant to RSA 541-A, are reviewed and approved by the oversight committee on health and human services, established in RSA 126-A:13.

145:5 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children; Personal Needs Allowance of Residents in Residential Care Facilities and Community Residences. Amend RSA 167:27-b to read as follows:

167:27-b Personal Needs Allowance of Residents in Residential Care Facilities and Community Residences. Recipients of assistance who are approved by the department of health and human services for residential care facility or community residence payments shall be allowed to retain from their income an amount not less than the amount established by the commissioner of the department of health and human services as provided in RSA 167:27-a as the monthly allowance for their personal needs, in accordance with rules adopted by the commissioner of the department of health and human services pursuant to RSA 541-A. This amount shall not be used to reimburse facilities for the cost of care *or room and board*.

145:6 New Paragraph; Assisted Living Residences, Independent Living Retirement Communities and Housing for Older Persons. Amend RSA 161-J:4 by inserting after paragraph II the following new paragraph:

III. A residential services agreement shall not require payment from a third party for any services included in the base rate. Nothing in this section shall prohibit an assisted living residence, independent retirement community, or housing for older persons from seeking payment from a resident's insurance. Nothing in this section shall prohibit a third party from agreeing to pay for additional items or services not

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1 included in the base rate, such as cable television. Nothing in this section shall prohibit a third party from
2 agreeing to pay for upgrades to services included in the base rate, such as an additional fee for a private
3 room instead of a shared room.

4 145:7 Nursing Facility Quality Assessment; Returns. Amend RSA 84-C:4 to read as follows:

5 84-C:4 Returns. Every nursing facility shall on or before the tenth day of the month following the
6 expiration of the assessment period make a return to the commissioner ~~[and to the commissioner of the~~
7 ~~department of health and human services]~~. The commissioner shall adopt rules, pursuant to RSA 541-A,
8 relative to the form of such return and the date which it must contain for the correct computation of facility
9 net patient services revenues and the assessment upon such amount. All returns shall be signed by the
10 authorized representative of the nursing facility, subject to the pains and penalties of perjury. If such
11 return shows an overpayment of the assessment due, the commissioner shall refund or credit the
12 overpayment to the nursing facility.

13 145:8 Manufacture and Sale of Beverages; Beverages and Beverage Concentrates. Amend RSA
14 143:9 to read as follows:

15 143:9 Beverages and Beverage Concentrates. The term "beverage" as used in this subdivision shall
16 include all still and carbonated drinks; fruit juices and all beverages compounded therefrom; all bottled
17 waters, whether for medicinal or table use; and all packaged liquids intended for use in the manner of
18 drink. Milk and unmixed products thereof, and ~~[fruit juices and waters]~~ **100 percent apple cider** retailed
19 exclusively by the producer or manufacturer direct, are not included. The term "beverage" as used in this
20 subdivision, shall not apply to a beverage as defined in RSA 175:1, VIII. The term "beverage concentrate"
21 as used in this subdivision shall include all concentrated fruit juices, fruit-flavored and other syrups, and
22 compounds and mixtures in concentrated *liquid* form, put up in packages for retail sale and which are
23 intended as a basis for the preparation of a beverage. Flavoring extracts for general culinary use are not
24 included.

25 145:9 Manufacture and Sale of Beverages; License Required. Amend RSA 143:10 to read as
26 follows:

27 143:10 License Required. No person, firm or corporation shall, within the state, put up for sale in
28 package form any beverage without having obtained a license, to be issued by the department of health
29 and human services. ***Any New Hampshire beverage manufacturers offering product direct to consumer***
30 ***that hold a valid food service license under RSA 143-A from the from the department or from a self-***
31 ***inspecting municipality shall not be required to obtain a separate license under this chapter.***

32 145:10 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children;
33 Rulemaking. Amend RSA 167:3-c, XII to read as follows:

34 XII. The MEAD work incentive program under RSA 167:6, IX and RSA 167:3-i as follows:

35 (a) Eligibility for the program, including medical need and asset and income limits.

36 (b) Participant employment requirements.

37 (c) ~~[Premiums to be paid by participants, on a sliding fee scale based on the net income of~~
38 ~~program participants.~~

39 (d) ~~Termination of participation for nonpayment of premium or other good cause.~~

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(e)] Requirements that the participant disclose any employer-sponsored health insurance available to the participant.

145:11 Human Services; SNAP Program; Overpayment. Amend RSA 161:10 to read as follows:

161:10 ~~[Food Stamp]~~ ***Supplemental Nutrition Assistance*** Program; Overpayment. To the extent permitted by the Food Stamp Act of 1977, ~~[as amended]~~ ***under 7 C.F.R. section 273.18(e)***, and federal regulations adopted thereunder, the department of health and human services shall terminate or waive any claim to reimbursement for the overpayment of ~~[food stamps]~~ ***supplemental nutrition assistance program (SNAP) benefits*** if the overpayment was the result of department error and[
I.] the amount of the overpayment is not more than \$450[
II. The recipient's income is less than or equal to 2 times the federal poverty level].

145:12 Public Assistance to Blind, Aged, or Disabled Persons, and to Dependent Children; Discontinuation of ~~[Food Stamps]~~ ***Supplemental Nutrition Assistance Program (SNAP) Benefits***. Amend RSA 167:17-d, I to read as follows:

I. ***Subject to the provisions of 7 C.F.R. section 273.16, or any subsequent amendments thereto,*** when a person receiving ~~[food stamps assistance]~~ ***supplemental nutrition assistance program (SNAP) benefits*** is convicted of a violation of RSA 167:17-b, the commissioner shall discontinue his ***or her*** assistance for a minimum period of ~~[6]~~ ***12*** months upon the first conviction, ~~[one year]~~ ***24 months*** upon the second conviction, and permanently upon the third conviction, unless the court orders that assistance be discontinued for longer periods of time after the first or second convictions.

145:13 Commissioner of Health and Human Services; State Office of Rural Health; Commissioner's Report. Amend RSA 126-A:5, XVIII(c) to read as follows:

(c) The commissioner shall submit ~~[an annual]~~ ***a*** report beginning on November 1, ~~[2009]~~ ***2025 and on every third year thereafter*** to the speaker of the house of representatives, the senate president, the governor, the oversight committee on health and human services established under RSA 126-A:13, the chairs of the house and senate executive departments and administration committees, the chairs of the house and senate committees having jurisdiction over health and human services, and the commission on primary care workforce issues established under RSA 126-T:1, on the health status of rural residents incorporating current data from the bureau of health statistics and data management and the SORH.

145:14 Commissioner of Health and Human Services; State Office of Rural Health; Office's Report. Amend RSA 126-A:5, XVIII-a(e) to read as follows:

(e) On or before December 1, 2019, and annually thereafter, the SORH shall make a written report to the speaker of the house of representatives, the senate president, the governor, the oversight committee on health and human services established under RSA 126-A:13, the chairs of the house and senate executive departments and administration committees, the chairs of the house and senate policy committee having jurisdiction over health and human services, and the commission on interdisciplinary primary care workforce established by RSA 126-T:1. The report shall include, but not be limited to, aggregate data and information on current and projected primary workforce needs and the participation

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rate on surveys completed pursuant to this paragraph. ~~[This report shall be incorporated into the report required pursuant to RSA 126-A:5, XVIII(c).]~~

145:15 Commission to Study the Delivery of Public Health Services Through Regional Public Health Networks; Extension of Report Date. Amend RSA 127:12, VII to read as follows:

VII. The commission shall report its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library on or before November 1, ~~[2023]~~ **2024**.

145:16 Prospective Repeal of the Commission to Study the Delivery of Public Health Services in New Hampshire Through Regional Public Health Networks; Extension. Amend 2022, 278:3, I to read as follows:

I. Section 2 of this act shall take effect November 1, ~~[2023]~~ **2024**.

145:17 Effective Date.

I. Sections 1, 2, 5, 6, 11, and 12 of this act shall take effect July 1, 2023.

II. Sections 3, 4, 8, and 9 of this act shall take effect 60 days after its passage.

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

Approved: June 30, 2023

Effective Date:

I. Sec 1,2,5,6,11,12 effective July 1, 2023

II. Sec 3,4,8,9 effective August 29, 2023

III. Remainder effective June 30, 2023

