SENATE BILL 354-FN

AN ACT relative to insurance cost-sharing calculations.


COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill requires an insurer to apply any amount paid by an independent charity patient assistance program to the enrollee's cost sharing requirements, except in the case of a covered prescription drug for which there is a generic, biosimilar, or other covered alternative.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

1 New Section; Accident and Health Insurance; Applying Patient Assistance for Prescription Drugs to Cost Sharing. Amend RSA 415:18 by inserting after section 415:18-ee the following new section:

415:18-ff Applying Patient Assistance for Prescription Drugs to Cost Sharing.

I. In this section:
   (a) “Cost-sharing” means any coinsurance, copayment, deductible or out-of-pocket maximum.
   (b) “Independent charity patient assistance program” means a program that meets the standards set out by the United States Department of Health and Human Services Office of Inspector General at 70 FR 70623 and 79 FR 31120.

II. Each insurer that issues or renews any policy of group accident or health insurance which provides coverage for prescription drugs, or which contracts with an entity providing such prescription drug coverage, including but not limited to pharmacy benefit manager companies, shall apply any amounts paid at the time of a claim on behalf of an enrollee by an independent charity patient assistance program to the enrollee’s cost sharing requirements, except in the case of a covered prescription drug for which there is a generic alternative, biosimilar, or other covered alternative available.

III. The requirement in paragraph II shall apply when an independent charity patient assistance program funded directly or indirectly by a pharmaceutical manufacturer offers the assistance to the enrollee for the full plan year.

IV. If the assistance payment is not processed in coordination with the enrollee’s health insurance coverage at the point of sale, then an insurer or its contracted entity providing prescription drug coverage may require a pharmacy processing an assistance payment from an independent charity patient assistance program on behalf of an enrollee to disclose to the enrollee’s insurer:
   (a) The name of the enrollee on whose behalf a payment was made;
   (b) The name of the covered prescription drug for which the payment was made;
   (c) The amount of the payment that was provided; and
   (d) Any other terms and conditions that are attached to the assistance program under which payment was made.
V. For a health care contract that meets the definition of a "high deductible plan" set forth in 26 U.S.C. section 223(c)(2) or a catastrophic health plan, as defined under the Patient Protection and Affordable Care Act of 2009, a carrier shall be exempt from the provisions of this section until an enrollee's deductible has been satisfied for the year.

2 Effective Date. This act shall take effect on January 1, 2026.
AN ACT relative to insurance cost-sharing calculations.

FISCAL IMPACT:  [ X ] State  [ X ] County  [ X ] Local  [ ] None

### Estimated State Impact - Increase / (Decrease)

<table>
<thead>
<tr>
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<th>FY 2024</th>
<th>FY 2025</th>
<th>FY 2026</th>
<th>FY 2027</th>
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</table>

- Does this bill provide sufficient funding to cover estimated expenditures? [X] N/A
- Does this bill authorize new positions to implement this bill? [X] No

### Estimated Political Subdivision Impact - Increase / (Decrease)

<table>
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METHODOLOGY:

The Insurance Department indicates this bill pertains to prescription drug co-pay, or cost-sharing coupons or subsidies. The bill would clarify the definition of, “independent charity patient assistance program” as an entity eligible to provide payments on behalf of an insured member. The definition specifies that the entity is independent of the pharmaceutical manufacturer. This bill would apply to group health insurance plans, and not individual plans.

The bill would also require insurers to apply these subsidy amounts to the insured’s cost sharing responsibilities such as co-payment, co-insurance, deductibles or out of pocket maximum. The bill would only apply to prescription medications for which there is no competition from a generic, bio similar, or other covered alternative.
To the extent that the value of this financial assistance offsets payments from insured members that would otherwise be allocated their cost-sharing responsibility, insurers may respond by increasing future plan years premiums, however the amount of this cost shift is indeterminable. Any increase in premiums may lead to an increase in state general fund revenue from the insurance premium tax. County or local government expenditures for group health insurance premiums may also be impacted.

The Department states that the use of these mechanisms to subsidize high-cost novel drug therapies is associated with increased risk of violating federal anti-kickback statutes and, consequently, preserving monopoly power of certain drug manufacturers that participate in these programs. The long-run economic effect may be inflationary to the healthcare delivery system, as high-cost specialty drugs have been consistently shown to be the major cost driver of increased health insurance premiums and claims cost.

AGENCIES CONTACTED:

Insurance Department