

COMPARING THE HEALTH PROTECTION PROGRAM REAUTHORIZATION PROPOSALS

Few issues will occupy the attention of Granite State policymakers during the 2016 legislative session as much as the fate of the New Hampshire Health Protection Program. Created in 2014, the Health Protection Program provides access to affordable health care to low-income adults who would otherwise be ineligible for traditional Medicaid coverage or to receive federal subsidies to purchase a health plan through the New Hampshire Health Insurance Marketplace. As of December 31, the program served nearly 47,000 Granite Staters, but is slated to expire at the end of this year in the absence of legislative action.¹

Two measures have been put forward to extend the life of the program. HB 1690, authored by Representative Tom Sherman, would make the Health Protection Program permanent. HB 1696, as modified by an amendment offered on January 27 by its chief sponsors, Representative Joseph Lachance and Senator Jeb Bradley, would reauthorize the program through the end of 2018, while also creating new requirements and responsibilities for program participants. Below is a short summary of the key elements of the two proposals and how they compare to current law, as well as a table presenting that same information.

Program Benefits & Delivery

At present, participants in the Health Protection Program generally receive health care coverage via commercial insurance plans they have selected through New Hampshire's Health Insurance Marketplace. (The exception is those participants who are medically frail, who continue to be covered through the state's traditional Medicaid program.) The state then uses federal funds to cover the costs of such plans. Neither HB 1690 nor HB 1696 would alter this basic approach.

Cost Sharing

Under current law, individuals who participate in the Health Protection Program and who have incomes under 100 percent of federal poverty level (FPL) do not face premiums, deductibles, or co-payments. (For a single person, 100 percent of FPL amounts to nearly \$11,800.)

However, participants with incomes between 100 and 138 percent of FPL (the latter being the maximum income at which one is eligible for the program or about \$16,240 for a single person) do face deductibles and co-pays for some services. For example, at present, they must pay \$3 for each visit to a primary care physician or \$8 to see a specialist. The total amount of deductibles or co-pays a program participant incurs in a given year cannot exceed 5 percent of household income under federal law.

HB 1690 would make no changes to current law in this regard.

HB 1696 would maintain the deductibles and co-pays that certain participants now face under current law and would require by all program participants, regardless of income, to make an \$8 co-pay for emergency room visits for non-emergency purposes, a charge that would rise to \$25 for each subsequent non-emergency visit.

Work Requirements

Under current law, program participants who do not currently have a job are referred to the Department of Employment Security for assistance in finding employment. HB 1690 would not change this policy. In contrast, HB 1696 would require program participants who do not have children, who meet the federal definition of “able-bodied,” and who are currently unemployed to engage in a combination of the following activities for at least 30 hours to be eligible for benefits:

- subsidized or unsubsidized employment;
- job training;
- job search;
- community service;
- some forms of education, and;
- the provision of child care services under select circumstances.

However, HB 1696 appears to make the provisions instituting these work requirements “severable” from the rest of the bill. That is, if such work requirements were found to violate federal law or if the Centers for Medicare and Medicaid Services were to reject New Hampshire’s plan to implement them, program participants would not have to meet them to receive health coverage and the rest of the Health Protection Program would still remain in place through 2018.

Financing

As enacted, the federal Affordable Care Act (ACA) provides funding to the states to expand their traditional Medicaid programs to serve low-income adults or, as New Hampshire has elected to do, to help such adults purchase private-sector health insurance. The ACA stipulates that the federal government will cover 100 percent of such benefit costs from 2014 through 2016; 95 percent of such costs in 2017; 94 percent in 2018; 93 percent in 2019; and 90 percent in 2020 and beyond. Thus, as the existing Health Protection Program is structured to last only through 2016, 100 percent of its benefit costs are federally funded.

If either HB 1690 or HB 1696 were adopted, New Hampshire would continue to receive federal funds, at the rates detailed above, to help cover the vast majority of the costs associated with the Health Protection Program. However, both HB 1690 and HB 1696, since they would reauthorize the program beyond the period during which all benefit costs are matched by federal funds, would incur some state costs for continuing the Health Protection Program.

Though it aims to make the Health Protection Program permanent, HB 1690 does not appear to specify a funding mechanism for meeting New Hampshire's share of program costs in future years.

HB 1696 would meet the state's share of program costs through a combination of:

- any additional Insurance Premium Tax revenue arising from the Health Protection Program, and;
- voluntary contributions from all acute care hospitals and health insurers in New Hampshire. More specifically, HB 1696 would require the New Hampshire Department of Health and Human Services to calculate the net state share of the costs for the Health Protection Program, after the application of federal funds and any additional Insurance Premium Tax revenue. Under HB 1696, 50 percent of that net share would come from voluntary contributions from acute care hospitals and 50 percent would come from health insurance companies operating in the state.

"Circuit Breaker"

The legislation (SB 413) that originally created the Health Protection Program included provisions – which are often referred to as a "circuit breaker" – intended to ensure that New Hampshire would not face additional costs should the federal government reduce funding for states below the levels stipulated in the Affordable Care Act. So, under current law, if federal funding for the Health Protection Program were to fall below the 100 percent match specified in the ACA for the 2014 through 2016 period, the program would be terminated immediately. Both HB 1690 and HB 1696 contain similar provisions, but acknowledge that the matching percentages detailed in the ACA are scheduled to fall over the next several years, as explained above.

Program Termination

As noted above, in the absence of legislative action, the Health Protection Program is slated to expire December 31, 2016. HB 1690 would eliminate that expiration date altogether and would make the Health Protection Program permanent. HB 1696 would extend the Health Protection Program through December 31, 2018, but, in addition to the "circuit breaker" described above, would terminate the program if the combination of federal funds, additional Insurance Premium Tax revenue, and voluntary hospital and insurer contributions were insufficient to meet program costs at any point in time.

Evaluation Commission

HB 1696 would create a new commission to evaluate the effectiveness and the future of the Health Protection Program, particularly its use of federal dollars to help low-income adults purchase private-sector health care plans (an element of the program

known as “premium assistance”). The commission would consist of thirteen members: three members of the House, three members of the Senate, the Commissioners of the Departments of Health and Human Services and Insurance, and five members of the public, including one representing the interests of private insurers, one representing a hospital within the state, and one who currently participates in the Health Protection Program. The Commission would be charged with examining the program’s finances among other subjects. It would also be tasked with evaluating options, other than general funds, for financing the continuation of the program beyond 2018 and, should the program continue, whether to maintain its current premium assistance approach or to return to the system of managed care that New Hampshire now employs in its traditional Medicaid program. The Commission would be required to report its findings by the end of 2017.

HB 1690 does not include any similar provisions.

ⁱ NH Department of Health and Human Services, Caseload Statistics Report, December 31, 2015

New Hampshire Health Protection Program

Comparison of Current Law and Proposed Legislative Changes (as of January 27, 2016)

	Current Law	HB 1690 (Sherman)	HB 1696 (Lachance) <i>as modified by Jan. 27 amdt.</i>
Program Benefits & Delivery	Participants in the Health Protection Program generally receive health care coverage via commercial insurance plans they have selected through New Hampshire's Insurance Marketplace.	No change from current law.	No change from current law.
Cost Sharing	<p>Program participants with incomes under 100 percent of federal poverty level (FPL) do not face premiums, deductibles, or co-payments.</p> <p>Program participants with incomes between 100 and 138 percent of FPL do not face premiums, but face deductibles and co-pays for select services.</p>	No change from current law.	<p>As under current law, program participants with incomes under 100 percent of federal poverty level (FPL) would not face premiums, deductibles, or co-payments.</p> <p>Program participants with incomes between 100 and 138 percent of FPL would not face premiums, but would face the same deductibles and co-pays for select services as under current law.</p> <p>All program participants, regardless of income, would face an \$8 co-pay for emergency room visits for non-emergency purposes (rising to \$25 for each subsequent non-emergency visit).</p>

New Hampshire Health Protection Program

Comparison of Current Law and Proposed Legislative Changes (as of January 27, 2016)

Current Law

HB 1690 (Sherman)

HB 1696 (Lachance) as modified by Jan. 27 amdt.

Work Requirements

Unemployed program participants are referred to the Department of Employment Security for assistance in finding employment.

No change from current law.

Would require program participants who do not have children, who are "able-bodied," and who are unemployed to engage in a combination of the following activities for at least 30 hours to be eligible for benefits: subsidized or unsubsidized employment; job training; job search; community service; some forms of education; and the provision of child care services under select circumstances.

Would permit such participants to receive coverage and allow program to continue if such requirements were found to violate federal law or if the Centers for Medicare and Medicaid services failed to approve a plan to implement them.

Financing

100 percent of the Health Protection Program's benefit costs are federally funded through December 31, 2016.

As specified under the Affordable Care Act (ACA), no less than 90 percent of the Health Protection Program's benefit costs would be covered by federal funds.

Does not specify funding mechanism for meeting the state's share of program costs.

As specified under the Affordable Care Act (ACA), no less than 90 percent of the Health Protection Program's benefit costs would be covered by federal funds.

Would seek to meet the state's share of program costs through a combination of:

- any additional Insurance Premium Tax revenue arising from the Health Protection Program and;
- voluntary contributions from all acute care hospitals and health insurers in New Hampshire.

New Hampshire Health Protection Program

Comparison of Current Law and Proposed Legislative Changes (as of January 27, 2016)

Current Law

HB 1690 (Sherman)

HB 1696 (Lachance) *as modified by Jan. 27 amdt.*

"Circuit Breaker"

If federal funding for the Health Protection Program falls below the 100 percent match specified in the ACA for the period July 1, 2014 through December 31, 2016, the program is terminated immediately.

If federal funding for the Health Protection Program falls below the levels specified in the ACA, the program would be terminated immediately.

If federal funding for the Health Protection Program falls below levels specified in the ACA for the period January 1, 2017 through December 31, 2018, the program would be terminated immediately.

Program Termination

In the absence of legislative action, the Health Protection Program expires December 31, 2016.

Would make the Health Protection Program permanent.

Would extend the Health Protection Program's expiration date until December 31, 2018.

In addition to the "circuit breaker" described above, would terminate the program if the combination of federal funds, additional Insurance Premium Tax revenue, and voluntary hospital and insurer contributions were insufficient to meet program costs at any point in time.

New Hampshire Health Protection Program

Comparison of Current Law and Proposed Legislative Changes (as of January 27, 2016)

Current Law

HB 1690 (Sherman)

HB 1696 (Lachance) *as modified by Jan. 27 amdt.*

Evaluation Commission

N/A

N/A

Would create a commission to evaluate the effectiveness and the future of the Health Protection Program, particularly its use of federal dollars to help low-income adults purchase private-sector health care plans (an element of the program known as "premium assistance"). The Commission would evaluate options, other than general funds, for financing the continuation of the program beyond 2018 and, should the program continue, whether to preserve premium assistance or to return to the system of managed care that New Hampshire now employs in its traditional Medicaid program. The Commission would report its findings by the end of 2017.