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1 count of those experiencing homelessness in the county. The funds shall be used to make payments to  
2 homeless shelters, partial funding of a cold weather shelter, hotel stays, and other alternatives to provide  
3 shelter. Each solution shall include coordination of referrals to related services and transportation to and  
4 from said shelter. The governor is authorized to draw a warrant for said sums out of any money in the  
5 treasury not otherwise appropriated.

6 79:565 Effective Date. Section 564 of this act shall take effect June 30, 2023

7 79:566 Residential Care and Health Facility Licensing; Exception Added. Amend RSA 151:2, VI(a) to  
8 read as follows:

9 VI.(a)(1) No new license shall be issued for, and there shall be no increase in licensed capacity  
10 of, any nursing home, skilled nursing facility, intermediate care facility, or rehabilitation facility, including  
11 rehabilitation hospitals and facilities offering comprehensive rehabilitation services. This moratorium shall  
12 not apply to any rehabilitation facility whose sole purpose is to treat individuals for substance use disorder  
13 or mental health issues or to any continuing care facility for which a certificate of authority has been  
14 issued by the insurance commissioner pursuant to RSA 420-D:2.

15 *(2) Provided however, effective July 1, 2023, any pediatric intermediate care facility,*  
16 *established before the effective date of this subparagraph is authorized to house one additional pediatric*  
17 *resident beyond its licensed capacity prior to that date, with this authorization to expire June 30, 2024.*

18 79:567 Statement of Findings. The general court hereby finds that:

19 I. The state of New Hampshire is ranked as having one of the fastest growing number of older  
20 adults in the country.

21 II. As the number of older adults increases, the need for long-term care will increase.

22 III. Pursuant to the federal Older Americans Act, New Hampshire is required to promote the  
23 development and implementation of comprehensive, coordinated, statewide system of long-term services  
24 and supports that is responsive to the needs and preferences of older individuals and their family  
25 caregivers.

26 IV. The federal Americans with Disabilities Act prohibits unnecessary institutionalization of  
27 individuals with disabilities.

28 V. RSA 151-E was established to provide Medicaid eligible elderly and chronically ill adults with a  
29 continuum of long-term care options.

30 VI. Despite these federal and state mandates, historically there has been a lack of investment in  
31 our state's system and programs for older adults and adults with disabilities.

32 VII. Rebalancing New Hampshire's systems to expand more home and community-based options  
33 will reduce the cost of providing services and allow our state to serve more people.

34 79:568 New Subdivision; Long-Term Care; System of Care for Healthy Aging. Amend RSA 151-E by  
35 inserting after section 21 the following new subdivision:

36 System of Care for Healthy Aging

37 151-E:22 Purposes. The purposes of this subdivision are to:

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1 I. Build upon existing infrastructure to establish a comprehensive and coordinated system of care  
2 to ensure that older adults and adults with disabilities have access to and timely delivery of supports and  
3 services and to ensure that they have a meaningful range of options.

4 II. Reduce the cost of providing long-term care by expanding the availability of less costly home  
5 and community-based services.

6 III. Require the department of health and human services to expand and improve access to home  
7 and community-based services for older adults and adults with disabilities in alignment with New  
8 Hampshire's state plan on aging, the federal Older Americans Act, Americans with Disabilities Act, and  
9 Medicaid law.

10 IV. The system of care referenced in this subdivision is meant to streamline access to long-term  
11 care supports and services and not intended to expand eligibility for any current Medicaid programs,  
12 including long-term care Medicaid or any home and community-based Medicaid waiver programs.

13 151-E:23 Statement of Policy. It is the policy of New Hampshire to establish and implement a  
14 comprehensive and coordinated system of care that promotes healthy aging and enables older adults and  
15 adults with disabilities to have a meaningful choice in care options, including the ability to receive the care  
16 they need in their homes and communities.

17 151-E:24 Definitions. In this subdivision:

18 I. "Disability" means a physical or mental impairment that substantially limits one or more major  
19 life activities.

20 II. "Home and community-based services" means a range of medical and supportive services  
21 provided to persons in their own homes or other community-based settings including, but not limited to,  
22 adult day programs, and assisted living.

23 III. "Long-term services and supports" means a variety of services provided in both facilities and  
24 community-based settings designed to meet a person's health or personal care needs to help them live as  
25 independently and safely as possible when they can no longer perform everyday activities on their own.

26 IV. "Older adult" means an individual who is 60 years of age or older.

27 V. "System of care" means:

28 (a) A comprehensive and coordinated delivery system for the provision of long-term services  
29 and supports to New Hampshire's older adults and adults with disabilities.

30 (b) The system of care is intended to provide services to all older adults and adults with  
31 disabilities who require long-term services and supports.

32 (c) The system of care shall have the following characteristics:

33 (1) A comprehensive array of long-term services and supports including, but not limited  
34 to, personal care, homemaker services, transportation, meal delivery or preparation, emergency response  
35 systems, adult day care, and family caregiver support to enable older adults and adults with disabilities to  
36 remain independent and in the setting of their choice.

37 (2) An absence of significant gaps in services and barriers to services.

38 (3) Sufficient administrative capacity to ensure quality service delivery.

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1 (4) Services that are consumer-driven, community-based, and culturally and linguistically  
2 competent.

3 (5) Transparent, with information made available and known to consumers, providers,  
4 and payers.

5 (6) A funding system that supports a full range of service options.

6 (7) A performance measurement system for accountability, monitoring and reporting of  
7 system quality, access and cost.

8 151-E:25 Duties of Commissioner of the Department of Health and Human Services. The  
9 commissioner of the department of health and human services shall:

10 I. Modify the policies and practices of the department of health and human services necessary to  
11 implement this subdivision, to the extent possible within existing statutory and budget constraints.

12 II. Coordinate the plans and activities of the commissioner with the bureau of elderly and adult  
13 services, the bureau of family assistance and division of long-term supports and services to implement the  
14 system of care and reduce duplication of efforts across divisions and bureaus within the department.

15 III. Develop a plan for full establishment and maintenance of a system of care. Such plan shall  
16 be reviewed annually and amended or modified as needed. It shall include sufficient detail to allow  
17 compliance with the reporting requirements of RSA 151-E:27 as applicable and shall address at least the  
18 following elements:

19 (a) System capacity, including workforce sufficiency.

20 (b) Federal funding participation, including but not limited to, Medicaid waivers and plan  
21 amendments.

22 (c) Changes to statutes, administrative rules, and structure of appropriations, and department  
23 policy, practice and structure.

24 (d) Projections of cost savings from increased service effectiveness and reductions in costly  
25 forms of care and use of such savings to close existing gaps in long term care services.

26 (e) Recommended modifications to law, practice, and policy to prepare for and accommodate  
27 the participation of privately funded service providers in the system of care.

28 (f) Changes to rates for the Choices for Independence program in accordance with section  
29 1902(a)(30)(A) of the Social Security Act and requirements for Medicaid home and community-based  
30 waiver programs under section 1915(c).

31 IV. Beginning no later than January 1, 2025, begin adjusting rates for the Choices for  
32 Independence waiver consistent with the rate study, assuming funds are available. Any unspent funds  
33 allocated to the Choices for Independence program shall be non-lapsing and shall be used for service  
34 provision for the Choices for Independence program.

35 V. On or before September 30, 2024, submit a waiver request to the Centers for Medicare and  
36 Medicaid services or implement an alternative method to establish a robust presumptive eligibility process  
37 for Medicaid home and community-based waiver services, including a mechanism for third party  
38 participation.

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1 VI. Improve functionality of the NH EASY system for individuals applying for services and provide  
2 additional trainings for professionals who frequently assist people applying for services and develop  
3 associated performance metrics.

4 VII. Ensure applications for Medicaid long-term services are user friendly and processed in a  
5 timely manner and develop performance metrics to measure these attributes.

6 VIII. On or before June 30, 2025, maintain an online portal for providers, case managers,  
7 navigators and other long-term care service providers to enable them to easily identify and access  
8 available long-term care services and supports for older adults and adults with disabilities. The portal  
9 functions required by this section may be assigned to an entity that has responsibilities in addition to those  
10 required by this section. The portal shall contain the following information:

11 (a) A current list of home and community-based care waiver service providers accepting new  
12 clients, including links to websites and contact telephone numbers, organized by region that is updated on  
13 a weekly basis.

14 (b) Non-Medicaid resources to support the cost of home and community-based services.

15 (c) Referral information for legal service organizations.

16 (d) Guidance regarding family navigation of hospital discharge protocols and options.

17 IX. On or before June 30, 2025, create a public facing online dashboard to track home and  
18 community-based waiver services data, including, but not limited to, results of any performance  
19 measurement assessments, waiver services authorized but not paid, current wait times for receiving  
20 waiver services and the number of people from institutionalized care into the community.

21 151-E:26 Person-Centered Counseling Program. The department shall:

22 I. Create a new person-centered counseling program in each contracted aging and disability  
23 resource center (ADRC) to provide support and assistance to persons living at home or in short or long-  
24 term institutional settings, including hospitals, to transition into community-based settings. The program  
25 shall include referrals and support to access, at a minimum, but not limited to: assistance with completing  
26 Medicaid applications, discharge planning, referrals and access to Title III-B and Title XX services and  
27 programs, referrals and access to community-based services, housing, and other supports and services  
28 to meet the needs of the individual and their family. These services shall not replace or duplicate targeted  
29 case management services described in RSA 151-E:17.

30 II. Increase operational capacity in each ADRC to enable the provision of person-centered  
31 counseling services for adults, including but not limited to, educating consumers about available  
32 community-based resources for long-term services and supports, assistance with completing Medicaid  
33 applications, and assistance with the transition to access such services.

34 III. Establish performance metrics for each contracted information and referral resource center to  
35 assess each office's ability to provide the services contained in this section.

36 151-E:27 System of Care Implementation and Reporting Requirements.

37 I. When preparing the biennial budget for the Choices for Independence program, the department  
38 shall prepare data showing the amount program provider rates would be increased to be in alignment with  
39 the rate plan as completed by the department.

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1           II. The department shall review and propose rates for the Choices for Independence program in  
2 accordance with section 1902 (a)(30)(A) of the Social Security Act and requirements for Medicaid home  
3 and community based waiver programs under section 1915(c). The department shall provide a report to  
4 the house health, human services and elderly affairs committee and senate health and human services  
5 committee, the house finance committee, the senate finance committee and the joint legislative committee  
6 on health and human services established in RSA 126-A:13 on or before July 1, 2024. The focus of the  
7 rate study is to promote efficiency, economy, quality of care and access to services within New  
8 Hampshire's Choices for Independence program. The rate study shall establish reimbursement  
9 methodologies utilizing the U.S. Centers for Medicare and Medicaid Services Market Basket Index as an  
10 inflation benchmark for rate-setting purposes. The department shall seek input from Choices For  
11 Independence beneficiaries, providers, and other stakeholders in regard to access to Choices for  
12 Independence services in future rate setting processes. Information regarding access to services shall be  
13 publicly documented and shall be considered in the subsequent rate-setting process.

14           III. On a biennial basis, the department shall perform a financial review to determine whether  
15 ADRC offices are receiving sufficient funding to maintain their operations and make legislative budget  
16 requests if additional funding is warranted.

17           IV. Beginning November 1, 2023, and annually thereafter, the department shall report to the  
18 governor, the state commission on aging established in RSA 19-P:1 and the joint legislative committee on  
19 health and human services established in RSA 126-A:13. The report shall provide detailed information  
20 regarding the status of the implementation of this subdivision.

21           V. Beginning in 2024, the report shall address the following:

22           (a) The total cost of Medicaid long-term care services and Choices for Independence  
23 program services.

24           (b) The extent to which the state's long-term care support and services systems are  
25 consistent with a system of care.

26           (c) A description of any actual or planned changes in department policy or practice or  
27 developments external to the departments that will affect implementation of a system of care.

28           (d) Any other available information relevant to progress toward full implementation of a  
29 system of care.

30           (e) The result of pilots regarding access with the counties.

31           (f) A review of options to enhance the system of care.

32           (g) Presumptive eligibility findings and recommendations for next steps.

33           (h) The status of changes to the NH Easy application system and any additional  
34 enhancements needed.

35           (i) The status of reimbursement rates and rate study.

36           VI. Beginning in 2025, the report shall also address the following:

37           (a) Identification of those actions which will be required to maximize federal and private  
38 insurance funding participation in the system of care, along with target dates for completion.

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1 (b) Identification of changes to statutes, administrative rules, policies, practices, and  
2 managed care and provider contracts which will be necessary to fully implement the system of care.

3 (c) Identification of significant gaps in the array of long-term care supports and services for  
4 older adults and adults with disabilities, along with a description of plans to close those gaps.

5 VII. Beginning in 2026, the report shall also address the following:

6 (a) Projections of future demand for services in the system of care.

7 (b) Identification of shortfalls in workforce sufficiency affecting full implementation of the  
8 system of care and plans for addressing those shortfalls.

9 (c) Identification of specific plan amendments and other changes to the Medicaid system  
10 required for full implementation of the system of care and plans for making those changes.

11 (d) Numbers of older adults and adults with disabilities waiting services in various categories.

12 VIII. Beginning in 2027, the report shall also address the following:

13 (a) Detailed statistical information regarding older adults and adults with disabilities serviced,  
14 along with demographic characteristics, service need and provision, involvement in service systems,  
15 service funding sources, and placement or other site of service provision.

16 (b) Financial information, including but not limited to measures of cost-effectiveness,  
17 comparisons with other states with regard to levels of funding from federal, state, local, and private  
18 sources, and cost savings resulting from service coordination and effectiveness.

19 (c) An assessment of any influences external to the department of health and human  
20 services, including configuration of the private long-term care health care system, which may be affecting  
21 establishment of the system of care.

22 79:569 Appropriations; Department of Health and Human Services; System of Care for Healthy  
23 Aging.

24 I. For the purpose of developing a plan to establish and maintain the system of care for healthy  
25 aging as described in RSA 151-E:25, III, a sum not to exceed \$50,000 for the biennium ending June 30,  
26 2023, which shall not lapse until June 30, 2025, is hereby appropriated to the department of health and  
27 human services. The appropriation may be used to engage outside qualified and experienced vendors to  
28 assist in the production of the plan. In addition to the appropriation and notwithstanding RSA 14:30-a, the  
29 department may accept and expend matching federal funds without prior approval of the fiscal committee  
30 of the general court. The governor is authorized to draw a warrant for the general fund portion of said  
31 sum out of any money in the treasury not otherwise appropriated.

32 II. For the purpose of developing and implementing the online portal, dashboard, and data  
33 collection systems described in RSA 151-E:25, VIII and IX, a sum not to exceed \$100,000 for the  
34 biennium ending June 30, 2023, which shall not lapse until June 30, 2025, is hereby appropriated to the  
35 department of health and human services. The appropriation may be used to engage outside qualified  
36 and experienced vendors to assist in the production of the dashboard and data collection. In addition to  
37 the appropriation and notwithstanding RSA 14:30-a, the department may accept and expend matching  
38 federal funds without prior approval of the fiscal committee of the general court. The governor is

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1 authorized to draw a warrant for the general fund portion of said sum out of any money in the treasury not  
2 otherwise appropriated.

3 III. For the purpose of enabling the department to complete the reporting requirements described  
4 in RSA 151-E:27, a sum not to exceed \$150,000 for the biennium ending June 30, 2023, which shall not  
5 lapse until June 30, 2025, is hereby appropriated to the department of health and human services. The  
6 appropriation may be used to engage outside qualified and experienced vendors to assist in the  
7 production of reports in 2024 and 2025. In addition to the appropriation and notwithstanding RSA 14:30-  
8 a, the department may accept and expend matching federal funds without prior approval of the fiscal  
9 committee of the general court. The governor is authorized to draw a warrant for the general fund portion  
10 of said sum out of any money in the treasury not otherwise appropriated.

11 79:570 Appropriation; Department of Health and Human Services; Person-Centered Counseling  
12 Program. The sum of \$1,197,600 for the biennium ending June 30, 2023, which shall not lapse until June  
13 30, 2025, is hereby appropriated to the department of health and human services for the purpose of  
14 funding the person-centered counseling program established in RSA 151-E:26. In addition to the  
15 appropriation and notwithstanding RSA 14:30-a, the department may accept and expend any federal  
16 funds available for the purposes of the counseling program without prior approval of the fiscal committee  
17 of the general court. The governor is authorized to draw a warrant for the general fund portion of said  
18 sum out of any money in the treasury not otherwise appropriated.

19 79:571 System of Care and Peer-Centered Counseling; Staffing; Classified Positions Established.

20 I. The following classified positions are established in the department of health and human  
21 services to support the person-centered counseling program established in RSA 151-E:26:

- 22 (a) Program Specialist III (Labor Grade 23, Step 5); and  
23 (b) Program Specialist IV (Labor Grade 25, Step 5).

24 II. The sum of \$190,000 for the biennium ending June 30, 2023, which shall not lapse until June  
25 30, 2025, is hereby appropriated to the department of health and human services for the purpose of  
26 funding the positions established in paragraph I. In addition to the appropriation and notwithstanding RSA  
27 14:30-a, the department may accept and expend matching federal funds without prior approval of the  
28 fiscal committee of the general court. The governor is authorized to draw a warrant for the general fund  
29 portion of said sum out of any money in the treasury not otherwise appropriated.

30 III. The commissioner of health and human services, to the extent possible, shall fill available  
31 vacant classified positions as necessary to implement the system of care for healthy aging established in  
32 this act, including additional staffing to perform rate setting, streamlining of application process, creation  
33 and maintenance of public facing dashboard and online portal for providers, updating of performance  
34 measures and other required activities.

35 79:572 Personal Care Services; Definition of Personal Care Services Provider. Amend RSA 161-I:2,  
36 XII to read as follows:

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

- 38 (a) Is selected by:  
39 (1) The eligible consumer;

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- 1                   (2) The eligible consumer's legal guardian;
- 2                   (3) The eligible consumer's representative; or
- 3                   (4) A person granted power of attorney by the eligible consumer; and
- 4                   (b) Is employed by a home health agency or other qualified agency to provide personal care
- 5 services; and
- 6                   (c) Is not:
- 7                   (1) The eligible consumer's legally responsible relative, except as authorized pursuant to
- 8 RSA 161-I:3-a;
- 9                   (2) The eligible consumer's legal guardian, *except as authorized pursuant to RSA 161-*
- 10 *I:3-a,*
- 11                   (3) The eligible consumer's representative; or
- 12                   (4) A person granted power of attorney by the eligible consumer, *except as authorized*
- 13 *pursuant to RSA 161-I:3-a.*

14           79:573 Personal Care Services; Authorization of Legally Responsible Relative. Amend RSA 161-I:3-

15 a to read as follows:

16           161-I:3-a Authorization of Legally Responsible Relative, *Guardian, or Person Granted Power of*

17 *Attorney.* The department may authorize reimbursement to a legally responsible relative, *a guardian, or a*

18 *person granted power of attorney by the eligible consumer,* who provides personal care to an eligible

19 consumer with special health care needs residing at home. Such reimbursement shall occur only when

20 the department determines that the needs of the eligible consumer, the unavailability of appropriate

21 providers or suitable alternative care services, and cost efficiencies make utilization of a legally

22 responsible relative, *guardian, or person granted power of attorney by the eligible consumer,* for the

23 provision of such services necessary and appropriate. Reimbursement shall be limited to care that is

24 medically necessary due to specific health needs and shall not be made for care generally expected and

25 provided by a legally responsible relative, *guardian, or person granted power of attorney by the eligible*

26 *consumer.* The department shall not authorize reimbursement to a legally responsible relative, *guardian,*

27 *or person granted power of attorney by the eligible consumer,* until a plan and rules adopted pursuant to

28 RSA 541-A, are reviewed and approved by the oversight committee on health and human services,

29 established in RSA 126-A:13.

30           79:574 Long-Term Care; Information and Referral. Amend RSA 151-E:5 to read as follows:

31           151-E:5 Information and Referral. The department shall establish a system of community-based

32 [~~information and referral~~] *aging and disability* resource centers that provide information and referral

33 services to [~~elderly and chronically ill adults~~] *older adults and adults with disabilities.* The [~~information~~

34 ~~and referral~~] *aging and disability resource center* network established under this section shall not be used

35 for the purpose of political advocacy, but may inform and educate the general court regarding the extent of

36 services available as well as the unmet needs in the community.

37           79:575 New Section; Personal Care Services; Financial Eligibility for Adult Home and Community-

38 based Care Waiver Programs. Amend RSA 167 by inserting after section 4-e by the following new

39 section:

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1 167:4-f Financial Eligibility.

2 I. Financial eligibility for Medicaid adult home and community-based waiver programs shall  
3 include the following resource limits:

4 (a) For married individuals, revert to the standard in place prior to the passage of the federal  
5 Affordable Care Act, so that only the resources in the name of the applicant, and not the resources in the  
6 name of the applicant's spouse are counted for purposes of determining Medicaid resource eligibility; and

7 (b) For single individuals, establish a resource disregard of \$6,000, which would have an  
8 effective resource limit of \$7,500.

9 II. Department of Health and Human Services; Resource Disregard Enhancement Authority;  
10 Rulemaking. Pursuant to RSA 161:4-a, the department of health and human services shall enter into  
11 rulemaking, subject to the Centers for Medicare and Medicaid Services (CMS) approval as necessary, to  
12 revert the resource standard for married persons prior to the passage of the Affordable Care Act and increase the  
13 resource disregard to a maximum of \$6,000 for individuals seeking nursing facility services or home and  
14 community based care under state waivers established under section 1915(c) of the Social Security Act.

15 79:576 Department of Health and Human Services; Eligibility for Assistance. Amend RSA 167:4, I(b)  
16 to read as follows:

17 (b) *To the extent permissible under federal law*, in the case of an applicant for public  
18 assistance or medical assistance who has made an assignment or transfer of assets to an individual for  
19 less than fair market value within ~~[60]~~ **36 months, or for up to 60 months if deemed necessary by the**  
20 **department based upon case specific information or extenuating circumstances, or** in the case of transfers  
21 of real estate, or transfers of assets to a trust or portions of a trust that are treated as assets disposed of  
22 by the individual within ~~[60]~~ **36 months, or for up to 60 months if deemed necessary by the department**  
23 **based upon case specific information or extenuating circumstances**, immediately preceding the date of  
24 application or while the application is pending, or in the case of a recipient of public assistance or medical  
25 assistance who makes such an assignment or transfer while in receipt of the assistance, the assistance  
26 sought shall only be granted or continue to be granted in accordance with rules establishing restrictions  
27 and eligibility criteria for such cases as adopted by the commissioner of the department of health and  
28 human services under RSA 541-A, subject to applicable federal regulations and waiver approval, if any,  
29 and review by the oversight committee on health and human services, established in RSA 126-A:13. The  
30 oversight committee on health and human services shall make a report to the legislative fiscal committee  
31 which shall have final approval authority.

32 79:577 Effective Date. Sections 569, 570, and 571 of this act shall take effect June 30, 2023.

33 79:578 Department of Health and Human Services; Study on Graduated Public Assistance  
34 Mandated; Appropriation.

35 I. The department of health and human services shall seek a continuation of the 2021 economic  
36 analysis regarding mitigation of the benefits cliff effect for the possible creation, funding, and  
37 implementation of graduated, proportional public assistance programs for individuals who do not qualify  
38 for existing assistance within the state.