

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 4031 Home Health Agencies
SPONSOR(S): Diaz
TIED BILLS: **IDEN./SIM. BILLS:** SB 1094

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee	11 Y, 0 N	Poche	Shaw
2) Health Care Appropriations Subcommittee	12 Y, 0 N	Clark	Pridgeon
3) Health & Human Services Committee	14 Y, 0 N	Poche	Calamas

SUMMARY ANALYSIS

A home health agency is an organization that provides home health services and staffing services. Home health services provided by a home health agency include health and medical services and medical equipment provided to an individual in his or her home, such as nursing care, physical and occupational therapy, and home health aide services. Home health agencies are regulated by the Agency for Health Care Administration (AHCA) pursuant to part III of chapter 400, F.S.

House Bill 4031 deletes the requirement that a home health agency submit a report, on a quarterly basis to the AHCA, which provides the following information:

- The number of insulin dependent diabetic patients receiving insulin-injection services from the home health agency;
- The number of patients receiving both home health services from the home health agency and hospice services;
- The number of patients receiving home health services from that home health agency; and
- The names and license numbers of nurses whose primary job responsibility is to provide home health services to patients and who received remuneration from the home health agency in excess of \$25,000 during the calendar quarter.

As a result of the elimination of the report, a home health agency will no longer face a fine of \$5,000 for failing to submit the report on a quarterly basis. Additionally, AHCA will see a decrease in staff workload to provide technical assistance to home health agencies in completing the quarterly reports, preparation of fine notices, responding to inquiries from home health agencies that receive fine notices, the number of litigation appeals, and the necessity to testify at administrative hearings when the fine is challenged.

The bill has an indeterminate, but likely insignificant fiscal impact on state government.

The bill provides an effective date of July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Home Health Agencies and Regulation

A home health agency is an organization that provides home health services and staffing services.¹ Home health services provided by a home health agency include health and medical services and medical equipment provided to an individual in his or her home, such as nursing care, physical and occupational therapy, and home health aide services.² Home health agencies are regulated by the Agency for Health Care Administration (AHCA) pursuant to part III of chapter 400, F.S.

AHCA is authorized to deny, revoke, or suspend the license of a home health agency.³ AHCA is required to impose a fine against a home health agency that commits certain acts.⁴ One of these acts is the failure of the home health agency to submit a report to AHCA, within 15 days after the end of each calendar quarter, which includes the following information:

- The number of insulin dependent diabetic patients receiving insulin-injection services from the home health agency;
- The number of patients receiving both home health services from the home health agency and hospice services;
- The number of patients receiving home health services from that home health agency; and
- The names and license numbers of nurses whose primary job responsibility is to provide home health services to patients and who received remuneration from the home health agency in excess of \$25,000 during the calendar quarter.⁵

These data items help identify possible fraud, such as billing for a high number of injection visits for insulin-dependent patients who could self-inject insulin, fraudulent billing for patients who did not receive the visits, possible duplicate payment for patients receiving both hospice and home health services, and nurses earning well above the average salary that could indicate false billing. The results of each quarter's reporting are shared with the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services' Medicare Program Integrity Miami Satellite Division, the AHCA's Medicaid Program Integrity Office, and the Medicare Fraud Investigations Manager at SafeGuard Services, LLC.⁶ The data is also provided to the public in response to public records requests.⁷

The amount of the fine for failing to submit the report to AHCA is \$5,000.⁸ From January 1, 2009 to December 31, 2012, 1,407 fines have been imposed.⁹ For fiscal year 2011-2012, fines totaling \$932,750 were imposed by final order.¹⁰ AHCA has seen a decrease in the number of home health agencies that have failed to submit the report in a timely manner; for the fourth quarter of 2012, 41 of the 2,250 licensed home health agencies, or less than 2 percent, failed to submit the report.¹¹

Effect of Proposed Changes

¹ S. 400.462(12), F.S.

² S. 400.462(14)(a)-(c), F.S.

³ S. 400.474(1), F.S.

⁴ S. 400.474(3)-(6), F.S.

⁵ S. 400.474(6)(f), F.S.

⁶ Agency for Health Care Administration, *2013 Bill Analysis & Economic Impact Statement-HB 4031*, page 1 (on file with Health Innovation Subcommittee staff).

⁷ *Id.*

⁸ S. 400.474(6), F.S.

⁹ See *supra*, FN 4.

¹⁰ *Id.*

¹¹ *Id.*

The bill eliminates the requirement that a licensed home health agency submit a report every calendar quarter. As a result of the elimination of the report, a home health agency will no longer face a fine of \$5,000 each quarter for failing to submit the report.

B. SECTION DIRECTORY:

Section 1: Amends s. 400.474, F.S., relating to administrative penalties.

Section 2: Provides an effective date of July 1, 2013.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

AHCA will see the elimination of the collection of fines from home health agencies for failing to submit the required report. In recent years, the number of home health agencies that fail to submit the quarterly reports has been declining; therefore, the decrease in revenues is estimated to be insignificant.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Licensed home health agencies will no longer be subject to a fine of \$5,000 for failing to submit the report in a timely fashion at the end of each calendar quarter.

D. FISCAL COMMENTS:

AHCA will see a decrease in staff workload to provide technical assistance to home health agencies in completing the quarterly reports. AHCA will also see a decrease in preparation of fine notices, responding to inquiries from home health agencies that receive fine notices, the number of litigation appeals, and the necessity to testify at administrative hearings when the fine is challenged. The House proposed General Appropriations Act includes an issue to reduce OPS authority funded through the Health Care Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA has appropriate rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.