STORAGE NAME: h1523a.LTC
DATE: March 24, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON
Elder Affairs & Long Term Care
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT

BILL #: HB 1523

RELATING TO: Long Term Care Community Diversion Pilot Projects

SPONSOR(S): Representatives Littlefield & others

STATUTE(S) AFFECTED: 400, F.S.

COMPANION BILL(S): SB 2250

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) Elder Affairs & Long Term Care YEAS 7 NAYS 0
(2) Health and Human Services Appropriations
(3)
(4)
(5)

I. SUMMARY:

HB1523 creates the "Long Term Care Community Diversion Pilot Project Act." The Department of Elderly Affairs (DOEA) and the Agency for Health Care Administration (AHCA) are directed to design and implement community diversion projects which will delay the need for long term care in a nursing home. DOEA is to evaluate the current pre-admission screening process for nursing home services.

The bill provides for funding, cost-sharing by participants, selection of the pilot area(s) and for standards of care for services and quality assurance. It authorizes contracts with managed care organizations, and revises the nursing home bed need methodology for certificates of need (CON).

DOEA must report to the Legislature annually and contract with an independent evaluator to review the pilot projects. DOEA and AHCA are to assess the feasibility of implementing a statewide managed long term care system. An interagency advisory council on long term care is created within DOEA. Finally, HB 1523 authorizes, rather than requires, that AHCA consider a nursing home CON applicant's designation of some beds for Medicaid recipients.

The bill can be implemented within existing resources. If the pilot projects are effective, there are potential savings to the Medicaid program by reducing the number of nursing beds built and reimbursed by Medicaid. Instead, cost-effective community care would be available for persons needing long term care.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Since the inception of *Medicaid* and Medicare, long term care has been thought about and delivered mostly within a medical model of care in institutions. Medicare covers mostly acute care, mostly elderly persons, some disabled adults who are less than sixty-five years old, and about 100 days of skilled nursing home care after a hospitalization. Medicare participants are responsible for deductibles and co-payments.

Medicaid, by contrast, can be described as health insurance for poor people. A Medicare recipient who is indigent would also qualify for Medicaid. In that case, Medicaid would pay the Medicare deductibles and co-payments.

Medicaid pays the largest share of the long term care cost in the United States. Medicaid is a state and federal government partnership. For each forty-five cents the state spends on a Medicaid compensable service, the federal government matches with fifty-five cents. Because the state is required to dedicate limited general revenue, the state has a keen interest in finding ways to better manage the long term care system.

Long term care responsibilities are shared by Medicaid (part of AHCA), the Department of Health (Health), the Department of Children and Family Services (DCFS), and DOEA. Further, the Department of Insurance regulates life, health, disability, and long term care insurance and continuing retirement communities.

Currently the state is operating three home and community-based waiver programs which are designed to divert elders from nursing home care and serve them instead in the community. Medicaid also contracts with one managed care plan (ElderCare in Dade county) which targets frail elders at risk of nursing home placement. That plan, however, is at financial risk for a relatively small amount of nursing home care. If an enrollee in the ElderCare needed to enter a nursing home, the HMO could disenroll the person at the next contract year.

B. EFFECT OF PROPOSED CHANGES:

DOEA and AHCA would develop a model for the pilot projects and apply to the federal Health Care Financing Administration (HCFA) for permission to waive some of the rules which govern the Medicaid program. With the new flexibility that the waiver would provide, elders would be offered an opportunity to enroll in a managed care plan that combined coverage for routine, preventive, acute, and nursing home care. The HMO, or plan, would be responsible for all of the regular health services and an unlimited number of nursing home days.

The Secretary of DOEA would set up a long term care advisory group with industry, executive agencies, community, and consumer representatives. DOEA will report to the Legislature annually while the pilot projects are operating.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Existing rule authority is not affected by this bill.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The pilot projects will be new efforts for both DOEA and AHCA.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A.

(2) what is the cost of such responsibility at the new level/agency?

N/A.

(3) how is the new agency accountable to the people governed?

N/A.

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, the bill provides for participants to share in the cost of their care.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes, eligible person can choose among long term care options.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A.

(2) Who makes the decisions?

N/A.

(3) Are private alternatives permitted?

N/A.

(4) Are families required to participate in a program?

N/A.

(5) Are families penalized for not participating in a program?

N/A.

b. Does the bill directly affect the legal rights and obligations between family members?

N/A.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A.

(2) service providers?

N/A.

(3) government employees/agencies?

N/A.

D. SECTION-BY-SECTION:

This section need be completed only in the discretion of the Committee.

Section 1. This section provides Legislative findings and intent. The legislature finds that expenditures for long term care are growing rapidly. The legislature intends that the Department of Elderly Affairs (DOEA) in coordination with the Agency for Health Care Administration (AHCA) implement community diversion projects to test the effectiveness of managed care and outcome-based reimbursement principles when applied to long term care.

Section 2. This act may be cited as the “Long Term Care Community Diversion Pilot Project Act.”

Section 3. The key concepts related to the project are defined. The definition of community diversion strategy includes language describing comprehensive home and community-based services that are sufficient to prevent or delay the need for nursing home placement. A “managed care organization” (MCO) is defined as an entity that can enter into a Medicaid risk contract and meets the state Department of Insurance requirements for Health Maintenance Organizations (HMOs). This requirement has the

effect of excluding pre-paid health plans that serve only Medicaid recipients and are not federally certified and state licensed.

Section 4. DOEA is to evaluate the nursing home pre-admission screening process, develop and evaluate capitation setting methods, and evaluate the standards in existing Medicaid managed care contracts. Further, DOEA is to assure that **savings from the Medicaid nursing home budget offset the costs of the pilot projects and that the projects are cost-effective when compared to Medicaid nursing home expenditures.**

Section 5. DOEA and AHCA are to work together to implement the pilot projects. The bill directs that DOEA offer participants a choice among available care alternatives, enroll participants in the project, and give the participants, to the extent possible, a choice of care providers. The MCO is prohibited from enrolling participants directly. When selecting a project area, DOEA is directed to consider certain specific data about the availability of long term care services, nursing home capacity and projected growth in nursing home beds. DOEA is to select projects and providers that demonstrate the capacity to care for residents in the least restrictive most appropriate setting. Participants may be required to contribute to the cost of their care.

The community diversion projects must do four things:

1. Provide services of sufficient quality, quantity, type and duration;
2. Integrate acute and long term care services and their funding, as feasible;
3. Encourage people to plan for their long term care needs;
4. Provide nursing facility care for participants who require it.

Section 6. DOEA, in consultation with AHCA is to develop quality of care standards that must apply to all contractors and sub-contractors.

Section 7. DOEA, in consultation with AHCA, will contract with managed care organizations within the pilot areas.

Section 8. The Medicaid community diversion pilot projects must produce a reduction in the average monthly nursing home caseload. Specific steps to control the development of Medicaid nursing home beds are provided.

Section 9. DOEA will report to the legislature about the pilot projects beginning January 1, 1998 and continuing each January while the community diversion projects are operating. DOEA is directed to contract for an independent evaluation of the pilot projects. DOEA and AHCA are to assess the feasibility of implementing a managed long term care system statewide.

Section 10. This section provides for the creation of the Long Term Care Interagency Advisory Council within DOEA. DOEA and AHCA will provide staff to the Council. The Secretary of the Department of Children and Families, the Secretary of DOEA, and the Director of AHCA will appoint representatives as described. All members will serve at their own expense, except the consumer members. The consumer members' travel costs will be reimbursed by the appointing agency or department.

Section 11. AHCA may, but is not required to, consider a nursing home license applicant's intent to designate a percentage of beds in the facility for use by Medicaid eligible persons.

Section 12. This act shall take effect upon becoming law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Neither DOEA or AHCA project non-recurring costs associated with implementing this legislation. The budget for services has already been appropriated.

2. Recurring Effects:

Neither DOEA or AHCA project recurring costs to their agencies associated with implementing this legislation. Some measure of cost-containment in the nursing home area may be realized from diverting persons in need of long term care from more costly nursing facility beds into the capitated pilot projects authorized in this bill.

Based on information provided by DOEA, savings of approximately $900,000 per 100 persons served in the pilot projects are anticipated. This evaluation is based on the February 1997 Medicaid estimating conference. At that conference, Medicaid reported an annual per recipient payment to nursing homes of $29,948.

3. Long Run Effects Other Than Normal Growth:

If the pilot projects work well and are expanded statewide, Medicaid should experience cost-containment, and savings by comparison with continued nursing home growth, in the nursing facility budget item.

4. Total Revenues and Expenditures:

None are projected at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None are projected.

2. Recurring Effects:

   None are projected.

3. Long Run Effects Other Than Normal Growth:

   None are projected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   Managed care organizations that want to participate as providers of service in the pilot areas may experience some expense associated with setting up a network and beginning implementation. Those costs should, however, be offset as participants enroll in the pilot project and the provider begins to receive a capitation payment.

2. Direct Private Sector Benefits:

   Persons in need of long term care will benefit from the availability of affordable services which are an alternative to nursing home placement. AHCA reports that nursing homes around the state receive a Medicaid per diem that averages $93.25 per resident, per day. Patients paying for nursing home care often have higher per day fees.

3. Effects on Competition, Private Enterprise and Employment Markets:

   This bill encourages the participation of private managed care organizations.

D. FISCAL COMMENTS:

The bill requires that capitation rate setting methodology be carefully considered before contracting for services. There should be a strong association in the pilot project areas between the number of nursing home beds approved through the CON process and the number or persons who can be served in alternative community settings.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:	Legislative Research Director:
Melanie Meyer	Tom Batchelor, Ph.D.