STORAGE NAME: h4535.hcs
DATE: April 1, 1998

HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 4535

RELATING TO: Health Care

SPONSOR(S): Committee on Health Care Services, Rep. Albright & others

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) HEALTH CARE SERVICES YEAS 10 NAYS 1
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I. SUMMARY:

With regard to the Medicaid program, this bill: 1) revises third party liability recovery procedures to facilitate collection by the Agency for Health Care Administration (AHCA) and sets requirements for payment of attorney's fees; 2) authorizes AHCA and the Department of Health (DOH) to seek a federal Medicaid waiver to obtain federal matching funds for Healthy Start and to authorize and set requirements for competitive bidding for home health services; 3) revises eligibility standards to conform to WAGES requirements; 4) authorizes AHCA to establish a separate pharmacy provider type for parenteral/enteral services; and 5) creates a Medicaid outpatient specialty services demonstration project.

In addition, this bill: 1) specifies that copayments collected by DOH or its contractors do not apply to health care providers practicing under the "Access to Health Care Act"; 2) authorizes DOH and the Department of Children and Family Services to share confidential client information; 3) revises local WAGES coalition memberships to include a DOH person; 4) adds DOH to the definition of "medical review committee"; 5) names the Carl S. Lytle, M.D. Memorial Health Facility in Marion County; 6) repeals outdated requirements regarding the instillation of silver nitrate into the eyes of newborns; and 7) transfers the Nursing Student Loan Forgiveness Program and scholarship program from the DOH to the Department of Education. This bill also increases the penalty from a third degree misdemeanor to a third degree felony for any person who maliciously, or for monetary gain, disseminates information identifying an individual who has a sexually transmissible disease, and it creates the "Equity in Prescription Insurance and Contraceptive Coverage Act of 1998".

Finally, this bill revises the "Health Care Responsibility Act of 1988" to reduce the maximum amount a county may be required to pay **out-of-county hospitals** for care provided to qualified indigent residents of the county by up to one-half, provided the amount not paid has or is being spent for **in-county** hospital care provided to qualified indigent residents. In addition, this bill increases the time (from 10 to 30 days) a hospital has to notify the county of residence of a HCRA patient that the hospital provided health care to the patient.

DOH calculates that this legislation will generate federal matching revenues for Healthy Start of $34.6 million annually. AHCA calculates savings relating to this legislation to be $430,649 for FY 1998-1999 and $564,355 for FY 1999-2000. The fiscal impact on local government of the HCRA portion of this bill may vary from county to county.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Medicaid Third Party Liability

Under provision of the federal Omnibus Budget Reconciliation Act of 1993, the Medicaid Estate Recovery Program is required to recover Medicaid payments from estates of certain deceased Medicaid recipients. In Florida, the Agency for Health Care Administration (AHCA) is responsible for identifying the estates of former Medicaid recipients and recovering any funds the estate might owe Florida as reimbursement for Medicaid expenditures made on behalf of the decedent. Currently, there is no time limitation as to when the estate's representative must pay AHCA the amount of the Medicaid expenditures.

The agency is presently classed as one of the last creditors to receive payment from an estate. Section 733.707, F.S., ranks the payment of expenses and obligations of estates in the following order:

- Class 1.--Costs, expenses of administration, and compensation of personal representatives and their attorneys' fees;
- Class 2.--Reasonable funeral, interment, and grave marker expenses, whether paid by a guardian under s. 744.441(16), the personal representative, or any other person, not to exceed the aggregate of $6,000;
- Class 3.--Debts and taxes with preference under federal law;
- Class 4.--Reasonable and necessary medical and hospital expenses of the last 60 days of the last illness of the decedent, including compensation of persons attending him or her;
- Class 5.--Family allowance;
- Class 6.--Arrearage from court-ordered child support;.
- Class 7.--Debts acquired after death by the continuation of the decedent's business, in accordance with s. 733.612(22), but only to the extent of the assets of that business;
- Class 8.--All other claims, including those founded on judgments or decrees rendered against the decedent during the decedent's lifetime, and any excess over the sums allowed in paragraphs (b) and (d).

The agency's claims relating to public assistance are now categorized as Class 7 (debts acquired after death).

Nursing Student Loan Forgiveness Program and scholarship program

The Nursing Student Loan Forgiveness Program (s. 240.4075, F.S.) and the Nursing scholarship program (s. 240.4076) were created to attract capable and promising

individuals to the nursing profession. The scholarship program offers individuals an opportunity to receive scholarship money for an approved nursing program if the individual agrees to work at a health care facility in a medically under served area for each year that scholarship assistance was received. The primary function of the loan forgiveness program is to increase the employment and retention of registered nurses and licensed practical nurses in state and state-operated medical and health care facilities by making repayments toward loans received by the nurses from federal or state programs or commercial lending institutions for post-secondary study in nursing programs. Both programs are administered by the Department of Health.

Florida's Healthy Start Program

The Healthy Start initiative, signed into law in 1991, involves local communities in maternal and child health needs assessments and service prioritization decisions, increases access to prenatal and infant health care services and provides specialized services to women and infants identified as at-risk for poor birth outcomes.

The Florida Healthy Start program has three components: improved funding for obstetrical and infant health care through expanded Medicaid eligibility and increased Medicaid reimbursement for obstetrical fees; Universal Healthy Start Risk Assessment and Screening for all pregnant women and newborns in the state, with care coordination and enhanced services for those women and infants who need more than primary care to have healthy outcomes; and community-based perinatal and infant health-care coalitions.

Since the start of the program, Florida's infant mortality rate has fallen by 16 percent. The 1996 Healthy Start annual report showed that women who have high-risk pregnancies have 30 percent fewer low-birth weight babies if they receive Healthy Start services.

In 1992, state funding for local Healthy Start coalitions began. Members of these Healthy Start coalitions include business, professional and political leaders, health care providers, consumers, and educators. The coalitions have the authority to plan and develop improved local maternal and child health service delivery systems. Key components of the Healthy Start program are funded through the local coalitions. The local coalitions assess local maternity and child health needs and recommend the most effective use of the public maternal and child health care funds allocated to the area.

The different programs and initiatives included in the Healthy Start program receive funding from several different sources. Some programs are funded solely by federal grants, while other programs receive funds from the state, federal grants, and the local coalitions.

Nearly 75% of the funding for delivery of services for the Florida Healthy Start program comes from General Revenue. The rest of the funding is received through federal block grants. There are 44 other states that now receive Title XIX matching funds through federal waivers for programs similar to Florida's Healthy Start. These waivers enable other states to receive funding from Medicaid for up to 55% of their services that are comparable to Florida's Healthy Start.

If Florida were to seek a waiver to secure Title XIX matching funds for the Healthy Start program, approximately $23 million would be available for use for matching funds. Each local coalition would be able to determine on its own what percentage of their funding they want to use for matching funds.

Medicaid Eligibility

In 1996, Congress passed the Personal Responsibility and Work Opportunity Act, which replaced the federal Aid to Families with Dependent Children (AFDC) program with a new program called Temporary Assistance to Needy Families (TANF).

The major change from AFDC is that TANF limits the amount of time a person can receive financial assistance and sets work requirements for the program's participants. The link between Medicaid and the cash assistance program was eliminated. Persons eligible for TANF will no longer be automatically eligible for Medicaid as they were under AFDC. Parents and children receiving TANF must meet separate eligibility income and asset rules.

Florida's family assistance program under TANF is the Work and Gain Economic Self-Sufficiency (WAGES) program. The current State Medicaid eligibility requirements do not conform to WAGES program requirements.

Medicaid Home Health Services

The FY 1997-1998 General Appropriations Act authorized AHCA to competitively negotiate for home health services to Medicaid recipients. In the past, methods such as prior authorization have been effective in decreasing the number of home health providers, but the number of home health providers is beginning to increase again.

According to AHCA, when an excessive number of home health service providers exists, an increase in rates occurs and a high incidence of fraud and abuse emerges. Competitive negotiating gives AHCA the ability to control costs and fraud by allowing the agency to seek out qualified and cost-efficient bidders without imposing strict constraints on bid scoring.

Medicaid Prescribed Drug Services

Until recently, the administration of intravenous/intramuscular medications was extremely complicated and limited to inpatient hospital settings. Improvements in the administration of these drugs created a trend towards self-administration and has helped to allow patients to receive these medical services in their own homes or other community placement.

Infusion therapy is the intravenous administration of enteral or parenteral drugs. Enteral drugs are administered directly into the gastrointestinal tract through a tube in the stomach or intestine. Parenteral products involve specially mixed solutions that are administered intravenously with methods such as hypodermic needles or implanted catheters.

The number of services provided and time and skill levels required for infusion therapy is much greater than those required for traditional community service pharmacies. The current Medicaid prescribed drug program was designed to reimburse providers for traditional community service pharmacies. Because technological advances now allow infusion therapy to be administered in the patient's home, the program is forced to reimburse for both traditional and infusion services. Dispensing fees and product costs for administration of these intravenous/intramuscular medications are extremely high. The current Medicaid program is based on a monthly service limit with a dispensing fee tailored to community service pharmacies and was not designed to handle the needs of this new treatment modality.

Primary Care Challenge Grant Program

The Primary Care for Children & Families Challenge Grant Program was created to stimulate a partnership between the state and local governments for the development of coordinated primary health care delivery systems for low-income children and families. Children and families with incomes up to 150% of the federal poverty level are eligible. Successful applicant counties for the grant have to contribute a local match which consists of a combination of in-kind and cash contributions. Currently, participants pay no monthly premium for participation, but may be required to pay a copayment at the time the service is provided. These primary care challenge grant program copayments jeopardize the sovereign immunity protections for providers covered under the Access to Care Act as created in s. 766.1115, F.S.

Sharing of Confidential Information between Departments

Since the Department of Health and Rehabilitative Services was split into the Department of Health and the Department of Children and Family Services, the two departments have not had the ability to share confidential information in the same manner as when they were both part of the same department. Currently, a waiver request is presented to clients before services are provides by each agency. If a client refuses to sign a waiver, the departments cannot share the confidential information. The Department of Health believes that sharing confidential information improves child protection activities and helps reduce the incidence of abuse.

Local WAGES Coalitions

Local WAGES coalitions are designed to plan and coordinate the delivery of WAGES Program services specified in the statewide implementation plan at the local level. The local delivery of services under the WAGES Program are coordinated as much as possible with the local services and activities of the local service providers designated by the regional workforce development boards.

Currently, each local WAGES coalition must have a minimum of 11 members, of which at least one-half must be from the business community. The composition of the coalition membership must generally reflect the racial, gender, and ethnic diversity of the community as a whole. Members are appointed to 3-year terms, and the composition of the coalition membership must generally reflect the racial, gender, and ethnic diversity of the community. The membership of each coalition must include:

- Representatives of the principal entities that provide funding for the employment, education, training, and social service programs that are operated in the service area, including, but not limited to, representatives of local government, the regional workforce development board, and the United Way;
- A representative of the health and human services board;
- A representative of a community development board;
- Three representatives of the business community who represent a diversity of sizes of businesses;
- Representatives of other local planning, coordinating, or service-delivery entities;
- A representative of a grassroots community or economic development organization that serves the poor of the community.

Medical Review Committee - Exemption from Liability

Section 766.101(1)(a) defines a medical review committee for the purpose of exemption from liability. County health departments and healthy start coalitions are currently included in this definition. The Department of Health, however, was inadvertently left out of this definition.

Prophylactic for Newborns' Eyes

Section 383.04 and 383.05, F.S., involve requirements that all newborns receive a prophylactic agent containing silver nitrate in the eyes within one hour of birth. These sections require that the prophylactic is to be prepared and distributed for free by DOH. This statute has not been enforced in many years because silver nitrate is no longer readily available and other more effective and less harmful eye prophylactics are used in place of silver nitrate. In addition, DOH does not receive funding to make the silver nitrate solution available.

Confidentiality of Sexually Transmissible Disease Information

According to section 384.34(2), F.S., any person who breaches the confidentiality of sexually transmissible disease information held by the department, including information related to contact investigation, is subject to the penalty of a first degree misdemeanor. In the enforcement of this statute, questions have arisen regarding the applicability of these penalties to persons not employed by the department.

Section 384.34(3), F.S., establishes that any person who maliciously disseminates false information concerning the existence of any sexually transmissible disease is subject to the penalty of a second degree misdemeanor. Section 381.004(6), F.S., establishes the penalty of a first degree misdemeanor for any person who breaches the confidentiality of information related to testing for human immunodeficiency virus (HIV), including the HIV testing of inmates.

According to the Department of Health, maintaining the security and privacy of sensitive client records is essential to the department's public health efforts. The department believes that increased penalties would enhance the ability of law enforcement to hold persons accountable for violations of this law, and that more severe penalties would reinforce public trust in the safety of these records and serve as a deterrent to mishandling or misuse.

Health Care Responsibility Act

The “Florida Health Care Responsibility Act” or HCRA was created in 1977 and was designed to ensure that the county of residence of an indigent person who receives inpatient hospital services in a county other than the county of residence, will reimburse the hospital for those services. The statutory provisions were revised in 1988 as part of chapter 88-294, Laws of Florida, to strengthen provisions requiring counties to fulfill their financial obligations for their indigent residents who are provided out-of-county hospital care. At that time, the act was renamed as the “Florida Health Care Responsibility Act of 1988.”

The intent language that is part of HCRA, as specified in s. 154.302, F.S., places the ultimate financial obligation for hospital treatment for qualified out-of-county indigent patients on the county in which the indigent patient resides. Under s. 154.309, F.S., the county known or thought to be the county of residence is given first opportunity to certify that a treated indigent is a resident of the county. If that county fails to make such a determination within 60 days of written notification by the hospital, the agency is to determine the indigent’s county of residency. This determination is then binding on the county of residence.

Under s. 154.304, F.S., a hospital qualifies as “participating” in HCRA if it meets two criteria. First, the hospital has to have reported to the Agency for Health Care Administration (AHCA or agency) that it provided charity care, based on the hospital’s most recent audited actual experience, in an amount where the ratio of uncompensated charity care days compared to total acute care inpatient days equals or exceeds 2 percent. Second, the hospital is required to either sign a formal agreement with a county to treat the county’s indigent patients, or demonstrate to the agency that at least 2.5 percent of its uncompensated charity care, as reported to the agency, is generated by out-of-county residents. Under this section of statute, “regional referral hospitals” are hospitals which have met the 2 percent charity care obligation and which meet the definition of a teaching hospital as defined in s. 408.07, F.S. The act defines "qualified indigent person" to mean a person who has been determined pursuant to s. 154.308, F.S., to have an average family income, for the 12 months preceding the determination, which is below 100 percent of the federal nonfarm poverty level; who is not eligible to participate in any other government program which provides hospital care; who has no private insurance or has inadequate private insurance; and who does not reside in a public institution. Section 154.316, F.S., requires any hospital admitting or treating any out-of-county patient who may qualify as indigent under HCRA to notify the county known or thought to be the county of residency within 10 days of the treatment or admission, or the county forfeits its right to reimbursement. Hospitals have indicated that this 10 day period is insufficient.

Under s. 154.306, F.S., a county’s financial obligation for qualified applicants does not exceed 45 days per county fiscal year. The rate of payment set by this act is 100 percent of the per diem reimbursement rate currently in effect for the out-of-county hospital under Medicaid, except that those counties that were at their 10-mil cap on October 1, 1991, reimburse hospitals for such services at not less than 80 percent of the hospital Medicaid per diem. If a county has negotiated a formal agreement with a hospital, the payment rate set by the agreement is substituted for the payment rate set by the statute.

The maximum a county is required to pay is equivalent to $4 multiplied by the most recent official state population estimate for the county.

Current county compliance with statutory requirements varies widely. Figures compiled by the Agency for Health Care Administration and the Florida Association of Counties indicate that the following amounts have been expended by counties under the Health Care Responsibility Act of 1988 in recent years: 1991-92, $3,029,637; 1992-93, $3,419,623; 1993-94, $5,028,883; 1994-95, $2,620,975; 1995-96, $2,849,861; and 1996-97, $2,074,076.

As stated, there is a $4 per capita limit on the liability of any county for payments under HCRA. However, very few counties actually reach this cap. No county reached the cap during the 1996-97 fiscal year, and only 7 counties reached the cap between fiscal years 1991-92 and 1993-94 (DeSoto, Franklin, Gilchrist, Hardee, Madison, Nassau, and Wakulla). Total collections in fiscal year 1996-97 was only 3.6 percent of the total liability.

There are 8 counties in the state with no hospital within their boundary. These are Dixie, Gilchrist, Glades, Jefferson, Lafayette, Liberty, Sumter, and Wakulla. While 46 counties report paying at least some amount under the act during the past 3 fiscal years, 21 counties report no expenditures.

Contraceptive Coverage

While most employment-related insurance policies in the United States cover prescription drugs, a vast majority excludes coverage from prescription contraceptive drugs or devices. Several states require contraceptives to be offered in insurance policies, but only Virginia has passed legislation requiring policies to cover contraceptives. Several states, including California, Alaska, Connecticut, Utah and Georgia are considering legislation calling for “Equity in Prescription Insurance and Contraceptive Coverage”, and similar legislation is being considered by Congress.

Close to 50% of all pregnancies in the United States are unintended, and half of all unintended pregnancies end in abortion. A 1994 Florida study showed that 45.8% of pregnancies in Florida were unintended, and 24% of those unintended pregnancies ended in induced abortion. Proponents of legislation calling for contraceptive coverage argue that contraceptives have been proven to prevent unintended pregnancies and, as a result, reduce the number of abortions. California research shows that access to contraceptives reduces the probability of having an abortion by 85%. Proponents also argue that providing a policy holder with a monthly supply of birth-control pills will cost insurance companies much less than the cost for prenatal care and delivery charges resulting from a woman’s unexpected pregnancy.

Opponents of contraceptive coverage include insurance companies and religious groups. Insurance companies argue that mandated contraceptive coverage would increase the cost of premiums and may force small-business owners into dropping their insurance plans completely. Religious groups, particularly Catholic organizations, are concerned with the moral implications and conscience conflicts that may result from such legislation. Religious opponents argue that employers should not be forced to

offer and pay for coverage of birth control when it violates their religious teachings and deeply held moral beliefs.

Contraceptives are also used for purposes beyond birth-control purposes. Doctors prescribe birth-control pills for several conditions, including prevention of ovarian cancer, management of painful or heavy menstrual periods, symptoms of menopause, and endometriosis, a painful disease in which the uterine lining grows outside the uterus.

A 1994 study by the Women's Research and Education Institute in Washington found that women of reproductive age pay 68 percent more than men in out-of-pocket expenses for health care, and much of this difference in expenditures is due to contraceptive supplies and services. A monthly supply of birth-control pills costs between $20 and $30. Insurance companies are more likely to cover abortion services than contraceptives. A vast majority of insurance plans cover sterilization and most insurers pay for vasectomies.

An insurance industry study has found that the cost of extending the prescription contraceptive benefit would be $16 per employee each year. According to the American Journal of Public Health, the managed care cost for one year of a contraceptive pill is $422 while the cost of prenatal care and delivery for each unintended pregnancy carried to term in $5,512.

A. EFFECT OF PROPOSED CHANGES:

Medicaid Third Party Liability

AHCA will be able to more efficiently identify and recover funds owed to the state of Florida from the estates of former Medicaid recipients. Agency claims relating to public assistance debts will be removed from Class 7 (debts acquired after death) and categorized as Class 3 (debts and taxes with preferences under federal law). A significant increase in revenue for increased Medicaid spending should result.

Nursing Student Loan Forgiveness Program and scholarship program

The Nursing Student Loan Forgiveness Program and the Nursing scholarship program will be transferred from the Department of Health to the Department of Education. The transfer is specified as a type II transfer as provided in s. 20.06, F.S., which provides the method of reorganization of the executive branch of government.

Florida Healthy Start Program

AHCA will be given the authority to seek a federal waiver to secure Title XIX matching funds for the Healthy Start program. Only existing appropriated General Revenue and local contributions may be used in matching funds. Each local coalition will determine what percentage of its funding may be used for matching funds. Up to 55% of costs for Healthy Start program services will be funded by Medicaid.

Medicaid Eligibility

Medicaid eligibility will be described as:

- A low income family with a child who is living with a caretaker relative as defined by the federal Medicaid statute;
- Family income does not exceed the gross income test limit;
- Family countable income and resources do not exceed the applicable AFDC standards under the AFDC State Plan in effect in July 1996, except as amended in the Medicaid State Plan to conform to the WAGES program requirement as permitted by federal law.

Medicaid Home Health Services

AHCA will be authorized to seek federal waivers to allow competitive negotiation in providing cost-effective purchasing of home health services. AHCA believes that competitive negotiation may help Medicaid in efforts to control spending, growth, and fraud in the home health program. AHCA is directed to issue a request for proposal to implement a pilot managed care program to determine the cost-effectiveness and effects of providing outpatient speciality services to Medicaid recipients on a prepaid, capitated basis. A new licensure category, separately or in combination, under part II of Chapter 641, F.S. for diagnostic imaging, clinical lab, and Medicaid home health services is created, and a provision that prohibits federally qualified health centers from participating in Medicaid provider services networks is repealed.

Medicaid Prescribed Drug Services

AHCA will be permitted to establish a separate pharmacy provider type for parenteral/enteral pharmacy services and pursue any necessary federal waivers. A separate provider type for parental/enteral pharmacy services will lower the cost of these drugs by eliminating the monthly cap limit and dispensing fee for these services. The new pharmacy provider will reimburse based on actual cost of ingredients plus a patient management stipend for the time period rather than a dispensing fee per unit of service.

Primary Care Challenge Grant Programs

Copayments will not apply to health care providers practicing under the provisions of s. 766.1115, F.S.

Sharing of Confidential Information Between Departments

The Department of Health and Children and Family Services will have the ability to share confidential information in the same manner as when the two departments were both part of the former Department of Health and Rehabilitative Services.

Local WAGES Coalitions

One public health official will sit on each local WAGES coalition as an ex officio member. At the option of the WAGES coalition, county health departments and healthy start coalitions are permitted to be on WAGES coalitions as regular members.

Medical Review Committee - Exemption from Liability

The Department of Health is included in the defintion of “medical review committee” for purpose of exemption from liability.

The Carl S. Lytle, M.D. Memorial Health Facility

Upon completion, the Marion County Health Department building to be constructed in Belleview, FL, will be known as the “Carl S. Lytle, M.D. Memorial Health Facility.

Prophylactic for Newborns’ Eyes

Instilling Silver nitrate into the eyes of newborns will no longer be required. An effective prophylactic recommended by the Committee on Infectious Diseases of the American Academy of Pediatrics will be instilled in place of the silver nitrate.

The Department of Health will no longer be required to prepare and distribute for free prophylactics for the eyes of newborns.

Confidentiality of Sexually Transmissible Disease Information

Any person who obtains and maliciously, or for monetary gain, disseminates information identifying an individual who has a sexually transmissible disease, including HIV or AIDS, will be guilty of a third degree felony.

Health Care Responsibility Act

County governments that have a hospital within the county may reduce the total liability under HCRA by one-half if the funds are spent on in-county hospital care for qualified indigent residents. Also, hospitals will have increased the time to notify the county of residence of a HCRA patient that the hospital provided health care to the patient, from the current time period of 10 days to 30 days.

Contraceptive Coverage

Certain health insurance policies and health maintenance contracts will be required to provide coverage for prescription oral contraceptives approved by the federal Food and Drug Administration and prescribed by an authorized practitioner. An insurer will not be required to provide coverage for prescription oral contraceptives if the insurer or policy holder objects on religious or moral grounds.

B. 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?

AHCA will be given the authority to seek federal waivers allowing the agency to competitively negotiate in purchasing home health services and to establish a separate pharmacy provider for parenteral/enteral pharmacy services. AHCA will also be given the authority to seek federal waivers to secure Title XIX matching funds for the Healthy Start program. Finally, AHCA will have to modify its policies related to HCRA to reflect the changes in the bill.

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

The Clerk of Court will provide AHCA with a copy of a monthly estate report already provided for the Department of Revenue.

County governments and hospitals that participate in HCRA will have to modify their procedures to comply with the bill.

(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, county governments which benefit will have to cover any associated administrative expenses.

4. Individual Freedom:

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

      Access to parenteral/enteral pharmacy services will be improved allowing more patients to receive these services in home settings. Certain insurance policies will cover oral contraceptives for women, giving them equity in insurance coverage and an additional choice in inexpensive and effective birth control alternatives.

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

Approval of the bill may result in the closing of some home health agencies whose business is primarily devoted to providing services to Medicaid recipients.

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

C. STATUTE(S) AFFECTED:

Sections 154.301, 154.302, 154.306, 154.308, 154.309, 154.31, 154.3105, 154.312, 154.314, 154.316, 154.504, 198.30, 240.4075, 240.4076, 383.05, 381.0022, 381.004, 383.011, 383.04, 384.34, 402.115, 409.903, 409.910, 409.913, 414.028, 414.28, 627.64061, 627.65741, 641.31, 627.6515, 627.6699, 641.386, 766.101, F.S.

D. SECTION-BY-SECTION RESEARCH:

Section 1. Provides that the Legislature finds that amendments to ss. 154.301 through 154.316, F.S., contained in this act fulfill an important state interest.

Sections 2 - 4 and 6 - 11 Amend ss. 154.301 - 154.314, F.S., relating to HCRA, to make technical and conforming changes.

Section 5. Amends s. 154.306, F.S., relating to financial responsibility for certified residents who are qualified indigent patients treated at an out-of-county participating hospital, to specify that the maximum amount a county may be required to pay to out-of-county hospitals for HCRA may be reduced by up to one-half (from $4 per capita to $2 per capita) provided that the amount not paid has or is being spent for in-county hospital care provided to qualified indigent residents.

Section 12. Amends s. 154.316, F.S., relating to hospital's responsibility to notify of admission of indigent patients, to change from 10 to 30 the number of days a hospital has after admitting or treating a HCRA patient to notify the county of residency

Section 13. Amends s. 154.504, F.S., relating to the primary care for children and families challenge grant, to add language providing that copayments shall not apply to health care providers practicing under the provisions of s. 766.1115, F.S.

Section 14. Amends s. 198.30, F.S., relating to estate recovery, to require that the circuit judge provide a copy of a monthly report containing the estate information of all decedents whose wills have been probated or propounded for probate before the circuit judge to the Agency for Health Care Administration.

Section 15. Amends s. 240.4075, F.S., relating to the Nursing Student Loan Forgiveness Program, transferring the Program from the Department of Health to the Department of Education.

Section 16. Amends s. 240.4076, F.S., relating to the Nursing scholarship program, transferring the program from the Department of Health to the Department of Education.

Section 17. Specifies that the transfers of the Nursing Student Loan Forgiveness Program and the Nursing scholarship program to the Department of Education are type II transfers.

Section 18. Creates s. 381.0022, F.S., relating to sharing of confidential or exempt information, to give the Department of Health and Children and Family Services the ability to share confidential information.

Section 19. Amends s. 381.004., relating to testing for human immunodeficiency virus, to establish the penalty of a third degree felony for any person who obtains and disseminates information that identifies an individual who has a sexually transmissible disease, including HIV and AIDS.

Section 20. Amends s. 383.011, F.S., relating to maternal and child health programs, to direct the Agency for Health Care Administration to seek a federal waiver to secure Title XIX matching funds for the Healthy Start program.

Section 21. Amends s. 383.04, F.S., relating to prophylactic required for eyes of infants, to remove language that requires silver nitrate to be instilled into the eyes of infants within an hour after birth and to require that an effective prophylactic recommended by the Committee on Infectious Diseases of the American Academy of Pediatrics be instilled instead.

Section 22. Amends s. 384.34, F.S., relating to penalties, to establish the penalty of a third degree felony for any person who obtains and disseminates information that identifies an individual who has a sexually transmissible disease.

Section 23. Creates s. 402.115, F.S., relating to sharing of confidential or exempt information, to give the Department of Health and the Department of Children and Family Services the ability to share confidential information.

Section 24. Amends s. 409.903, F.S., relating to mandatory payments for eligible persons, to update Medicaid eligibility requirements to conform to WAGES requirements as permitted by federal law.

Section 25. Amends s. 409.910, F.S., relating to payments on behalf of Medicaid-eligible persons when other parties are liable, to require that after attorney's fees and taxable costs, one-half of the remaining recovery shall be paid to the department up to the total amount of medical assistance provided by Medicaid and the remaining amount shall be paid to the recipient with the fee for services of an attorney calculated at 25% of the judgment, award, or settlement, and to require that third-party beneficiaries pay the agency the full amount of the received benefit within 60 days of settlement.

Section 26. Amends s. 409.912, F.S., relating to cost-effective purchasing of health care, to authorize the Agency for Health Care Administration to seek federal waivers allowing the agency to competitively negotiate to provide cost-effective purchasing of home health services and to permit the Agency for Health Care Administration to establish a separate pharmacy provider type for parenteral/enteral services. Directs AHCA to issue a request for proposal to implement a pilot managed care program to determine the cost-effectiveness and effects of providing outpatient speciality services to Medicaid recipients on a prepaid, capitated basis, and creates new licensure category, separately or in combination, under part II of Chapter 641, F.S. for diagnostic imaging, clinical laboratory, and Medicaid home care services. Provides that this subsection is not intended to conflict with the provision of the 1997-98 General Appropriations Act authorizing competitive bidding for diagnostic imaging, clinical laboratory, or Medicaid home care services.

Section 27. Amends s. 409.12, F.S., effective January 1, 1999, to eliminate provisions that prohibit federally qualified health centers from participating in Medicaid provider services networks.

Section 28. Amends s. 414.028, F.S., relating to local WAGES coalitions, to provide that one public health official sit on each local WAGES coalition as an ex officio member and to permit county health departments and healthy start coalitions to be on WAGES coalitions as regular members at the option of the WAGES coalition.

Section 29. Amends s. 414.28, F.S., relating to public assistance debts, to categorize claims relating to public assistance debts as Class 3 (debts and taxes with preferences under federal law) instead of Class 7 (debts acquired after death).

Section 30. Provides that ss. 30 through 36 of this act may be cited as the “Equity in Prescription Insurance and Contraceptive Coverage Act of 1998".

Section 31. Provides the legislative findings and intent of the “Equity in Prescription Insurance and Contraceptive Act of 1998".

Section 32. Creates s. 627.64061, F.S., relating to coverage for prescription contraceptives, to provide that any health insurance policy that provides coverage for outpatient prescription drugs shall cover prescription oral contraceptives. No insurer will be required to provide coverage if the insurer objects on religious or moral grounds.

Section 33. Amends s. 627.6515, F.S., relating to out-of-state group health insurance policies, to apply certain requirements for group coverage to out-of-state groups.

Section 34. Creates s. 627.65741, F.S., relating to coverage for prescription contraceptives, to provide that any group, franchise accident, or health insurance policy that provides coverage for outpatient prescription drugs shall cover prescription oral contraceptives. No insurer will be required to provide coverage if the insurer objects on religious or moral grounds.

Section 35. Amends s. 627.6699, F.S., relating to the Employee Health Care Access Act, to apply certain requirements for group coverage to coverage for small employers

Section 36. Amends s. 641.31, F.S., relating to health maintenance contracts, to provide that health maintenance contracts that provides coverage for outpatient prescription drugs shall cover prescription oral contraceptives. No insurer will be required to provide coverage if the insurer objects on religious or moral grounds.

Section 37. Amends s. 641.386, F.S., relating to agent licensing and appointment, to conform to act.

Section 38. Amends s. 766.101, F.S., relating to "medical review committee", immunity from liability, to add the Department of Health to the definition of "medical review committee" for purpose of exemption from liability.

Section 39. Provides that upon completion, the Marion County Health Department building to be constructed in Belleview, Florida, shall be known as the "Carl S. Lytle, M.D. Memorial Health Facility".

Section 40. Repeals s. 383.05, F.S., relating to Department of Health preparation and free distribution of infant eye prophylactic.
Section 41. Provides an effective date of July 1 of the year in which enacted, unless otherwise provided in the act.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

There will be a reduction in licensure fees collected by AHCA as a result of a decrease in home health services agencies due to competitive negotiating.

	FY 98-99	FY 99-00
Agency for Health Care Administration Total Non-recurring Expenditures	$10,589	$ -0-

2. Recurring Effects:

	FY 98-99	FY 99-00
Department of Health		
General Revenue (existing funding)	$27,600,000	$27,600,000
Federal Grants Trust Fund (Title XIX)	$34,632,244	$34,632,244
Total Healthy Start	$62,232,244	$62,232,244
Agency for Health Care Administration Total Recurring Expenditures	$1,000,869	$1,326,991

	$63,233,113	$63,559,235

(Includes $27,600,000 of General Revenue currently funded for Healthy Start.)

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

4. Total Revenues and Expenditures

	FY 98-99	FY 99-00
Total Revenue	$35,438,394	$35,634,343
Total Expenditures	$63,469,037	$63,798,698

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Local Healthy Start coalitions will receive a significant amount of their funding from Medicaid. Also, see fiscal comments.

3. Long Run Effects Other Than Normal Growth:

Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

A number of home health agencies may lose business as a result of competitive negotiation.

Certain hospitals may experience a small reduction in HCRA payments.

2. Direct Private Sector Benefits:

The costs of home health care services may be controlled and possibly reduced.

Certain hospitals may experienced increased reimbursement from county government for in-county indigent patients. Indigent patients may experience increased access to hospital care.

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

Indeterminate.

D. FISCAL COMMENTS:

A reduction in the cap to $2 per capitain the HCRA Program would not appear to have a significant fiscal impact because so few counties exceed 50 percent of the liability. In fiscal year 1996-97, only 7 counties expended more than 50% of their HCRA responsibility, amounting to $217,400, or 10.5% of total HCRA payments that year.

The chart which follows lists funding amounts by county under HCRA for the 1996-97 fiscal year, and the amount available for in county use if this bill were to become law.

HEALTH CARE RESPONSIBILITY ACT
FY 1996-97

County	Population	$ Liability	Expenditures	Percent of Liability Expended	Under 50%	Amount Available for in-county use
Alachua	201,257	$805,028	$2,944	0	*	$402,514
Baker	20,618	$82,472	$78,552	95.25%		$0
Bay	141,342	$565,369	$0	0.00%	*	$282,684
Bradford	24,557	$98,228	$58,655	59.71%		$0
Brevard	454,174	$1,816,696	$60,247	3.32%	*	$908,348
Broward	1,383,624	$5,534,496	$225,590	4.08%	*	$2,767,248
Calhoun	12,113	$48,452	$0	0.00%	*	$24,226
Charlotte	131,419	$525,676	$7,182	1.37%	*	$262,838
Citrus	108,181	$432,724	$55,396	12.80%	*	$216,362
Clay	123,852	$495,408	$14,713	2.97%	*	$247,704
Collier	192,813	$771,252	$14,363	1.86%	*	$385,626
Columbia	51,314	$205,256	$0	0.00%	*	$102,628
Dade	2,037,305	$8,149,220	$0	0.00%	*	$4,074,610
Desoto	27,323	$109,292	$10,335	9.46%	*	$54,646
Dixie	12,722	$50,888	$32,132	63.14%		$0

County	Population	$ Liability	Expenditures	Percent of Liability Expended	Under 50%	Amount Available for in-county use
Duval	726,898	$2,907,592	$0	0.00%	*	$1,453,796
Escambia	286,768	$1,147,072	$0	0.00%	*	$573,536
Flagler	38,556	$154,224	$14,083	9.13%	*	$77,112
Franklin	10,390	$41,560	$40,944	98.52%		$0
Gadsden	45,214	$180,856	$2,944	1.63%	*	$90,428
Gilchrist	12,270	$49,080	$39,665	80.82%		$0
Glades	8,827	$35,308	$0	0.00%	*	$17,654
Gulf	13,617	$54,468	$0	0.00%	*	$27,234
Hamilton	12,859	$51,436	$0	0.00%	*	$25,718
Hardee	23,027	$92,108	$0	0.00%	*	$46,054
Hendry	30,126	$120,504	$31,128	25.83%	*	$60,252
Hernando	121,777	$487,108	$40,014	8.21%	*	$243,554
Highlands	78,938	$315,752	$25,883	8.20%	*	$157,876
County	Population	$ Liability	Expenditures	Percent of Liability Expended	Under 50%	Amount Available for in-county use
Hillsborough	905,364	$3,621,456	$27,237	0.75%	*	$1,810,728
Holmes	17,516	$70,064	$0	0.00%	*	$35,032
Indian River	102,412	$409,648	$0	0.00%	*	$204,824
Jackson	46,968	$187,872	$0	0.00%	*	$93,936
Jefferson	13,659	$54,636	$0	0.00%	*	$27,318
Lafayette	6,698	$26,792	$0	0.00%	*	$13,396
Lake	181,341	$725,364	$26,452	3.65%	*	$362,682
Lee	385,513	$1,542,052	$21,887	1.42%	*	$771,026
Leon	221,367	$885,468	$0	0.00%	*	$442,734
Levy	30,418	$121,672	$107,606	88.44%		$0
Liberty	6,991	$27,964	$2,944	10.53%	*	$13,982
Madison	18,503	$74,012	$0	0.00%	*	$37,006
Manatee	237,630	$950,520	$30,570	3.22%	*	$475,260
Marion	230,221	$920,884	$98,068	10.65%	*	$460,442
Martin	114,567	$458,268	$80,429	17.55%	*	$229,134
Monroe	84,488	$337,952	$0	0.00%	*	$168,976

County	Population	$ Liability	Expenditures	Percent of Liability Expended	Under 50%	Amount Available for in-county use
Nassau	50,066	$200,264	$181,928	90.84%		$0
Okaloosa	165,712	$662,848	$0	0.00%	*	$331,424
Okeechobee	33,699	$134,796	$45,000	33.38%	*	$67,398
Orange	775,789	$3,103,156	$0	0.00%	*	$1,551,578
Osceola	141,727	$566,908	$17,337	3.06%	*	$283,454
Palm Beach	983,052	$3,932,208	$21,511	0.55%	*	$1,966,104
Pasco	311,273	$1,245,092	$246,830	19.82%	*	$622,546
Pinellas	882,495	$3,529,980	$70,704	2.00%	*	$1,764,990
Polk	450,091	$1,800,364	$48,212	2.68%	*	$900,182
Putnam	70,510	$282,040	$33,911	12.02%	*	$141,020
St. Johns	100,778	$403,112	$0	0.00%	*	$201,556
St. Lucie	175,643	$702,572	$33,013	4.70%	*	$351,286
Santa Rosa	98,821	$395,284	$89,234	22.57%	*	$197,642
Sarasota	306,502	$1,226,008	$18,579	1.52%	*	$613,004
Seminole	332,158	$1,328,632	$15,119	1.14%	*	$664,316
Sumter	37,761	$151,044	$54,901	36.35%	*	$75,522
Suwannee	31,094	$124,376	$22,834	18.36%	*	$62,188
Taylor	18,516	$74,064	$0	0.00%	*	$37,032
Union	12,795	$51,180	$7,519	14.69%	*	$25,590
Volusia	410,705	$1,642,820	$17,681	1.08%	*	$821,410
Wakulla	17,568	$70,272	$0	0.00%	*	$35,136
Walton	34,163	$136,652	$0	0.00%	*	$68,326
Washington	19,396	$77,584	$0	0.00%	*	$38,792
State Total	**14,395,851**	**$57,583,404**	**$2,074,275**	**Average = 13.25%**	**7 Counties exceed 50%**	**$28,469,620**

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill may require counties and municipalities to spend funds or to take an action requiring the expenditure of funds related to the provision of employee health benefits. This expenditure would apply to all persons similarly situated.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues. However, the bill may reduce the revenues collected under HCRA for certain government-owned hospitals if counties choose to allocate a portion of their HCRA funds to in-county hospitals.

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:

In conducting their analysis of the HCRA portion of this bill, AHCA staff contacted several counties and hospitals, including Orange and Pinellas counties and HCRA participating hospitals in Leon and Hillsborough counties. According to AHCA, comments regarding the legislation were favorable, suggesting that perhaps the bill would result in increased funding for in-county indigent hospital care.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 2, 1998, the Health Care Services Committee passed the following amendments:

- Removed reference in Section 2 to a nonexistent definition in the Medicaid statutes.
- Inserted the word “any” on page 2, line 24, to ensure that local contributions used to seek Medicaid matching funds are not limited to existing local contributions.

The HCRA section of this bill was discussed before the Health Care Services Committee on January 5, 1998 in the form of PCB HCS 98-04, and an amendment was added to increase the time a hospital has to notify the county of residence of a HCRA patient that the hospital provided health care to the patient, from the current time period of 10 days to 30 days. On February 16, 1998, the Health Care Services Committee adopted an amendment to incorporate PCB HCS 98-04 into PCB HCS 98-02.

On February 16, 1998, the Health Care Services Committee also adopted amendments to require distribution of attorney’s fees for recovery of third party benefits, to address issues relating to public health concerns and the Department of Health, and to establish that any person who obtains and disseminates information identifying an individual who has a sexually transmissible disease is guilty of a third degree felony.

On March 3, 1998 the Health Care Services Committee adopted an amendment directing AHCA to issue a request for proposal to implement a pilot managed care program to determine the cost-effectiveness and effects of providing outpatients speciality services to Medicaid recipients on a prepaid, capitated basis. The amendments also created a new

licensure category, separately or in combination, under Chapter 636, F.S. for diagnostic imaging, clinical laboratory, and home health services. The Committee adopted another amendment to eliminate language that prohibits federally qualified health centers from participating in Medicaid provider services networks.

On March 9, 1998, the Health Care Services Committee adopted an amendment relating to coverage for contraceptives. The amendment creates the Equity in Contraceptive Coverage Act of 1998, which requires certain health insurance policies and health maintenance contracts to provide coverage for prescription oral contraceptives approved by the federal Food and Drug Administration and prescribed by an authorized practitioner. This section does not require an insurer to provide coverage for prescription oral contraceptives if the insurer or policy holder objects on religious or moral grounds, nor does this section apply to any prescription medications which are abortifacient in nature.

On March 11, 1998, the Health Care Services Committee reconsidered and then withdrew Amendment 7 dealing with a proposal to implement a Medicaid outpatient speciality services demonstration project, which was adopted on March 3, 1998. In place of the amendment, the Committee adopted an amendment similar to Amendment 7 except that it requires the entities to be licensed under part II of chapter 641, F.S.

On March 11, 1998, the Health Care Services Committee also adopted an amendment to transfer the Nursing Student Loan Forgiveness Program and the Nursing scholarship program from the Department of Health to the Department of Education.

On March 18, 1998, the Health Care Services Committee voted in favor of PCB-02. Two additional amendments were adopted to clarify language relating to penalties for disseminating confidential information.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:	Legislative Research Director:
Amy K. Guinan	Michael P. Hansen