

STORAGE NAME: h2037a.hcs

DATE: April 5, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
ANALYSIS**

BILL #: HB 2037

RELATING TO: Agency for Health Care Administration

SPONSOR(S): Representative Farkas

TIED BILL(S):

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

- (1) HEALTH CARE SERVICES YEAS 16 NAYS 0
 - (2) GOVERNMENTAL OPERATIONS
 - (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 2037 relates to the Agency for Health Care Administration. The bill:

- Creates the Department of Agency for Health Care Administration, to be known as the Agency for Health Care Administration; provides for Governor appointment of a Secretary of the new department, and for Senate confirmation of any Secretary appointed after October 1, 1999; provides for flexibility in the organization and structure of the new department by eliminating current statutory references to divisions within AHCA; and specifies that the Secretary shall administer the affairs of the new department and may allocate human and technological resources as necessary to discharge the powers and duties of the department.
- Transfers, via a Type One transfer as specified in s. 20.06(1), F.S., all AHCA resources from the Department of Business and Professional Regulation to the new department;
- Gives the Agency for Health Care Administration the exclusive jurisdiction over workers' compensation managed care arrangements and to investigate the quality of medical services provided by a workers' compensation managed care arrangement;
- Transfers, via a Type Two transfer as specified in s. 20.06(2), F.S., 20 positions, \$686,835 in salaries and benefits, and \$135,138 in expense funds for 9 months of fiscal year 2000-2001, associated with worker's compensation managed care arrangements from the Workers' Compensation Administrative Trust Fund of the Department of Labor and Employment Security to the Agency for Health Care Administration.

The bill's effective date is October 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

Agency for Health Care Administration

The Agency for Health Care Administration was created in 1992 within the Department of Business and Professional Regulation, as an independent agency reporting directly to the Governor. Section 20.42, F.S., provides for the creation and organizational structure of the agency. The agency is headed by a director appointed by the Governor.

As specified in subsection (2) of s. 20.42, F.S., the agency consists of: the Division of Health Quality Assurance, the Division of Health Policy and Cost Control, the Division of State Health Purchasing, and the Division of Administrative Services. Responsibilities for each of these divisions are specified, and subsequent subsections specify the appointment of division directors for each of these divisions.

As of a January 10, 2000, internal reorganization, AHCA has three divisions: the Division of Medicaid, which is responsible for the agency's activities related to Medicaid and Kidcare; the Division of Managed Care & Health Quality, which is responsible for the agency's activities related to Managed Care, Facility Licensure and Regulation, Certificate of Need, Plans & Construction, and Practitioner Regulation, Consumer Services, and Investigation; and the Division of Administrative Services, which is responsible for the agency's activities related to Budget, Finance, & Accounting, Human Resources, and Support Services. In addition to these divisions, the following activities report directly to the Executive Director: Inspector General, including Medicaid Program Integrity; General Counsel, including Practitioner Regulation Legal; External Affairs, including Legislative Affairs and Media Relations; Information Technology, including State Center for Health Statistics and Management Information Services; Health Policy; and the Chief Medical Officer.

As of February 29, 2000, AHCA's budget for the current fiscal year was \$7,832,540,059; the Medicaid budget entity is \$7,537,834,690 of that. [NOTE: This does not include Kidcare appropriations which are currently in the Health Care Administration and Regulation budget entity.] The agency has 1,991 FTEs, of which 897 are funded in the Medicaid budget entity.

Under the Division of Managed Care and Health Quality is the Managed Care Bureau. This bureau is responsible for Medicaid prepaid services contracts, health maintenance organization quality assurance under part III of ch. 641, F.S., and quality of care under the workers' compensation managed care arrangement program via s. 440.134, F.S.

Workers' Compensation

As a result of a major restructuring of the workers' compensation program in 1993, workers' compensation came under managed care. As part of this revision, a systematic, self-regulating process was put in place under which employers could be assured of the management of the cost and quality of medical services provided to injured workers. This was accomplished by replacing the then existing non-managed care medical delivery process with physician driven managed care processes and control to ensure that medical decisions are made by appropriately-licensed health care professionals. This is in contrast to the non-managed care medical process under which insurance adjusters made decisions about the necessity of medical care received by injured employees.

Chapter 440, F.S., is the "Workers' Compensation Law." Section 440.134, F.S., empowers an insurer authorized by the Agency for Health Care Administration to offer or utilize a managed care arrangement for service delivery under the workers' compensation program. Under this authority, AHCA currently regulates the quality of medical care for all injured workers in Florida who are under workers' compensation. According to AHCA, as of January 1, 1997, all Florida employers with four or more employees are required to provide medical services to injured workers solely through an AHCA-authorized workers' compensation managed care arrangement. There are currently 552 authorized workers' compensation managed care arrangements serving over 5 million Florida employees.

Department of Labor and Employment Security

The Department of Labor and Employment Security is in a period of transition. Chapter 99-240, L.O.F., brought a substantial reorganization of the department, including the divestiture of several aspects of the department's functions, and the decentralization of several remaining functions. Pending legislation in the 2000 Legislative session would further reshape, refocus, downsize, and privatize various department duties.

Method of Reorganization of State Government

Section 20.06, F.S., provides the means for an orderly reorganization of state government. The specific types of transfers are as follows:

Subsection (1) provides for a Type I transfer, wherein an agency or department becomes another agency or department. This can be thought of as an "intact" transfer.

Subsection (2) provides for a Type II transfer, wherein an existing agency, department or program, function, or activity thereof is removed from an existing "location" and merged into another "location."

C. EFFECT OF PROPOSED CHANGES:

HB 2037 grants department status to the Agency for Health Care Administration, to be known as the Agency for Health Care Administration, and in so doing, provides for Senate confirmation of the agency Secretary, and provides organizational and administrative flexibility as to the organization of the department. The bill provides for the transfer of all

existing AHCA resources from the Department of Business and Professional Regulation to the new department.

The bill also transfers responsibility for workers' compensation managed care arrangements, and related staff and budget, from the Department of Labor and Employment Security to the new department.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 20.42, F.S., relating to the creation and organizational structure of the Agency for Health Care Administration, to create the Department of Agency for Health Care Administration, to be known as the Agency for Health Care Administration; provides for Governor appointment of a Secretary of the new department, and for Senate confirmation of any Secretary appointed after October 1, 1999; provides for flexibility in the organization and structure of the new department by eliminating current statutory references to divisions within AHCA; and specifies that the Secretary shall administer the affairs of the new department and may allocate human and technological resources as necessary to discharge the powers and duties of the department.

Section 2. Provides for the transfer, via a Type One transfer as specified in s. 20.06(1), F.S., of all AHCA powers, duties and functions, rules, records, personnel, property, and unexpended balances of appropriations, allocations, and other funds from the Department of Business and Professional Regulation to the new department.

Section 3. Amends subsection (18) of s. 440.134, F.S., relating to workers' compensation managed care arrangements, to give the Agency for Health Care Administration the exclusive jurisdiction over workers' compensation managed care arrangements and exclusive authority to investigate the quality of medical services provided by a workers' compensation managed care arrangement.

Section 4. Effective October 1, 2000, provides for the transfer, via a Type Two transfer as specified in s. 20.06(2), F.S., of 20 full-time-equivalent positions and \$686,835 in salaries and benefits, and \$135,138 in expense funds associated with worker's compensation managed care arrangements from the Workers' Compensation Administrative Trust Fund of the Department of Labor and Employment Security to the Agency for Health Care Administration.

Section 5. Provides for an effective date of October 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the Agency for Health Care Administration, the bill will clarify for the private sector the jurisdiction over workers' compensation managed care arrangements.

To the extent that this clarity results in enhanced regulatory compliance of workers' compensation managed care arrangements: workers who need workers' compensation managed care services can be assured of improved service quality, while principals of workers' compensation managed care arrangements may face increased scrutiny.

D. FISCAL COMMENTS:

The Agency for Health Care Administration indicates the redesignation of the agency as a department will be revenue neutral.

As specified in the bill, the 20 FTE positions subject to transfer of the responsibility for workers' compensation managed care arrangements from the Department of Labor and Employment Security have the following resources associated with them, on a 9-month basis: \$686,835 in salaries and benefits, and \$135,138 in expense funds.

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 action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities 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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

1. On page 2, lines 19-20, the bill stipulates that Senate confirmation apply to any Secretary of AHCA appointed on or after October 1, 1999. The purpose and intent of this language is unclear. In that the current AHCA Director would likely be appointed as the Secretary of the new department, and that appointment will obviously occur after October 1, 1999, this sentence may be meaningless.
2. On page 2, line 30, the bill indicates that the new department is responsible for managed care. Parts I and III of ch. 641, F.S., very clearly divide responsibility for regulation of health maintenance organizations between the Department of Insurance, the responsibilities of which focus of financial issues, and the Agency for Health Care Administration, the responsibilities of which focus on quality of care. This vague reference to "managed care" should be clarified.
3. In deleting the existing specific divisions of AHCA and their related functions, the AHCA Secretary has unbridled authority to "allocate (AHCA's) human resources and technology resources as necessary." (See page 2, line 21 through page 4, line 11.) This may be an over-broad delegation. In fact, s. 20.04, F.S., relating to the structure of the executive branch, specifies that except as otherwise provided, the internal structure of departments shall consist of the following hierarchical structure: division, headed by a director; bureau, headed by a chief; and section, headed by an administrator. The sections of ch. 20, F.S., specific to most executive agencies contain an indication as to agency organization and structure.
4. Page 5, line 13, specifies that the transfer of resources associated with the workers' compensation managed care arrangements program take place October 1, 2000. Since this is identical to the bill's effective date as provided in section 5, this date specification seems redundant.
5. This same transfer language stipulates the transfer of money from an existing Department of Labor and Employment Security Trust Fund to the Agency for Health Care Administration (page 5, lines 18-19). If the funds are to be transferred to the Health Quality Assurance Trust Fund within AHCA, the bill should so state.
6. The bill may be deficient as to the statutory revisions which should accompany the creation of the new department. For example, throughout the statutes there are references to various responsibilities of the director of the Agency for Health Care Administration. For example, s. 381.90, F.S., relating to the Health Information Systems Council and s. 430.710, F.S., relating to the Long-Term Care Interagency Advisory

Council, each make reference to the *director* of AHCA. The bill makes no attempt to address these inconsistencies.

7. It is not readily apparent why the bill, on page 4, lines 20-27, places the AHCA exclusivity provision relating to workers' compensation managed care arrangements in subsection (18) of s. 440.134, F.S. Subsection (2) of that section might be a more appropriate location for this provision.
8. The sentence being added to s. 440.134(18), F.S., (page 4, lines 24-27) is not clearly worded as to the exclusive jurisdiction of the agency relative to worker's compensation managed care arrangements. The latter portion of the sentence may be redundant.
9. In its analysis of this bill, the Department of Labor and Employment Security indicated that without revisions to s. 440.13, F.S., to remove certain statutory responsibilities from the Division of Workers' Compensation and to place them with the Agency for Health Care Administration, the division will be left with statutory responsibilities and no staff to implement them. The agency, on the other hand, would have the staff, but not the statutory authority to perform those duties. Therefore, the department recommended that s. 440.13, F.S., be revised to eliminate these redundancies.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

When the Committee on Health Care Services heard the bill on April 5, 2000, the committee adopted a "strike-everything" amendment, as well as a substantive amendment and technical amendment to the main amendment. The effect of these amendments was to address the above-mentioned concerns regarding the bill. The amendment, as amended, incorporated the following revisions:

- Clarified the designation of the name of the department as the "Agency for Health Care Administration."
- Deleted as unnecessary date of appointment relative to Senate conformation.
- Specified the purpose for the new department, and its substantive areas of responsibility; deleted reference to the Secretary's general authority to transfer positions and resources internally.
- Clarified the wording of the language that is added to s. 440.134, F.S., relating to the Agency for Health Care Administration's duties specific to workers' compensation managed care arrangements and quality of medical care rendered under such arrangements. Changed the placement of this added language from subsection (18) to subsection (2).
- Amended various sections of the statutes to reflect the new designation of the AHCA Director as a Secretary. (NOTE: This is sections 3-24 of the amendment.)
- Provided for the repeal of the Florida Health Care Purchasing Cooperative (s. 408.001, F.S.), effective December 31, 2000, or upon dissolution of the cooperative, whichever occurs first.
- Deleted an unnecessary date reference regarding the transfer of positions and related budget for the workers' compensation managed care arrangements from the Department of

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Labor and Employment Security to the Agency for Health Care Administration, and deleted reference to a specific trust fund within Labor.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Staff Director:

Phil E. Williams

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