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HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE
COUNCIL FOR HEALTHY COMMUNITIES
ANALYSIS

BILL #: HB 1885 (PCB HP 01-01)

RELATING TO: Health Care

SPONSOR(S): Committee on Health Promotion and Representative Littlefield

TIED BILL(S):

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

(1) HEALTH PROMOTION YEAS 11 NAYS 0
(2) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 9 NAYS 0
(3) COUNCIL FOR HEALTHY COMMUNITIES YEAS 14 NAYS 0
(4)
(5)

I. SUMMARY:

HB 1885 relates to health care/Medicaid issues. The bill:

- Transfers the Community Hospital Education Program (CHEP) from the Board of Regents (BOR) to the Department of Health (DOH)--via Type 2 transfer--and incorporates conforming revisions to reflect this transfer. In addition, the provisions relating to the program are amended to:
  - Authorize departmental expenditures for purposes of administering the program;
  - Permit medical schools providing graduate medical education in community-based clinical settings to apply for Graduate Medical Education Innovation grants;
  - Specify the members on the Graduate Medical Education Work Group; and
  - Provide rulemaking authority for the Department of Health.

- Provides a process for certification of local matching funds under the Medicaid program, in conformity with the General Appropriations Act and under an agreement between the Agency for Health Care Administration (AHCA) and the local government entity, using a certification form to be developed by the agency. Provides for an annual statement of impact from the agency as to the use of such local funds.

- Amends the definition of “charity care” for purposes of the Medicaid regular disproportionate share program, to indicate that compensation other than restricted and unrestricted revenues provided to a hospital by local governments or tax districts, regardless of the method of payment, be excluded from charity care.

- Modifies one of the ten criteria that must be met under the Medicaid primary care disproportionate share program, to clarify that Medicaid and local program participants are excluded from the population for which the hospital must provide primary care free-of-charge or on a sliding scale basis.

There is no fiscal impact associated with this bill, which has an effective date of July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1.	Less Government	Yes []	No []	N/A [x]
2.	Lower Taxes	Yes []	No []	N/A [x]
3.	Individual Freedom	Yes []	No []	N/A [x]
4.	Personal Responsibility	Yes []	No []	N/A [x]
5.	Family Empowerment	Yes []	No []	N/A [x]

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Medicaid

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The program is jointly funded by the federal government, the state, and the counties. The federal government, through law and regulations, has established extensive requirements for the Medicaid Program. The AHCA is the single state agency responsible for administering the Florida Medicaid program. The statutory provisions for the Medicaid program appear in ss. 409.901 through 409.9205, F.S. The state budget for the program for the current fiscal year $8.3 billion, and the program anticipates serving 1.8 million clients this year.

Reimbursement for Hospital Inpatient Services

Section 409.908, F.S., provides the criteria under which Medicaid providers are reimbursed for services rendered to Medicaid eligible clients. Subsection (1) of this section is specific to the reimbursement of hospitals. Paragraph (a) of subsection (1) is specific to inpatient hospital services. As amended by ch. 200-163, Laws of Florida, this paragraph provides for the transfer of funds from the BOR to the AHCA for the purpose of drawing down federal Medicaid matching funds for graduate medical education funded under the CHEP. These enhanced funds are paid via special exception payments made to teaching hospitals.

Disproportionate Share Program Hospitals

Currently under the Florida Medicaid program, there are eight separate programs specifically designed to provide enhanced Medicaid reimbursement for certain classes of hospitals rendering services to Medicaid recipients and indigent clients. These programs and their respective authorization are as follows:

Statute	Program
s. 409.911	Regular hospitals
s. 409.9112	Regional Perinatal Intensive Care Centers
s. 409.9113	Teaching hospitals
s. 409.9115	Mental health hospitals

s. 409.9116	Rural hospitals
s. 409.9117	Primary care hospitals
s. 409.9118	Specialty (tuberculosis) hospital
s. 409.9119	Specialty hospitals for children

For each type of disproportionate share payment, hospitals must meet stringent criteria in order to qualify for participation. A basis for participation in any of these programs of enhanced payment is meeting the criteria for the provision of threshold amounts of charity care. Each local community has varying methods to address indigent care needs, but local funds used to cover "charity care," whether ad valorem or local option sales taxes and no matter how the local entities choose to pay providers, should be treated uniformly. In some instances, the contract auditor for the AHCA has treated "charity care" as managed care. For example, in Hillsborough County, hospitals are under contract with the county to provide services to persons at or below 100 percent of the federal poverty level who qualify under the Hillsborough County Health Care Plan, which is funded by a local option sales tax. Because there is a contract to provide care to these "charity care" patients, the auditors have classified those patients as managed care as opposed to charity care patients. Likewise in Dade County, services for qualifying charity patients are paid for under a local option sales tax; however, since there is no contract between the county and hospital, these patients have not been deemed "charity care" by the auditors.

In order to participate in the Primary Care Disproportionate Share Program, a hospital must meet all of the criteria set out in statute. One of those criteria is to provide primary care services free of charge to all persons under 100 percent of the federal poverty level and on a sliding scale for persons between 100-150 percent of the federal poverty level in a designated area. At the present time, there is no explicit exclusion for persons covered by Medicaid or a local health plan, which if interpreted literally could mean that a hospital would have to forgo its participation in the Medicaid program or local health plan in order to qualify for the Primary Care Disproportionate Share Program.

Community Hospital Education Program

The 1971 Legislature created s. 381.0403, F.S., the CHEP. This program is the only source of direct state funding for primary care graduate medical education in Florida. The objective of the CHEP is to increase the number of primary care physicians practicing in Florida by assisting Florida hospitals to defray the high costs of these teaching programs. Annual appropriations are distributed to Florida internship and residency programs based on policies enacted by an 11-member Community Hospital Education Program Council (CHEC), appointed by the Governor. The statute requires highest priority for family practice residencies. The CHEC has historically limited eligibility for funding to "primary care" specialties, defined as general internal medicine, general pediatrics, obstetrics/gynecology, emergency medicine, psychiatry, and combined internal medicine/pediatrics, as well as family practice.

Proviso language accompanying Specific Appropriation #191 of the fiscal year 1999-2000 General Appropriations Act established a committee to study graduate medical education in Florida. The committee membership included the four medical school deans, hospital administrators, and the president of the Florida Medical Association. The committee provided a report on December 1, 1999, recommending that the state seek federal matching funds for CHEP funding and establish a new fund for programs to assist the state to meet medical workforce needs. Via ch. 2000-163, Laws of Florida, s. 381.0403, F.S., was amended to incorporate this Committee on Graduate Medical Education into statute, with a membership reflective of the membership provided in the previous proviso.

The fiscal year 1999-2000 CHEP appropriation of $8.5 million was used to support approximately 1,543 interns and residents in 58 programs sponsored by 28 teaching hospitals. Family practice residents are being supported at $11,500 per capita, while all other CHEP-supported specialties are receiving $2,650 per capita.

Annual appropriations to CHEP have traditionally been made in the BOR' General Office Budget, because the board has statutory responsibility to provide administrative support to the Community Hospital Education Council. CHEP funding was traditionally not eligible to match federal programs such as Medicaid because CHEP is administered by the BOR rather than the AHCA. As previously noted, ch. 2000-163, Laws of Florida, specifically authorized the BOR to transfer funds to the AHCA for purposes of seeking federal Medicaid matching funds. This new language specified that during years when funds are transferred from the BOR, any reimbursement supported by such funds shall be subject to certification by the BOR that the hospital has complied with s. 381.0403, F.S., the Community Hospital Education Act. The new language also authorized the AHCA to receive funds from state entities, including but not limited to the BOR, local governments, and other political subdivisions, for the purpose of making special exception payments, including federal matching funds, through the hospital inpatient reimbursement methodologies.

Prior to the 2000 session, the state did not have authorization for a program to provide incentive funding to hospitals or medical schools to promote state health manpower objectives such as more physicians in under-served areas, more geriatricians, and more ethnic diversity among physicians. Such a program was recommended by the 1999 report from the Committee on Graduate Medical Education. Chapter 2000-163, Laws of Florida, codified such an innovations program as part of s. 381.0403, F.S.

Methods of Reorganizing Government

Chapter 20, F.S., relates to state agency organizational structure. Section 20.06, F.S., is specific to methods of reorganization of government units. There are two types of transfers of governmental entities:

- Type 1, wherein the transferred agency or department becomes a unit of another agency or department.
- Type 2, wherein a portion of an agency or department is merged into another existing agency or department.

In either type of transfer, all powers duties, and functions and all budget and trust fund resources are subject to transfer, as are any existing rules.

C. EFFECT OF PROPOSED CHANGES:

HB 1885 provides for the transfer of the CHEP from the BOR to the DOH, and makes conforming and substantive revisions to provisions relating to the program.

The bill also provides for needed revisions to relating to the Medicaid regular and primary care disproportionate share programs, and to certification of local funds as part of Medicaid revenue.

See the SECTION-BY-SECTION ANALYSIS that follows for additional details.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 381.0403, F.S., relating to the Community Hospital Education Act. Specifically:

Subsection (3) is amended to indicate that the DOH, not the BOR, is administratively responsible for the program for statewide graduate medical education. As such, the department is authorized to spend up to $75,000 annually for its associated administrative duties. [NOTE: Authority for this level of administrative expenditures is contained in subsection (9) currently.]

Subsection (4), relating to the Program for Graduate Medical Education Innovations, is amended to permit medical schools providing graduate medical education in community-based clinical settings to apply for Graduate Medical Education Innovation grants.

Subsections (5), (6), and (7) are amended to incorporate conforming revisions.

Subsection (9), relating to an annual report on graduate medical education and the committee to assist with the report, is amended to specify the 11 members of the committee as follows:

- The 5 deans of the medical schools;
- Two Governor appointees, one of whom shall represent the Florida Medical Association and one of whom shall represent the Florida Hospital Association;
- Two appointees of the Secretary of Health Care Administration, one of whom shall be a representative of a statutory teaching hospital and one of whom shall be a physician; and
- Two appointees of the Secretary of Health, one of whom shall be a representative of a family practice teaching hospital and one of whom shall be a physician.

Supervisory experience of interns or residents is a requirement of appointment for several appointed members.

Staggered terms of appointment are specified, as are the filling of vacancies, membership duration, and chair selection. Existing language relating to appointment of committee members reflective of an earlier committee created by appropriations proviso in fiscal year 1999-2000 is deleted, as is authorization for expenditure of funds for administrative purposes.

Subsection (10) is created to provide rulemaking authority for the DOH.

Section 2. Amends s. 409.908(1), F.S., relating to reimbursement of hospitals under the Florida Medicaid program, to incorporate revisions relating to the transfer of the CHEP from the BOR to the DOH, and to provide for the certification of local matching funds under the Medicaid program as state match under Title XIX (federal Medicaid authorization) to the extent that the local health care provider is entitled to and contracted to receive such local funds as the benefactor under the General Appropriations Act, and pursuant to an agreement between the AHCA and the local government entity. The local governmental entity is to use a certification form prescribed by the AHCA. Form content is specified. The AHCA is directed to prepare a statement of impact that documents the specific activities undertaken using such funds, to be submitted to the Legislature annually by January 1.

Paragraph (b) of subsection (1) is amended to include reference to the DOH as an entity from which the agency may receive funds for hospital reimbursement.

Section 3. Amends s. 409.911(1)(e), F.S., relating to the definition of “charity care” for purposes of the Regular Disproportionate Share Program, to indicate that compensation other than restricted and unrestricted revenues provided to a hospital by local governments or tax districts, regardless of the method of payment, be excluded from “charity care.”

Section 4. Amends s. 409.9117(2)(c), F.S., relating to one of the 10 criteria that must be met by a hospital participating in the Rural Hospital Disproportionate Share Program, to clarify that Medicaid

and local program participants are excluded from the population for which the hospital must provide primary care free-of-charge or on a sliding scale basis.

Section 5. Provides for the transfer of the CHEP from the BOR to the DOH via a Type 2 transfer, as defined in s. 20.06, F.S.

Section 6. Provides for a July 1, 2001, effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

Transfer funding under the Community Hospital Education Act from the BOR to the DOH (via a Type 2 transfer):

General Revenue Fund	**FY 2001-02**
Community Hospital Education Program	$8,500,000
Graduate Medical Education	$6,000,000

Administrative expenses (up to $75,000 from funds transferred)
- Staff Support
- Program oversight
- Council and committee travel
- Annual reports
- Rulemaking activities

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

The DOH indicates the language in the proposed bill as amended appears to limit the use of the $75,000 in the administrative set aside to costs associated with production of the annual report of the Graduate Medical Education Committee and the administration of the Community Hospital

Education Council, rather than to administer all of the programs and entities in Section 381.0403, F.S

The AHCA provided the following information regarding the fiscal impact of this bill.

Sections 1 and 2: No significant impact on the AHCA.

Section 3: The change in the "charity care" definition permits hospitals that receive "restricted and unrestricted" revenues from local governments or tax districts to be included in the "charity care" classification. DSH and special Medicaid payments are capped by the funds appropriated for the payments. DSH and special Medicaid payments to individual hospitals could increase or decrease based on the recalculation of charity care days and how the new calculation reallocates the distributions of DSH and special Medicaid payments to individual hospitals.

Section 4: There is no significant fiscal impact to the Agency because of the change in the criteria for a hospital to qualify for the primary care disproportionate share program. The payments for the primary care disproportionate share program are capped by the appropriation. Individual hospitals currently qualifying for primary care DSH reimbursements would be impacted if they can not agree to the modified qualification requirement.

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:

This 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:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

When the PCB was approved by the Committee on Health Promotion on March 29, 2001, a series of five amendments were adopted that have been incorporated into the text of the bill. These amendments: clarified the status of members of the Graduate Medical Education Working Group; authorized (rather than required) the AHCA to certify local funds as state match under Medicaid, and provided for a specific agreement between the agency and the local government entity with regard to such local funds; and, with regard to disproportionate share, amended the definition of charity care (rather than charity care days) to clarify local transfers of funds to hospitals.

The Committee on Health and Human Services Appropriations met on April 17, 2001, and adopted the following amendments which are traveling with the bill:

Amendment #1 – Incorporates the provisions of House Bill 751. Amends s. 154.306, F.S., which establishes a county's financial responsibility for indigent patients treated at certain out-of-county hospitals under the Florida Health Care Responsibility Act. Population figures used to compute the maximum amount the county is required to pay are reduced to exclude the number of inmates and patients residing in institutions operated by the federal government, the Department of Corrections, the Department of Health, or the Department of Children and Family Services, and the number of active-duty military personnel residing in the county. However, this alternate calculation is only available to counties with a population of 100,000 or less, and only if those counties agree to accept as valid, without reverification, documents certifying financial eligibility and county residency, which are used to request reimbursement for services. This amendment

Amendment #2 – Clarifies language regarding the use of the $75,000 administrative set aside to include all programs under the Community Hospital Education Act.

Amendment #3 – Changes the threshold for "charity care" or "uncompensated charity care" from 150 percent of the federal poverty level to 200 percent of the federal poverty level.

VII. SIGNATURES:

COMMITTEE ON HEALTH PROMOTION:

Prepared by:	Staff Director:
Phil E. Williams	Phil E. Williams

AS REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES APPROPRIATIONS:

Prepared by:	Staff Director:
Tom Weaver	Cynthia Kelly

AS FURTHER REVISED BY THE COUNCIL FOR HEALTHY COMMUNITIES:

Prepared by:	Council Director:
Phil E. Williams	Mary Pat Moore