

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1908

SPONSOR: Senator Wasserman Schultz

SUBJECT: Nursing Home Facilities

DATE: February 22, 2002 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Liem	Wilson	HC	Favorable
2.	_____	_____	AHS	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

The bill requires the Agency for Health Care Administration to require designation of a portion of a nursing home facility's Medicaid per diem for increases in the wages or benefits, or both, of eligible staff members; specifies that the "wage pass-through" must be sufficient to provide for an increase in the amount of \$1 per hour in wages or benefits, or both; specifies "eligible staff" for purposes of the wage pass-through; provides criteria for reimbursement; and requires the agency to develop systems for the application and monitoring of the wage pass-through.

This bill creates an undesignated section of law.

## II. Present Situation:

### Medicaid

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The federal government, the state, and the counties jointly fund the program. The federal government, through law and regulations, has established extensive requirements for the Medicaid Program. The Agency for Health Care Administration (AHCA) is the single state agency responsible for the Florida Medicaid Program. The Department of Children and Family Services is responsible for determining Medicaid eligibility and managing Medicaid eligibility policy, with approval of any changes by AHCA.

The statutory provisions for the Medicaid Program appear in ss. 409.901 through 409.9205, F.S. Section 409.903, F.S., specifies categories of individuals who are required by federal law to be covered, if determined eligible, by the Medicaid Program (mandatory coverage groups). Section 409.904, F.S., specifies categories of individuals who the federal government gives state Medicaid programs the choice of covering (optional coverage groups). Sections 409.905 and

409.906, F.S., specify the medical and other services the state may provide under the state Medicaid plan. Nursing facility services are reimbursable under the Medicaid Program.

There are 650 nursing homes participating in the Florida Medicaid Program. These facilities provide nearly 80,000 beds and more than 25 million bed-days. Medicaid reimburses for the costs associated with 65 percent of those days.

### **Study of Certified Nursing Assistant Employment Issues**

The 1999 Legislature directed the Department of Elderly Affairs (DOEA) to study recruitment, training, employment and retention issues related to certified nursing assistants (CNA) in Florida. In January 2000, the Secretary of DOEA submitted the report. The report found that almost all regions of the state are experiencing a shortage of trained CNAs, despite the fact that the available data suggested that the number of persons being trained and certified appeared to be adequate. The report concluded that the low unemployment rate and ample job openings contributed to CNA turnover, and that a shortage of CNAs threatens the ability of nursing homes to deliver quality care, and thus threatens the safety and well-being of some of our state's frailest citizens. Because CNAs are critical to the delivery of care in a number of other health-related services (e.g., hospitals and home health care settings), attracting more CNAs to work in nursing homes could translate into less CNAs being available to work in other settings. It is therefore necessary that solutions developed be designed so as not to cause additional or undue staffing problems in these other areas.

### **Nursing Home Reimbursement**

Nursing home care is paid by Medicare (up to 100 days following a qualifying hospitalization), Medicaid, private insurance, the Veteran's Administration, and by individuals and their families. The Medicaid agency is required to develop and file with the Centers for Medicare and Medicaid Services (CMS, formerly known as HCFA) a "state plan" that describes how reimbursement will be made to participating nursing facilities. Reimbursement is calculated using a single rate that reflects costs in four major domains: operating expenses, patient care, property, and return on equity. Rates reflect prior costs, with an adjustment for inflation, and intentionally meet the full costs experienced by a proportion of the state's nursing homes. Operating efficiently enough to be among those organizations with reimbursement rates that meet costs is the major incentive to make management, staffing or other changes that control or reduce costs. The program intends to meet the documented costs of some, but not all of the state's nursing homes.

### **Case Mix Reimbursement**

The 1998-99 General Appropriations Act provided funding for the phase-in of a case-mix reimbursement methodology. The case-mix adjustment was to be based on a resident classification system using patient acuity levels to calculate an average case-mix score, which was to be used as an add-on to the facility per diem. For the rate period beginning on April 1, 1999, through June 30, 1999, and for rate periods beginning on or after July 1, 1999, a case-mix adjustment was calculated and paid as an add-on to the patient care component of the per diem rate. The case-mix adjustments for the July 1, 2000, rate semester ranged from \$0.72 to \$4.75 per Medicaid patient day and the average was \$2.42.

### **Direct Care Staffing Adjustment**

A direct care staffing adjustment was implemented April 1, 2000, as an adjustment to each nursing home's patient care component. The adjustment was intended to assist nursing homes to recruit and retain direct care staff (RNs, LPNs, and CNAs) based on research that suggested a correlation between quality of care and low staff turnover, and adequate staffing ratios. The annualized budget was \$31.7 million dollars. The legislation directed that nursing homes with the poorer staffing ratio would receive a higher adjustment or "add-on" than those homes that had a higher staffing ratio. According to AHCA, as of April 1, 2000, the increase ranged from fifty cents to \$2.81 per Medicaid patient day. The average was \$1.96.

### **Direct and indirect Patient Care Reimbursement**

In CS/CS/CS for Senate Bill 1202, the 2001 Legislature required the agency to amend the long-term care reimbursement plan to create direct care and indirect care subcomponents of the patient care component of the nursing home per diem rate. The direct care subcomponent is to include salaries and benefits of direct care staff, including nurses and CNAs who deliver care to residents. The agency was directed to adjust the patient care component effective January 1, 2002, using funds previously allocated for the case mix add-on. The agency is to report average direct and indirect care costs per resident and per category of staff member to the Legislature by July 1 of each year.

### **III. Effect of Proposed Changes:**

The bill requires the Agency for Health Care Administration to require that \$1.00 per hour of staff time of a nursing home facility's Medicaid per diem be earmarked for increases in wages, benefits, or both for the facility's staff. This portion of the per diem, the "wage pass-through," must be used for wage and/or benefit improvements for eligible staff, which are defined as all employees except the administrator and director of nursing. Agency, temporary, pool, and home office staff not directly employed and assigned to the facility are also excluded. The bill will affect Medicaid nursing facility cost reporting and reimbursement. One-time bonuses are not reimbursable. The pass-through may be used for new or improved benefits but may not be used to defray the increased costs of existing benefits such as increases in premiums for health insurance. The agency is to develop systems for the application and monitoring of the wage pass-through.

The effective date of the bill is July 1, 2002.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

Since counties are required to pay 35 percent of the total cost for nursing home care up to a maximum of \$55 per month, the provisions of this bill may increase costs to counties for nursing home residents.

Article VII, s. 18, Florida Constitution, requires that no county or municipality shall be bound by any general law requiring such local government to spend funds or to take

action requiring the expenditure of funds unless the legislature has formally determined in the bill that such law fulfills an important state interest and the bill must pass by at least a 2/3 vote of the membership of each house of the Legislature.

The bill does not contain the required finding of an important state interest.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Medicaid only reimburses for Medicaid-allowable costs. Increased salary and benefit costs would be applied to an individual staff person, who in all likelihood will be providing care to residents whose care is reimbursed by a variety of payers. Medicaid would, however, only reimburse that portion of the costs which were attributable to Medicaid-funded residents. Increases in salaries and benefits produced by Medicaid requirements would also affect prices which would be paid by other payers, including individuals and their families. Higher wages and benefits would assist in attracting and/or retaining high quality employees.

**C. Government Sector Impact:**

Although the bill requires that a portion of a facility's per diem be earmarked for increases in wages or benefits (implying a redirection of the existing per diem a facility receives), the requirement for a wage pass-through sufficient to provide a \$1 per hour increase may result in additional state expenditures for nursing home care. The Agency for Health Care Administration estimates that the bill would increase Medicaid nursing home costs by \$51,872,057. General Revenue in the amount of \$21,459,470 would be required to support this increase.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---