

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1529 w/CS      Nursing Facilities  
**SPONSOR(S):** Robaina  
**TIED BILLS:**                      **IDEN./SIM. BILLS:** SB 2096

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| REFERENCE                               | ACTION        | ANALYST | STAFF DIRECTOR |
|---|---------------|---------|----------------|
| 1) Elder Affairs & Long Term Care (Sub) | 9 Y, 0 N      | Meyer   | Liem           |
| 2) Future of Florida's Families         | 8 Y, 6 N w/CS | Meyer   | Liem           |
| 3) Health Care                          |               |         |                |
| 4) Appropriations                       |               |         |                |
| 5)                                      |               |         |                |

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### SUMMARY ANALYSIS

CS HB 1529 directs the Agency for Health Care Administration to require that all nursing homes increase wages or benefits, or a combination thereof, excluding bonuses, by an amount computed by multiplying \$1 by each hour worked by all hourly staff. Funds may not be used to defray the increased costs to facilities of existing benefits, such as premium increases paid by facilities for health insurance. These wage and benefit increases are not subject to the interim rate provisions of the Title XIX Long-Term Care Reimbursement Plan.

The bill takes effect July 1, 2003.

**FISCAL:** If the bill only re-directs existing Medicaid reimbursements and targets and cost ceilings are still in effect, there is no fiscal impact. If the bill requires a pass-through equal to \$1 per hour and targets and cost ceilings are not in effect, the Agency for Health Care Administration suggests that the fiscal impact could be \$92,624,624 (state funding of \$38,050,196 and federal financial participation of \$54,574,428) in fiscal year 2003-2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

**STORAGE NAME:** h1529b.fff.doc  
**DATE:** April 14, 2003

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |                             |   |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Situation

###### *Staff are Important to Quality*

The Legislatively created Task Force on Availability and Affordability of Long-Term Care (Task Force) in 2000 studied a wide variety of issues related to long term care in the state. By way of background, the Task Force noted that national nursing home reform passed in 1987 (known as OBRA 87) focused significant attention on staffing as a key component in assuring quality care.<sup>1</sup>

###### *Shortage of Staff*

In January 2000, the Secretary of DOEA submitted its report on recruitment, training, employment and retention issues related to certified nursing assistants in Florida. The report found that almost all regions of the state are experiencing a shortage of trained CNAs. The report concluded that the low unemployment rate and ample job openings contributed to CNA turnover. To quote the report, “Therefore, the primary cause of the CNA shortage is that CNAs are not remaining CNAs.”

The group “Citizens for Long Term Care”<sup>ii</sup> issued their report: Long Term Care Financing and the Long-Term Care Workforce Crisis: Causes and Solutions in January of 2003. They document the challenges facing long term care providers as they attempt to attract and retain direct care workers. For example they report the wage disparity between three “entry level” jobs. In 2000, the median wage per hour for a personal care worker was \$7.50; for a file clerk it was \$8.99; and, for a receptionist it was \$9.63. The report goes on to argue that unlike a clerk or a receptionist, a personal care worker is expected to take on work that is more physically and emotionally demanding, frequently with few or no benefits in an industry that is not valued by most people.

###### *Nursing Home Reimbursement*

As of July 1, 2000, there were 648 nursing homes participating in the Florida Medicaid program. Nursing home per diem rates are facility specific and are an aggregation of four separate accounting components: operating costs; patient care; property; and return on equity (ROE) for money invested and used in providing patient care (Reimbursement Panel).

###### *Direct Care Staffing Adjustment*

The 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 the report of the Medicaid Reimbursement Panel, as of April 1, 2000, the increase ranged from fifty cents to \$2.81 per Medicaid patient day. The average was \$1.96.

*Other States: Wage Pass-Through Legislation*

In 1998-99 budget cycles, Michigan implemented a wage pass-through provision and continued through 1999-2000. The goal appears to have been to improve staff retention.<sup>iii</sup> The pass-through was available only for an increase in wages or benefits. Bonuses were not allowed.

California, Michigan, Wisconsin, and Massachusetts, have passed "wage pass-through" legislation. Former Wisconsin Governor Tommy Thompson signed a five percent wage pass through for CNAs and cited his concern about the high rate of turnover as one justification.

Effects

The CS will require that AHCA ensure that Medicaid reimbursed facilities provide a wage increase or an improvement in employer-paid benefits or a combination of the two equal to \$1.00 per hour.

C. SECTION DIRECTORY:

Section 1 directs the Medicaid agency to implement a wage or benefit improvement for eligible employees that is equivalent to an increase of \$1 per hour. .

Section 2 provides that bill takes effect upon becoming law.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No new revenues are identified.

2. Expenditures:

No new expenditures are required.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Eligible nursing facility employees would receive a wage increase of \$1.00 per hour, or be given new or improved benefits, or a decrease in the costs borne by employees for benefits.

Nursing home providers would have slightly less flexibility in how they chose to use the Medicaid reimbursement dollars.

D. FISCAL COMMENTS:

If the bill only re-directs existing Medicaid reimbursements and targets and cost ceilings (tools that Medicaid uses to control reimbursable costs) are still in effect, there is no fiscal impact. The bill does not speak to private pay residents.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor may want to consider an amendment that would re-establish the provider targets in the direct care component of the Title XIX Long Term Care Reimbursement Plan. This would ensure that the sponsor's stated goal of not creating an impact on the Medicaid budget now or in future budget cycles would be clear and AHCA staff have said that this would also ease their implementation.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

The CS specifies staff who are not included for purposes of computing the wage or benefits increase; specifies that the increased expenditures are eligible for Medicaid reimbursement, but are not subject to interim rate adjustments; specifies how the agency will evaluate facility compliance; and provides that nursing homes which, as of the effective date of this act, offer to all staff members health insurance benefits that cover employees and dependents with an employer contribution of at least 80 percent of the total premium costs shall be exempt from the provisions of this act.

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End Notes

<sup>i</sup> From the Task Force's Informational Report: By establishing minimum standards for licensure level of "nursing" staff, OBRA87 recognized the relationship among licensure level, numbers of nurses per resident and resident outcomes in long-term care facilities. Page 512, PDF: [http://www.fpeca.usf.edu/Task\\_Force/Publications/Documents/finalreportnew.PDF](http://www.fpeca.usf.edu/Task_Force/Publications/Documents/finalreportnew.PDF)

<sup>ii</sup> Long-Term Care Financing and the Long-Term Care Workforce Crisis: Causes and Solutions, prepared for the Citizens for Long Term Care by the Paraprofessional Healthcare Institute. The Citizens' group included: AARP, Alzheimer's Association, American Association of Homes and Services for the Aging, American Health Care Association; American Network of Community Options and Resources; The Arc of the United States; Greater New York Hospital Association; MetLife Insurance; National Association for Home Care; National Committee to Preserve Social Security; Service Employees International Union.

<sup>iii</sup> Medicaid Reimbursement Panel: Final Report. December 8, 2000. Based on material included in Appendix H.