HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 887 w/CS Aging Resource Center
SPONSOR(S): Murman
TIED BILLS: **IDEN./SIM. BILLS:** SB 2194 (S)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families	12 Y, 2 N w/CS	Liem	Liem
2) Health Appropriations (Sub)	11 Y, 1 N	Massengale	Massengale
3) Appropriations			
4)			
5)			

SUMMARY ANALYSIS

HB 887 with CS authorizes the Department of Elderly Affairs (DOEA) to modify its local system of service delivery to develop a single point of entry for services to the elderly. DOEA is to develop a plan to transition existing area agencies on aging to an aging resource center (ARC) model, evaluate plans submitted by area agencies to become aging resource centers, and develop standards for operation of the centers.

The bill requires the transition of Medicaid services for the elderly, including Medicaid-funded nursing home care, in one or more of DOEA's planning and service areas to a managed care system.

The bill modifies the duties of the Office of Long-Term Care Policy and replaces the Office of Long-Term Care Policy Advisory Council with an interagency coordinating team.

The bill requires integration of the Assisted Living for the Elderly Medicaid Waiver program into the Aging and Disabled Adult Waiver program, and requires integration of the Frail Elder Option and the Nursing Home Diversion pilot project.

In addition, the bill creates additional selection criteria for long-term care community diversion projects that require demonstration of the ability to meet standards comparable with those applied to licensed Health Maintenance Organizations (HMOs).

The bill also requires development of a demonstration system in which existing Community Care for the Elderly lead agencies are assisted in transitioning to the assumption of full risk as a diversion pilot project contractor over a 3-year period.

The bill provides an effective date of upon becoming a law.

According to the Department of Elderly Affairs, the fiscal impact of implementing the provisions of the bill is approximately $1.1 million in general revenue funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[X]	N/A[]
2. Lower taxes?	Yes[]	No[]	N/A[x]
3. Expand individual freedom?	Yes[]	No[]	N/A[x]
4. Increase personal responsibility?	Yes[]	No[]	N/A[x]
5. Empower families?	Yes[]	No[]	N/A[x]

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

1. The bill requires that persons applying for services be screened and referred through Aging Resource Centers prior to receiving services in several state programs. The bill also requires that the state's CARES nursing home preadmission screening teams review a sample of individuals in nursing homes, regardless of the source of payment for nursing home services.

B. EFFECT OF PROPOSED CHANGES:

House Bill 887 with CS authorizes the Department of Elderly Affairs (DOEA) to modify its local system of service delivery to develop a single point of entry for all persons over 60 seeking services through the Community Care for the Elderly program, the Home Care for the Elderly program, the Aging Disabled Medicaid Waiver program, the Long-term Care Community Diversion project, the Assisted Living for the Elderly Waiver, and the Older Americans Act. The new single point of entry is to be called an "aging resource center" (ARC).

Under provisions of the bill, DOEA is to submit an implementation plan to the Legislature by October 31, 2004, describing qualifications for designation and functions to be performed, as well as a process for determining that an area agency is ready to assume the functions of a resource center. All area agencies are to submit a proposal to become aging resource centers to DOEA by December 31 2004. DOEA is to evaluate the proposals prior to March 31, 2005, and has to choose three area agencies to begin the transition. Those area agencies not selected by DOEA to begin the transition process are to resubmit their plans by July 1, 2005. The department may transition additional area agencies as it determines that these area agencies are in compliance with the requirements to become aging resource centers.

As this process is taking place, OPPAGA and the Auditor General are to monitor DOEA's process and the quality of technical assistance provided to area agencies. A report is to be submitted by February 1, 2005, and periodic reports are to be submitted March and September 1 of each year until full transition has been completed statewide.

The ARC is to integrate the staff of DOEA's CARES nursing home screening program, as well as a sufficient number of staff of the Department of Children and Families Economic Self-Sufficiency Services Program Office to determine financial eligibility for all persons age 60 and older seeking Medicaid services, Supplemental Security Income, and food stamps. The staff of the local Area Agency on Aging is also to be integrated into the ARC.

The programs and services administered by the ARC are the Community Care for the Elderly program, Local Services Programs, the Home Care for the Elderly program, the Aged and Disabled Adult Medicaid Waiver program, the Assisted Living for the Elderly Medicaid Waiver program, and Older Americans Act Services. The bill requires that the ARC provide an initial screening of each client who requests services to determine whether the person would be most appropriately served through state programs, federal programs, volunteer services, or by privately paying for the services. Services in these programs are not to be reimbursed except through the ARC system.

The bill provides the Agency for Health Care Administration (AHCA) with the authority, with agreement of DOEA, to contract for any function or activity of the CARES program, if the agency and DOEA determine that contracting will result in a savings to the state, as well as increased efficiency and accountability. The bill requires CARES staff (within existing positions), to assess a sample of individuals whose nursing home stay is expected to exceed 20 days, regardless of the initial funding source for nursing home placement, and to develop a database to track individuals over time who are assessed under the CARES program and who are diverted from nursing home placement.

The Office of Long-Term Care Policy is revised to eliminate the advisory council and replace it with an interagency coordinating team.

The Secretary of DOEA is required to annually evaluate the performance of the executive director of an area agency on aging, and the area agency board is to consider the evaluation when it considers the director's reappointment.

The bill eliminates a requirement to develop a model system transitioning all state-funded services for elders in one planning and service area, replacing this with direction to the department and the agency to develop an integrated Medicaid acute and long-term-care delivery system for persons over 65 in one or more of its planning and service areas under the control of managed care organizations.

The bill modifies requirements for Long-term Care Community Diversion Pilot Project contractors to specify that providers meet surplus requirements comparable to those in s. 641.225, F.S; comply with standards for financial solvency comparable to those provided in s. 641.285, F.S.; provide for prompt payment of claims comparable to the requirements of s. 641.3155, F.S.; provide technology for data collection meeting HIPPA security requirements; and require that diversion projects contract with multiple providers that provide the same type of services. AHCA and DOEA are to annually re-certify capitation rates and are to use claims data for Medicare beneficiaries in developing rates for the diversion pilot projects.

The bill requires that DOEA and AHCA integrate the Assisted Living for the Elderly Waiver program into the Aged and Disabled Adult Waiver program and the Frail Elder Option into the Long-term Care Community Diversion Pilot Project.

DOEA is to exempt from the competitive process any contract with a provider that meets or exceeds minimum standards and requires that lead agencies be given responsibility to coordinate other services, as well as case management in the CCE program.

Legislative findings that preservation of the historic aging network of service providers is essential to the well-being of Florida's elderly population are provided, and the bill directs that DOEA and AHCA develop a system in which existing CCE lead agencies are assisted in transitioning their business model to a managed long-term care model. Initially CCE lead agencies are to be reimbursed on a prepaid basis under the Aged Disabled Medicaid Waiver Program, and for state-funded programs serving the elderly. By the end of the third year, the demonstration is to include services under the long-term care community diversion project. The bill provides for the state to share the risk of nursing home placement during the 3-year demonstration project. The bill requires AHCA, subject to appropriations in the General Appropriations Act, to advance $500,000 to fund development costs for the demonstration provider. The loan must be repaid in 6 years from the date of funding.

Area Agencies on Aging

Area Agencies on Aging (AAA) are the administrative entities used by DOEA to manage aging services in the state. When DOEA was created, AAAs assumed the functions formerly performed by HRS District Aging and Adult Services offices, in essence, making the AAAs in effect DOEA's district offices.

The AAAs perform program oversight for DOEA at the local level; for example, DOEA has contractual agreements with the AAAs to oversee the Medicaid Aged/Disabled Adult Waiver and the Medicaid Assisted Living for the Elderly Waiver. Area Agencies contract for and monitor service delivery under the state's Community Care for the Elderly, Home Care for the Elderly, and the federal Older Americans Act Programs.

Florida has long aligned its federal Older Americans Act Planning and Services Areas (PSA) to correspond with the 11 Department of Health and Rehabilitative Services service districts, which were in existence prior to the formation of the Department of Children and Family Services (DCF). When DOEA became the state unit on aging in 1992, it continued to use the same boundaries for program purposes. The Older Americans Act requires states to establish an Area Agency on Aging in each PSA. Thus, there are 11 AAAs in Florida.

Lead Agencies

Lead agencies are the local community agencies that provide state-funded aging services directly to individuals. Lead agencies have provided case management services to the state's functionally impaired elders since 1980, when the Legislature expanded the Community Care for the Elderly Program statewide. The Community Care for the Elderly Act required that each PSA in the state develop at least one community care service system to enable functionally impaired elders to live independently in the community and prevent unnecessary nursing home placement.

A "community care service system" is defined in s. 430.203, F.S., as a "service network comprising a variety of home-delivered services, day care services, and other basic services referred to as "core services," for functionally impaired elderly persons which are provided by several agencies under the direction of a single lead agency. Its purpose is to provide a continuum of care encompassing a full range of preventive, maintenance, and restorative services for functionally impaired elderly persons. A "lead agency" is defined in s. 430.203, F.S., as "an agency designated at least once every 3 years by an area agency on aging as the result of a request for proposal process."

The Community Care for the Elderly law requires AAAs to contract with lead agencies to coordinate case management and ensure that "core services" are available to meet the needs of the elders in their communities. The statute provides that core services "must include case management and may include homemaker and chore services, respite care, adult day care, personal care services, home-delivered meals, counseling, information and referral, and emergency home repair services."

Lead agencies may directly provide these services or subcontract with other providers. In essence, the lead agencies were developed specifically for the Community Care for the Elderly Program, although they now function to provide case management and services under other programs (Aging Disabled Medicaid Waiver, Assisted Living Medicaid Waiver, Home Care for the Elderly, and Alzheimer's Disease Initiative).

Although the majority of direct services are provided through contracts with the lead agencies, the AAAs can provide services directly to caregivers in crisis through the Family Caregiver Support Initiative. In addition, the AAAs manage the Elder Helpline.

Separation of Case Management and Services

There has been a long-standing disagreement in Florida about whether the function of case management should be performed by the same entity that renders the services that are being managed. Since its inception, the Community Care for the Elderly Program provided "one stop shopping" for elderly individuals in need of services. In the CCE program, applications for services come from a variety of sources. In addition to self-referral, where individuals call the lead agency directly, referrals may also come from local law enforcement, churches, hospitals, or DCF protective services investigators. Referrals may also come through the AAA. Elderly individuals are assessed on frailty and need and then are either enrolled in the program, if funds are available, or placed on a waiting list. Individuals are assigned to a case manager who is responsible for performing a comprehensive assessment and authorizing needed services.

Area Agencies receive an allocation of Community Care for the Elderly funds based on the elderly population of each PSA. The AAAs then determine the relative allocations of funds to lead agencies for each county in the PSA. The lead agencies are required to provide services to program participants within the amounts of funds that are allocated to the county in which the lead agency operates.

The current arrangement for case management and services under CCE is authorized in s. 430.203, F. S., which states in pertinent part:

> (3) "Community care service system" means a service network comprising a variety of home-delivered services, day care services, and other basic services, hereinafter referred to as "core services," for functionally impaired elderly persons which are provided by several agencies under the direction of a single lead agency. Its purpose is to provide a continuum of care encompassing a full range of preventive, maintenance, and restorative services for functionally impaired elderly persons.
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> (9)(c) In each community care service system, the lead agency must be given the authority and responsibility to coordinate some or all of the services, either directly or through subcontracts, for functionally impaired elderly persons. These services must include case management and may include homemaker and chore services, respite care, adult day care, personal care services, home-delivered meals, counseling, information and referral, and emergency home repair services.

Section 430.205 (2), F.S., further directs:

> (2) Core services and other support services may be furnished by public or private agencies or organizations. Each community care service system must be under the direction of a lead agency that coordinates the activities of individual contracting agencies providing community care for the elderly services. When practicable, the activities of a community care service area must be directed from a multiservice senior center and coordinated with other services offered therein. This subsection does not require programs in existence prior to the effective date of this act to be relocated.

The role of the Area Agency on Aging is defined in 430.204, F.S., as:

> (1)(a) The department shall fund, through each area agency on aging, at least one community care service system the primary purpose of which is the prevention of unnecessary institutionalization of functionally impaired elderly persons through the provision of community-based core services. Whenever feasible, an area agency on aging shall be the contracting agency of preference to engage only in the planning and funding of community care for the elderly core services for functionally impaired elderly persons.

DOEA reports that it has modified its procurement guidelines to require that AAAs bid services and case management separately. DOEA has reported that it believes that the separation of these two functions remedies a "conflict of interest" produced by an incentive for lead agencies to prescribe predominantly those services for which they will be reimbursed, rather than the services an applicant needs and desires.

On the other hand, many CCE lead agencies believe that this separation destroys the concept of "one stop shopping." Further, they report that their ability to supervise and manage the personnel who provide services leads to higher quality and that their lower costs allow them to charge fees to the state below those of other entities providing similar services in an area.

CCE lead agencies contend that the current arrangement that provides each lead agency an allocation of funds within which it must manage forces them to operate within the assigned budget, as a prudent purchaser. Some lead agencies see the traditional system as working similarly to a managed care plan in which an entity is placed at-risk to provide all services within a defined benefit schedule, with an incentive to substitute less expensive, but equally effective, services which prevent the enrollee from requiring more extensive and expensive services.

Eligibility Determination for Nursing Home Care

The Comprehensive Assessment and Review of Long-Term Care Services (CARES) Program is Florida's pre-admission screening program for nursing facilities and is federally mandated for any person seeking financial assistance through Medicaid for nursing home care. AHCA has regulatory oversight for CARES and has delegated responsibility for determining individual level of care to DOEA. CARES staff within DOEA handle the medical component of eligibility determination for nursing home care through on-site assessment of the people who apply for Medicaid reimbursement to pay for their nursing home care. Assessments must comply with the 1987 Federal Nursing Home Reform Act, which requires additional screening for applicants with certain mental illness or mental retardation diagnoses. CARES staff are also responsible under 42 CFR 441.391(3)(b)(1)(ii) for determining whether applicants meet eligibility criteria for most of Florida's home and community-based waiver programs. Section 409.912 (13)(a), F.S., requires AHCA to operate CARES in such a way as:

> [t]o ensure that Medicaid payment for nursing home care is made only for individuals whose conditions require such care and to ensure that long-term care services are provided in the setting most appropriate to the needs of the person and in the most economical manner possible. The CARES program shall ensure that individuals participating in Medicaid home and community-based waiver programs meet the criteria for those programs, consistent with approved federal waivers.

Financial eligibility determination is the responsibility of DCF. Referrals to the program come from a variety of sources including hospitals, nursing homes, Elder Helplines, DCF, and other state or local programs. Financial eligibility paperwork is often sent back and forth, resulting in delays in processing. CARES client tracking data is collected and maintained in the CARES Management System., which does not communicate with Medicaid or DCF data systems.

Nursing Home Diversion Waiver Program

The goal of the Nursing Home Diversion Waiver program is to test the effectiveness of a long-term care program that uses managed care principles. The Nursing Home Diversion Waiver program uses a managed care delivery system to offer home and community-based services, both acute and long-term, as an alternative to nursing home care. Under the diversion program, all services needed by the individual are capitated in a single monthly payment. Diversion providers are responsible for providing all services that would have been provided under the Medicaid state plan, plus an array of home and community-based services. The capitation rate does not vary based on an individual's service utilization. Diversion providers subcontract with local providers for the majority of services. Beneficiaries in the program choose providers from those under subcontract with the waiver provider. By receiving integrated acute and long-term services, such as home-delivered meals, health services, and intensive case management, clients are better able to remain in the community.

Enrollees in the Nursing Home Diversion Waiver program must be age 65 or older and live in one of the program areas. These individuals must meet the CARES criteria of need for nursing home placement and must meet one or more of the following additional criteria:

- Require assistance with five or more activities of daily living.
- Require total assistance with two or more activities of daily living.
- Have a diagnosis of Alzheimer's disease or another type of dementia and require assistance with three or more activities of daily living.

- Have a diagnosed degenerative or chronic medical condition requiring daily nursing services.

Participation in the program is voluntary and limited to the very frail to ensure that those served are truly at risk of nursing home placement.

Specific Appropriation 198 and Specific Appropriation 203 in Senate Bill 2-A, the General Appropriations Act for FY 2003-2004, provided an increase in the Nursing Home Diversion Waiver program budget of approximately $40 million. Proviso language accompanying the increase stated the goal of adding at least 1,800 new slots by the end of Fiscal Year 2003-2004.

C. SECTION DIRECTORY:

Section 1. Amends 20.41, F.S., to require that the performance of the area agency executive director be annually evaluated by the Secretary of DOEA, and that the evaluation be considered during the reappointment process.

Section 2. Amends s. 409.912, F.S., to conform a definition and a cross reference; to allow contracting for CARES functions under certain circumstances; to require screenings of a sample of individuals whose stay in nursing homes is expected to exceed 20 days; and to require an assessment database and a study of the characteristics of individuals diverted by the CARES program.

Section 3. Amends s. 430.205, F.S., to require the transition of Medicaid services, including Medicaid-funded nursing home care for the elderly in one or more of DOEA's planning and service areas to a managed care system.

Section 4. Creates s. 430.2051, F.S., to require integration of the Assisted Living for the Elderly Medicaid Waiver program into the Aging and Disabled Adult Waiver program, to allow capitated payments; to require a study of the integration of the CARES database with the DOEA data system; to require an evaluation of the Integrated Waiver program, as well as the Alzheimer's Disease Waiver program and the Adult Day Health Waiver programs; and to plan to improve the interface of the Medicaid, DCF and DOEA data systems.

Section 5. Amends s. 430.041, F.S., to modify the duties of the Office of Long-Term Care Policy and replace the Office of Long-Term Care Policy Advisory Council with an interagency coordinating team.

Section 6. Amends 430.203, F.S., to allow CCE core services to be provided through (as well as by) several agencies under the direction of a single lead agency; to provide exemptions from competitive bids for providers meeting or exceeding minimum standards; and to require that lead agencies be given the responsibility to coordinate other services as well as case management.

Section 7. Amends s. 430.7031, F.S., to require that CARES review 20 percent of nursing home resident case files to determine which residents are able to move to community placements.

Section 8. Creates 430.2053, F.S., to require development of aging resource centers; to specify a process for development of these centers; and to specify purposes, duties, and criteria for these centers.

Section 9. Amends 430.709, F.S., to add additional requirements for evaluation of long-term care community diversion projects and a report of the evaluation to the Legislature and the Governor.

Section 10. Amends s. 430.705, F.S., to add additional selection criteria for long-term care community diversion projects to require the ability to meet standards comparable with those applied to licensed HMOs; to require development of a demonstration system in which existing Community Care for the Elderly lead agencies are assisted in transitioning to the assumption of full risk as a diversion pilot project contractor over a 3 year period, and to require integration of the Frail Elder Option and the Nursing Home Diversion pilot project. Rule-making authority is provided.

Section 11. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   No additional revenues are created.

2. Expenditures:

   According to the Department of Elderly Affairs, the fiscal impact is approximately $1.1 million in general revenue funds for FY 2004-05.

   The bill requires that AHCA administration advance $500,000 to fund development costs for the demonstration project in section 10 of the bill. This advance is to be repaid by the provider within 6 years.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that existing referral patterns are changed, private service providers may see changes in revenue streams.

D. FISCAL COMMENTS:

None

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18, of the Florida Constitution.

2. Other:

   None

B. RULEMAKING AUTHORITY:

The bill provides rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 10 of the bill provides that in the demonstration project, CCE lead agencies are to be reimbursed on a prepaid basis for service under the Aging Disabled Waiver program and other state-funded services. Because of a drafting error, services under the Assisted Living for the Elderly Waiver were not included in the list of services under the program.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

This analysis is drafted to HB 887 with CS. The strike-all amendment adopted at the March 17, 2004, meeting of the Committee on the Future of Florida's Families added personnel evaluations of AAA executive directors; a requirement for an integrated CARES database and a study of individuals diverted; requirements for a plan for implementation of aging resource centers, phased implementation of this system, and specifics regarding purposes and duties of aging resource centers; requirements that CCE lead agencies provide and manage services under the CCE program; integration of waiver programs; elimination of the Office of Long-term Care Policy Advisory Council; added additional requirements for evaluation of long-term care community diversion projects; added a requirement that CARES review 20 percent of nursing home resident case files; added requirements for aging resource centers; added additional selection criteria for long-term care community diversion; and required development of a demonstration system in which existing Community Care for the Elderly lead agencies are assisted in transitioning to become diversion pilot project contractors.

On March 14, 2004, the Subcommittee on Health Appropriations adopted a strike-all amendment to recommend the following changes:

- Deletes the requirement for the Department of Elderly Affairs (DOEA) to complete an annual performance evaluation of an Area Agency on Aging (AAA) director; it requires instead that DOEA submit an annual report to the Legislature describing the findings of their AAA monitoring visits.
- Mandates that the managed care pilot area must include both urban and rural areas.
- Provides that the state's Medicaid rate shall be paid for services if a managed care organization and a nursing home provider are unable to negotiate a rate for nursing home services.
- Provides that the managed care organizations administering the pilot project must provide a choice of providers, including choices related to religious affiliations.
- Requires an evaluation of the managed care pilot project.
- Allows Community Care for the Elderly (CCE) lead agencies to provide direct services subject to competitive bidding.
- Clarifies that the aging resource centers (ARC) shall only perform screening and referral for the nursing home diversion program and shall not administer the program.
- Provides that the CCE pilot project shall apply to three lead agencies.
- Removes the requirement to integrate the nursing home diversion and frail elder programs because of the potential administrative and fiscal impacts.
- Allows DOEA to place a cap on the number of diversion providers in a Planning and Services Area (PSA) to ensure that each provider can manage the risk associated with the program.