

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT
(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Health Policy Committee

BILL: SB 1734

INTRODUCER: Senator Fasano

SUBJECT: Medicaid Services

DATE: March 19, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Garner	Wilson	HP	Pre-meeting
2.			HA	
3.				
4.				
5.				
6.				

I. Summary:

The bill requires the Florida Medicaid program to pay for nutritional diagnostic therapy and counseling services for the purpose of disease management, which are furnished by a registered dietician as defined in s. 468.503, F.S., or a licensed dietician/nutritionist as defined in s. 468.509, F.S., pursuant to a referral by a licensed physician.

The bill also requires the Florida Medicaid program to pay for smoking cessation services including education, one-on-one counseling, support-group services, and smoking control classes, which are referred by a prescribing medical practitioner or a health professional that specializes in coronary heart disease.

This bill amends s. 409.905, F.S.

II. Present Situation:

The Florida Medicaid Program

Florida's Medicaid program is jointly funded by the federal, state, and county governments to provide medical care to eligible individuals. Florida implemented its Medicaid program on January 1, 1970, to provide medical services to indigent people. The Agency for Health Care Administration (AHCA) is the single state agency responsible for the Florida Medicaid Program. The statutory provisions for the Medicaid program appear in ss. 409.901 through 409.9205, F.S.

Some Medicaid services are mandatory services that must be covered by any state participating in the Medicaid program pursuant to federal law.¹ Other services are optional. A state may choose to include optional services in its state Medicaid plan, but if included such services must be offered to all individuals statewide who meet Medicaid eligibility criteria as though they are mandatory benefits.² Payments for services to individuals in the optional categories are subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, F.S.

For FY 2006-07, the Florida Medicaid program is estimated to cover 2.1 million people³ at a cost of \$14.6 billion.⁴

Coverage for Medical Nutrition Therapy Services

Nutrition and diet play an important role in helping people with certain diseases manage their health. For example, for people with diabetes or renal diseases, proper diet and nutrition can help prevent and reduce complications from their conditions. However, these services are only covered on a limited basis in Medicare and Medicaid.

Medicare covers medical nutrition therapy services prescribed by a physician for beneficiaries with diabetes or renal diseases to help them manage their conditions. Medicare covers:

- An initial assessment of nutrition and lifestyle assessment;
- Nutrition counseling;
- Information regarding managing lifestyle factors that affect diet; and,
- Follow-up visits to monitor progress managing diet.

Medicare covers three hours of one-on-one counseling services the first year, and two hours each year after that. If the beneficiary's condition, treatment, or diagnosis changes, he or she may be able to receive more hours of treatment with a physician's referral. A physician must prescribe these services and renew their referral yearly if continuing treatment is needed into another calendar year.⁵

In the Florida Medicaid program, medical nutrition services are provided under the Home and Community-Based Care Service (HCBS) waivers and the Adult Cystic Fibrosis (CF) Waiver program. The HCBS waivers provide a comprehensive range of medical and home and community-based services for individuals who would otherwise qualify for placement in a nursing home or have severe disabilities. The HCBS waivers provide a wide range of medical nutrition therapy services including: home delivered meals, dietitian services, nutrition assessment, and nutrition risk reduction.

¹ These mandatory services are codified in s. 409.905, F.S.

² Optional services covered under the Florida Medicaid program are found in s. 409.906, F.S.

³ <http://edr.state.fl.us/conferences/medicaid/medcases.pdf> (last visited on March 19, 2007)

⁴ <http://edr.state.fl.us/conferences/medicaid/medhistory.pdf> (last visited on March 19, 2007)

⁵ Centers for Medicare and Medicaid. Found at: <http://www.cms.hhs.gov/MedicalNutritionTherapy/> (last visited on March 19, 2007)

The CF waiver program began operation in July 2004. Waiver services include: acupuncture, case management chore service, counseling (individual and family), dental services, durable medical equipment, exercise therapy, homemaker, massage therapy, nutritional services, personal care, personal emergency response service, physical therapy, prescribed drugs, respiratory therapy, respite care, skilled nursing, specialized medical equipment and supplies, transportation, and vitamins and nutritional supplements.

Nutritional assessments must also be provided to Medicaid recipients under the age of 21 as part of their child health check-ups consistent with the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program, and through the prescribed pediatric extended care (PPEC) center program for children who are medically complex or technologically dependent and require continuous therapeutic interventions or skilled nursing supervision. The PPEC program includes an array of services focused on meeting the medical, developmental, physical, nutritional and social needs of these children.⁶

Dietetics and Nutrition Practice Act

Part X of chapter 468, F.S., is the “Dietetics and Nutrition Practice Act.” The part establishes licensure requirements and specifies the scope of practice for dietitians and nutritionists. The act specifies the activities that are permitted to be preformed by persons licensed under this act. These activities are limited to the following:⁷

- “Dietetics and nutrition practice” includes assessing nutrition needs and status using appropriate data; recommending appropriate dietary regimens, nutrition support, and nutrient intake; improving health status through nutrition research, counseling, and education; and developing, implementing, and managing nutrition care systems, which includes, but is not limited to, evaluating, modifying, and maintaining appropriate standards of high quality in food and nutrition care services.
- “Nutrition assessment” means the evaluation of the nutrition needs of individuals or groups, using appropriate data to determine nutrient needs or status and make appropriate nutrition recommendations.
- “Nutrition counseling” means advising and assisting individuals or groups on appropriate nutrition intake by integrating information from the nutrition assessment.

Coronary Heart Disease and Smoking

Heart disease is the leading cause of death in the U.S. and is a major cause of disability. Almost 700,000 people die of heart disease in the U.S. each year. That is about 29 percent of all U.S. deaths. Heart disease is a term that includes several more specific heart conditions. The most common heart disease in the U.S. is coronary heart disease, which can lead to a heart attack.⁸

⁶ Summary of Florida Medicaid Services, 2006-07. Found at: http://ahca.myflorida.com/Medicaid/pdf/files/SS_06_060701_SOS_Final_ver1.0.pdf (last visited on March 19, 2007)

⁷ S. 468.503, F.S.

⁸ Centers for Disease Control and Prevention. Found at: <http://www.cdc.gov/HeartDisease/> (last visited on March 19, 2007)

Coronary heart disease is the principal type of heart disease. Coronary heart disease is the progressive reduction of blood supply to the heart muscle due to narrowing or blocking of a coronary artery. There were 494,392 people that died from coronary heart disease in 2002. That is about 71 percent of all heart disease deaths.⁹

Extensive clinical and statistical studies have identified several factors that increase the risk of coronary heart disease and heart attack. Major risk factors are those that research has shown significantly increase the risk of heart and blood vessel (cardiovascular) disease. Other factors are associated with increased risk of cardiovascular disease, but their significance and prevalence haven't yet been precisely determined. They're called contributing risk factors.

Smoking is considered a major independent risk factor for sudden cardiac death in patients with coronary heart disease. Smokers' risk of developing coronary heart disease is 2 to 4 times that of nonsmokers and exposure to other people's smoke increases the risk of heart disease even for nonsmokers. Cigarette smoking promotes atherosclerosis and increases the levels of blood clotting factors, such as fibrinogen. Also, nicotine raises blood pressure, and carbon monoxide reduces the amount of oxygen that blood can carry. Cigarette smoking also acts with other risk factors to greatly increase the risk for coronary heart disease. People who smoke cigars or pipes seem to have a higher risk of death from coronary heart disease (and possibly stroke) but their risk isn't as great as cigarette smokers.¹⁰ The Centers for Disease Control and Prevention (CDC) estimates that 21.6 percent of adults aged 18 years and older are current cigarette smokers as of 2003.¹¹

Smoking Cessation Services and Medicaid

A person's ability to stop smoking by willpower is limited, primarily because of the person's physical and psychological dependence on nicotine. Nicotine is the psychoactive drug in tobacco products that produces dependence. Nicotine dependence is the most common form of chemical dependence in the U.S. Research suggests that nicotine is as addictive as heroin, cocaine, or alcohol, and smoking cessation can result in withdrawal symptoms similar to these other drugs. Examples of nicotine withdrawal symptoms include irritability, anxiety, difficulty concentrating, and increased appetite. Quitting tobacco use is difficult and may require multiple attempts, as users often relapse because of withdrawal symptoms. For these reasons, nicotine dependence is considered a chronic condition that often requires repeated intervention

Smoking cessation services usually include counseling and pharmacological interventions. Brief clinical interventions by health care providers can increase the chances of successful cessation, as can counseling and behavioral cessation therapies; however, treatments with more person-to-person contact and intensity (e.g., more time with counselors) are more effective. Individual, group, or telephone counseling are all effective. Pharmacological therapies found to be effective for treating tobacco dependence include nicotine replacement products (e.g., gum, inhaler, patch)

⁹ Centers for Disease Control and Prevention. Found at: <http://www.cdc.gov/HeartDisease/facts.htm> (last visited on March 19, 2007)

¹⁰ American Heart Association. Found at: <http://www.americanheart.org/presenter.jhtml?identifier=4726> (last visited on March 19, 2007)

¹¹ <http://www.cdc.gov/HeartDisease/facts.htm> (last visited on March 19, 2007)

and non-nicotine medications, such as Bupropion SR (Zyban®) and Varenicline Tartrate (Chantix™).¹²

The Florida Medicaid program requires all Medicaid Health Maintenance Organizations (HMOs) to provide quality and benefit enhancements including smoking cessation services. Regularly scheduled smoking-cessation programs must be conducted by the plan as an option for all plan members. Members must also have access to smoking-cessation counseling. The plan must provide primary care physicians with the “Quick Reference Guide for Smoking Cessation Specialists,” published by the U.S. Department of Health and Human Services. The Medicaid program also pays for specified smoking cessation pharmaceutical products included on the Medicaid Preferred Drug List.¹³

Smoking cessation services are also provided to pregnant women through a collaboration between Medicaid and the Division of Family Health Services’ Office of Maternal and Child Health in the Department of Health. This collaboration helped to expand services for pregnant and postpartum women who smoke by funding smoking cessation services for all pregnant women and new mothers who smoke. These services are provided through the statewide Healthy Start Initiative. The Healthy Start Initiative helps communities develop strategies to eliminate the causes of infant mortality and low birth-weight among their residents. In 2000, the Office of Maternal and Child Health, the Florida Association of Healthy Start Coalitions, and Medicaid began collaborating to provide more intensive and longer duration Healthy Start services to pregnant women utilizing Medicaid funding. Through a 1915 Waiver, Medicaid began funding smoking cessation services for these women in 2001. Medicaid also provides funding for smoking cessation materials provided to participants and offers one prescription of nicotine replacement therapy in addition to other Healthy Start services.¹⁴

Finally, smoking cessation services, including tobacco dependence treatment, must be provided to Medicaid recipients under the age of 21 per the EPSDT program requirements.

III. Effect of Proposed Changes:

Section 1. Amends s. 409.905, F.S., requiring Medicaid to pay for nutritional diagnostic therapy and counseling services for the purpose of disease management which are furnished by a registered dietician as defined in s. 468.503, F.S., or a licensed dietician/nutritionist as defined in s. 468.509, F.S., pursuant to a referral by a licensed physician; and, requiring Medicaid to pay for smoking cessation services including education, one-on-one counseling, support-group services, and smoking control classes which are referred by a prescribing medical practitioner or a health professional that specializes in coronary heart disease.

Section 2. Provides that the bill takes effect July 1, 2007.

¹² Centers for Disease Control and Prevention. Found at: http://www.cdc.gov/tobacco/data_statistics/Factsheets/cessation2.htm (last visited on March 19, 2007)

¹³ Summary of Florida Medicaid Services, 2006-07. The Agency for Health Care Administration. Found at: http://ahca.myflorida.com/Medicaid/pdf/SS_06_060701_SOS_Final_ver1.0.pdf (last visited on March 19, 2007)

¹⁴ <http://www.smokefreefamilies.org/documents/partnering.pdf> (last visited on March 19, 2007)

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

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

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 Article I, Section 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 Article III, Subsection 19(f) of the Florida Constitution.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have a fiscal impact on Medicaid. The bill will expand Medicaid coverage to include direct reimbursement to registered dietitians and licensed dietitians/nutritionists potentially making these services more available to Medicaid beneficiaries. The bill also requires Medicaid pay for smoking cessation services.

The estimated total fiscal impact of this bill in the first fiscal year (FY 2007-08) is \$191,898,560 (\$82,689,090 General Revenue). For FY 2008-09, the total estimated impact would be \$201,493,487 (\$86,823,544 from General Revenue). These estimates include combined fee-for-service and HMO fiscal impacts for both nutritional deficiencies and smoking cessation services. The estimated number of people was determined based on diagnosis codes on claims for FY 2005-06. The unit cost is based on similar services provided in the school setting under fee-for-service.

Fee-for-service fiscal impact estimates for FY 2007-08 were estimated as follows:**Nutritional Deficiencies services:**

<u>Service</u>	<u>Recipients</u>	<u>Unit Cost</u>	<u>Units/Recipient/Yr</u>	<u>Total Costs</u>
Evaluations	28,462	\$48.50	1	\$ 1,380,407
Counseling	28,462	\$67.88	26	50,232,015
Total				<u>\$51,612,422</u>

Smoking Cessation services:

<u>Service</u>	<u>Recipients</u>	<u>Unit Cost</u>	<u>Units/Recipient/Yr</u>	<u>Total Costs</u>
Counseling				
One-on-one	47,792	\$67.88	26	\$ 84,347,145
Support group	47,792	\$17.00	26	21,124,064
Total				<u>\$105,471,209</u>

Total fee-for-service: \$157,083,631

HMO fiscal impact estimates for FY 2007-08 were estimated as follows:

Nutritional deficiencies:	\$14,705,582
Smoking Cessation services:	20,109,347
Total	<u>\$34,814,929</u>

Estimated FY 2007-08 fiscal impact – Fee-for-service and HMO:

Nutritional deficiencies:	\$ 66,318,004
Smoking Cessation services:	125,580,556

Total fiscal impact – both services: \$191,898,560

Estimated FY 08-09 fiscal impact – both services (+ 5%): \$201,493,487

VI. Technical Deficiencies:

On page 1, lines 11 through 27, the bill amends the mandatory Medicaid services section of statute (s. 409.905, F.S.). This section contains those services that are required to be provided pursuant to federal law. The bill should be drafted to amend s. 409.906, F.S., which contains optional Medicaid services added by the state. Medicaid services under this section must be provided to all eligible beneficiaries as though they were mandatory services.

VII. Related Issues:

On page 1, line 29, the bill requires Medicaid to pay for “nutritional diagnostic therapy.” This is not a permitted activity under part X of ch. 468, F.S., which specifies the activities permitted to be provided by persons licensed by s. 468.503, F.S. This activity is not included within the scope of practice of dietitians and nutritionists.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
