



## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Florida Dental Health Access Task Force**

The bill establishes a Dental Health Access Task Force ("Task Force") to make recommendations on the following Medicaid dental related issues: reimbursement; provider enrollment; maximization of dental funding by other states; claims processing; establishing temporary assistance to dental offices in the event of unexpected death of a provider; and creating a process to address patient behavior in dental offices.

The Task Force must consist of 10 members who serve at the pleasure of the appointing organization. The following organizations must appoint a member: the Florida House of Representatives; the Florida Senate; Florida Dental Association; Florida Academy of Pediatric Dentistry; Florida Society of Oral and Maxillofacial Surgeons; Florida Society of Orthodontist; Florida Society of Periodontists; Florida Dental Hygiene Association; Florida Public Health Association; and the state's Medicaid director or designee.

The members must be appointed by August 31, 2009 and the Task Force must hold its first meeting by September 15, 2009. The findings of the Task Force must be submitted to the President of the Senate and the Speaker of the House of Representatives by February 1, 2011, upon which the Task Force is dissolved.

According to the Agency for Health Care Administration ("Agency"), there are already several legislatively mandated work groups which review Medicaid provider reimbursement rates for managed care, hospitals, and nursing homes. In addition the Agency's Medicaid Medical Care Advisory Council is designed to address recipient and provider issues.

##### **Florida Healthy Kids Corporation**

The Florida Healthy Kids Corporation ("Corporation"), under contract with the Agency, performs administrative functions for the overall Florida KidCare program and administers the SCHIP HealthyKids program. The Corporation handles eligibility determination, premium billing and collection, refunds, and customer service for KidCare, except for the large Medicaid component, which is administered by the Agency and the Department of Children and Families.

The corporation is governed by an 11-member board of directors who serve for 3-year terms of office. The current membership includes:

- The Chief Financial Officer, or his or her designee;
- The Secretary of Health Care Administration, or his or her designee;
- One member appointed by the Commissioner of Education from the Office of School Health Programs of the Florida Department of Education;
- One member appointed by the Chief Financial Officer from among three members nominated by the Florida Pediatric Society;
- One member, appointed by the Governor, who represents the Children's Medical Services Program;
- One member appointed by the Chief Financial Officer from among three members nominated by the Florida Hospital Association;
- One member, appointed by the Governor, who is an expert on child health policy;
- One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Academy of Family Physicians;
- One member, appointed by the Governor, who represents the state Medicaid program;
- One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Association of Counties; and
- The State Health Officer or her or his designee.

The bill adds a representative of the dental community to the Florida Healthy Kids Corporation board of directors. The member will be appointed by the Governor from three candidates nominated by the Florida Dental Association.

### **Exclusive Provider Clause for Prepaid Limited Health Service Organizations**

Prepaid Limited Health Service Organizations are similar to health maintenance organizations but are limited to offering the following services: ambulance services, dental care services, vision care services, mental health services, substance abuse services, chiropractic services, podiatric care services, and pharmaceutical services, pursuant to contractual arrangements with preferred providers in a designated service area.<sup>1</sup> Prepaid Limited Health Service Organizations provide health care coverage in the private market and in the state Medicaid program. They are regulated by the Office of Insurance Regulation. According to the Office of Insurance Regulation website, there are currently 23 licensed prepaid limited health service organizations in Florida.<sup>2</sup>

Currently, the Agency has two types of prepaid limited health service organizations: Prepaid Dental Health Plans, authorized in s. 409.912(43), F.S., and Prepaid Mental Health Plans, authorized in s. 409.912(4)(b), F.S.. These plans are administered under contract with the Agency and are reimbursed on a capitated basis.

Currently, the Florida Medicaid Program has two contracts for prepaid dental services, both in Miami-Dade County: Atlantic Dental, Inc., (ADI) and MCNA of North America. These two contracts are up for renewal in September 2009. ADI has 239 unduplicated providers in its plan network, while MCNA currently has 83 unduplicated providers in their plan network. 35 providers are currently participating in both the ADI and MCNA networks.<sup>3</sup>

According to the Agency, both prepaid dental providers have at some time requested their network dentists to sign contracts prohibiting them from entering into or renewing contracts with another prepaid dental health plan. Currently, neither Florida Medicaid law nor Prepaid Limited Health Service Organizations law prohibit this practice. Florida law does not require dentists to sign these restricted contracts.

<sup>1</sup> Section 636.003, F.S.

<sup>2</sup> Office of Insurance Regulation, Company Directory: Prepaid Limited Health Service Organizations (February 2009). Available online at: [http://www.floir.com/CompanySearch/show\\_results.asp](http://www.floir.com/CompanySearch/show_results.asp); viewed February 22, 2009.

<sup>3</sup> Agency for Health Care Administration email to House Health Regulation Policy Committee staff, March 2, 2009.

The bill prohibits *all* prepaid limited health service organizations from restricting providers from contracting with more than one prepaid limited health service organization provider. This prohibition applies to all prepaid limited health service organization contracts in government programs and in the private sector. The bill addresses all provider types, and is not limited to dentists.<sup>4</sup> The prohibition would apply to contracts entered into or renewed on or after October 1, 2009.

According to the Agency, this limitation could be established contractually, without a statutory change.<sup>5</sup> The Agency intends to address this issue during the next contract term in September 2009.<sup>6</sup>

The bill further prevents prepaid health service organizations from requiring a contracted health service provider from having to accept the terms of other health care practitioner contracts which are part of a prepaid limited service provider organization, insurer, or limited health service organization that are under common management and control as a condition of continuation or renewal of a contract. This prohibition includes Medicare and Medicaid practitioner contracts, preferred provider contracts, exclusive provider contracts, and health maintenance organization contracts. The prohibition does not include group practices, which must accept the terms of a contract negotiated for the practitioner by the group. The term “health care practitioner” is not defined.

The bill provides that contract provisions requiring a provider to accept the terms of other contracts are void. However, violations of this prohibition are not subject to the criminal penalties contained in the Florida Insurance Code.

Current law imposes this prohibition on health maintenance organizations (“HMOs”).<sup>7</sup> This prohibition impacts Medicare and Medicaid practitioner contracts, preferred provider network contracts, HMO provider contracts, and exclusive provider network contracts. The bill adds prepaid health service organization contracts to that list, via cross-reference.

### **Waiver of Licensure Renewal Fees and Continuing Education Requirements**

Currently, health care practitioners who provide at least 80 hours annually of non-compensated service to low-income recipients as a government contractor are eligible for a waiver of their biennial license renewal fee. In addition, the practitioners may claim up to 25 percent of their continuing education requirements. To qualify, the health care practitioner must provide the appropriate documentation to the Department of Health at the time of licensure renewal. Retired health care practitioners are also eligible, but must provide at least 400 hours of service a year, for each year during the two-year licensure period. Health practitioners must accumulate service hours on a yearly basis, even though their licensure period is for two years.

The bill authorizes health care practitioners to count non-compensated service hours provided to low-income recipients as a government contractor on a biennial basis, rather than annually. The bill amends the current 80 hours annual requirement to 160 hours for each biannual licensure period. Likewise, the bill amends the 400 hours required annually for retired health care practitioners to 800 hours biannually.

#### **B. SECTION DIRECTORY:**

Section 1. Creates s. 381.00521, F.S., the Florida Dental Health Access Task Force.

Section 2. Amends s. 624.91, F.S., relating to the Florida Healthy Kids Corporation Act.

Section 3. Amends s. 636.035, F.S., relating to prepaid limited health service organization provider arrangements.

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<sup>4</sup> “‘Provider’ means, but is not limited to, any physician, dentist, health facility, or other person or institution which is duly licensed in this state to deliver limited health services.” s. 636.003, F.S.

<sup>5</sup> Agency for Health Care Administration Bill Analysis, House Bill 185 (2009).

<sup>6</sup> Agency for Health Care Administration email to House Health Regulation Policy Committee staff, March 2, 2009.

<sup>7</sup> Section 641.315(10), F.S. The HMO statute defines “health care practitioner” as defined in s. 456.001(4), which includes physicians, osteopathic physicians, chiropractors, podiatrists, nurses, pharmacists, dentists, midwives, optometrists, speech pathologists, occupational therapists, orthotic providers, massage therapists, clinical lab personnel, and psychologists.

- Section 4. Amends s. 641.315, F.S., relating to health maintenance organization provider contracts.  
Section 5. Amends s. 766.1116, F.S., relating to health care practitioner waiver of licensure renewal fees and continuing education requirements.  
Section 6. Provides an effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
Not applicable.
2. Expenditures:  
See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
Not applicable.
2. Expenditures:  
Not applicable.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not applicable.

### D. FISCAL COMMENTS:

The bill does not allocate funds to administer the Florida Dental Health Access Task Force including funds to hire staff to perform the various tasks outlined in the bill. Nor does it address whether Task Force members receive per diem and travel reimbursement. The bill does not specify the number of times the Task Force must meet.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

#### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax sharing with counties or municipalities.

#### 2. Other:

Not applicable.

### B. RULE-MAKING AUTHORITY:

Additional rule-making authority is not needed to implement the provisions of the bill.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

It is not clear which agency, if any, would have oversight of or administrative obligations for the Florida Dental Health Access Task Force. The language is placed in chapter 381, F.S., addressing public health, which is under the purview of the Department of Health.

The Agency's existing prepaid dental health plan contracts are up for renewal in September 2009. The bill's prohibitions go into effect October 2009, which is after the contract renewal period. While the Agency has committed to making the change without statutory directive, it may be advantageous to amend the enactment date to an earlier date.

The bill impacts *all* prepaid limited health service organizations regulated in the state. According to the Office of Insurance Regulation website, there are currently 23 licensed prepaid limited health service organizations in Florida. Because the articulated problem is limited to Medicaid prepaid dental plans, it may be advantageous to limit the impact to Medicaid prepaid dental plans, or all Medicaid prepaid plans.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**