

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 5105 PCB HCA 09-02 Health Care  
**SPONSOR(S):** Health Care Appropriations Committee and Ambler  
**TIED BILLS:** **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Health Care Appropriations Committee	6 Y, 0 N	Hicks	Pridgeon
1)	Full Appropriations Council on General Government & Health Care		Hicks	Leznoff
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The bill conforms statute to the funding decisions included in the proposed General Appropriations Act (GAA) for Fiscal Year 2009-2010. The bill:

- Modifies state laws pertaining to the Florida Kidcare program to conform to new federal requirements mandated under the Children’s Health Insurance Program Reauthorization Act legislation.
- Revises the date that the Medicaid Aged and Disabled (MED-AD) and Medically Needy programs are set to sunset to June 30, 2010.
- Requires prior authorization for certain home health services; requires home health agencies to submit certain supporting documentation when requesting prior authorization; establishes reimbursement requirements for home health services.
- Amends provisions for adjusting certain hospital’s Medicaid inpatient per diem rate; and clarifies the reference to “hospitals” as being applicable to acute care hospitals.
- Places a limit on vision services for adult Medicaid beneficiaries.
- Eliminates an option for discontinuing the nursing home quality assessment program; creates an additional provision for exempting nursing home facility providers from the quality assessment.
- Creates a quality assessment for privately operated intermediate care facilities; requires the Agency for Health Care Administration (AHCA) to calculate quality assessment rates; specifies the purpose and order of priority of assessments; requires the AHCA to seek federal approval; specifies circumstance requiring discontinuance of the assessment; and authorizes the AHCA to impose certain penalties.
- Revises the years of audited data used in determining Medicaid and charity care days for hospitals in the Disproportionate Share Program; changes the distribution criteria for Medicaid DSH payments to implement funding decisions for the Disproportionate Share Hospital program.
- Specifies that the implementation of the integrated fixed-payment services delivery system (Florida Senior Care) for Medicaid recipients age 60 and older is subject to a specific appropriation.
- Creates two new pilot projects relating to the delivery of home health services to combat an increase in fraud and abuse.
- Revises the date set to convert provider service networks from a fee-for-service model to a capitated model in Medicaid Reform pilot areas.
- Transfers administrative duties, functions, and appropriations for all elder related Medicaid waiver programs to the Department of Elder Affairs (DOEA).
- Directs AHCA, in consultation with DOEA, to accept and forward to the Centers for Medicare and Medicaid Services (CMS) an expansion application for the Program of All-inclusive Care for the Elderly (PACE).

This bill includes several provisions that will produce a significant fiscal impact on state and local governments. The bill has an effective date of July 1, 2009.

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

**STORAGE NAME:** h5105.CGHC.doc  
**DATE:** 4/3/2009

## 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:

##### **Kidcare Program**

The bill amends several provisions of chapter 409, F.S, to conform to new federal legislation pertaining to the Florida Kidcare program. The bill:

- Comports verification of declaration of citizenship to Title XXI of the Social Security Act, which allows states to use the Social Security Administration to verify information;
- Provides parity in mental health and substance abuse benefits by aligning service limitations for mental health and substance abuse benefits with medical and surgical benefits;
- Mandates dental coverage and requires that coverage include services necessary to prevent disease and promote oral health;
- Requires payments for services to federally qualified health centers and rural health clinics to be reimbursed using the Medicaid prospective payment system; and
- Revises the quality assurance and access standards in the Florida Kidcare program by requiring the same safeguards employed in Medicaid programs be employed with regards to managed care entities, enrollment brokers, and managed care organizations.

##### **Medicaid for the Aged and Disabled and Medically Needy**

The bill extends the sunset date from June 30, 2009 to June 30, 2010 for the MEDS AD and Medically Needy programs restoring coverage with non-recurring funding.

##### **Home Health Care Services**

The bill requires prior authorization for home health services visits not associated with a skilled nursing visit if the home health agency's utilization rate exceeds the state average by 50% or more and requires the home health agency to submit supporting documentation of the recipient's diagnosis and the recipient's plan of care to the agency when requesting prior authorization. This bill authorizes reimbursement for Medicaid home health services only when home health services are medically necessary and:

- ordered by a physician,
- the written prescription from the recipient's physician is signed and dated prior to the development of a plan of care and the request for prior authorization,
- the ordering physician must be in no way affiliated with the home health agency rendering services,
- the ordering physician must have examined the recipient within 30 days before the initial request for services and twice a year thereafter,
- the written prescription must include the recipient's medical condition or diagnosis, the home health service required, the minimum skill level required to perform the service, and the frequency and duration of the service, and
- the written prescription must include the ordering physician's identification, the claim for home health reimbursement, and the prior authorization request.

The bill allows the Medicaid inpatient per diem rate to be adjusted to cost, if the hospital is located in a county that has six or fewer acute care bed hospitals instead of five, offers obstetrical services, and has submitted a written request to the AHCA for a rate adjustment between July 1, 2000 and September 30, 2000. The bill clarifies that the reference to "hospitals" is applicable to hospitals providing acute care.

### **Adult Vision Services**

The bill places a limit on vision services for adult Medicaid beneficiaries. Adult Medicaid beneficiaries are limited to one pair of eyeglass frames every two years and one pair of lenses every 365 days.

### **Nursing Home Quality Assessment**

The bill eliminates the option to terminate the quality assessment if the weighted average Medicaid rate paid to nursing home facilities is reduced below the weighted average Medicaid rate to nursing home facilities in effect on December 31, 2008, plus any future annual amount of the quality assessment and the applicable matching federal funds.

This bill allows exemption from or the application of a lower quality assessment rate to qualified public, non-state owned or operated, nursing facilities with total annual indigent census days exceeding 25 percent of the facilities total annual census days, effective July 1, 2009.

### **Intermediate Care Facility Quality Assessment**

The bill:

- Creates a quality assessment to be imposed on privately operated intermediate care facilities;
- Requires the AHCA to calculate the assessment on an annual basis;
- Specifies the purpose and priority order of the assessment;
- Establishes requirements for reporting and collecting the assessment;
- Specifies the circumstances in which the quality assessment shall terminate and that the AHCA shall discontinue the collection of the assessment;
- Provides sanctions against facilities for not paying assessments timely; and
- Allows the AHCA to seek federal approval to implement the act and provides the AHCA with rule making authority.

### **Disproportionate Share Program (DSH)**

The bill amends several provisions of chapter 409, Florida Statutes, to implement the changes in Disproportionate Share Hospital program funding for Fiscal Year 2009-2010. The bill:

- Revises the method for calculating disproportionate share payments to hospitals for Fiscal Year 2009-2010 by changing the years of averaged audited data from 2002, 2003, and 2004 to 2003, 2004, and 2005;
- Revises the time period from Fiscal Year 2008-2009 to 2009-2010 during which the AHCA is prohibited from distributing funds under the Disproportionate Share Program for regional perinatal intensive care centers;
- Requires that funds for statutorily defined teaching hospitals in Fiscal Year 2009-2010 be distributed in the same proportion as funds were distributed under the Disproportionate Share Program for teaching hospitals in Fiscal Year 2003-2004, or as otherwise provided in the GAA; and
- Revises the time period from Fiscal Year 2008-2009 to Fiscal Year 2009-2010 during which the AHCA is prohibited from distributing funds under the primary care disproportionate share program.

### **Florida Senior Care**

The bill specifies that the implementation of an integrated fixed payment service delivery system (Florida Senior Care) for Medicaid recipients age 60 and older in Area 7 (Orange, Osceola, Seminole, and Brevard counties) and Area 11 (Dade and Monroe counties) of the AHCA is subject to a specific appropriation.

### **Expanded Fraud and Abuse Recoupment**

The bill establishes two pilot projects relating to home health services to combat an increase in fraud and abuse relating to Medicaid-enrolled home health agencies. Miami-Dade County is designated as the health care fraud area of special concern.

- The AHCA is authorized to enter into a contractual arrangement to develop and implement a home health agency monitoring pilot project by January 1, 2010 to verify the utilization and the delivery of home health services and provide an electronic billing interface. The AHCA must submit a report evaluating the pilot project to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2011.
- The AHCA is authorized to implement a comprehensive care management pilot project for home health services by January 1, 2010 using face-to-face assessments by a state-licensed nurse, consultation with physicians ordering services to substantiate the medical necessity for services, and on-site or desk reviews of recipients' medical records.

### **Provider Service Networks**

The bill delays the conversion of provider service networks operating in reform counties under a fee-for-services/shared cost saving model to a capitation model from September 1, 2009 until September 1, 2011, the duration of the initial Medicaid Reform waiver.

## **Elder Related Waivers**

The bill transfers the administrative duties, functions, and appropriations for the following elder related waivers to the DOEA:

- Alzheimer's Dementia-Specific Medicaid,
- Assisted Living for the Frail Elderly,
- Aged and Disabled Adult,
- Adult Day Health Care,
- Consumer Directed Care Plus program,
- Program for All-inclusive Care for the Elderly,
- Long-Term Care Community-Based Diversion Pilot project, and
- Channeling Services.

## **Long-Term Care Services**

The bill directs the AHCA, in consultation with the DOEA, to accept and forward to CMS an application to expand a PACE pilot project from a current PACE entity in good standing with the AHCA, DOEA, and CMS to expedite the application approval process. There are currently two operating PACE organization in Florida, the Florida PACE, Inc., in Miami-Dade County and the Hope Select Care, in Lee County.

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

**Section 1.** Amends s. 409.814, F.S., providing eligibility determination requirements.

**Section 2.** Amends s. 409.815, F.S., providing mandatory benefit requirements; providing reimbursement requirements for federally qualified health centers and rural health clinics.

**Section 3.** Amends s. 409.818, F.S., requiring the AHCA to monitor the compliance and quality of health insurance plans in the Florida Kidcare program as required by federal law.

**Section 4.** Amends s. 409.904, F.S., revising the date of sunset for the Medically Aged and Disabled waiver and Medically Needy programs.

**Section 5.** Amends s. 409.905, F.S., requiring prior authorization for certain home health services; requiring home health agencies to provide certain supporting documentation when requesting prior authorization; establishes reimbursement requirements for home health services; and amends provisions for Medicaid inpatient per diem rate adjustment for certain hospitals.

**Section 6.** Amends s. 409.906, F.S., providing for limitations on vision services for adult Medicaid beneficiaries.

**Section 7.** Amends s. 409.9082, F.S., modifying circumstances requiring discontinuance of the quality assessment for nursing home providers; providing an additional provision to exempt or apply a lower quality assessment rate.

**Section 8.** Amends s. 409.9083, F.S., providing definitions; providing for a quality assessment to be imposed upon privately operated intermediate care facilities; requiring the AHCA to calculate the quality assessment rate annually, providing requirements for reporting and collecting the assessment; specifying the purposes of the assessment and an order of priority; requiring the AHCA to seek federal authorization to implement the act; specifying circumstance requiring the discontinuance of the quality assessment; authorizing the imposition of certain penalties against providers that fail to pay the assessment; and requiring the adoption of rules.

**Section 9.** Amends s. 409.911, F.S., revising the share data used to calculate disproportionate share payments to hospitals.

**Section 10.** Amends s. 409.9112, F.S., revising the time period during which the AHCA is prohibited from distributing disproportionate share payments to regional perinatal intensive care centers.

**Section 11.** Amends s. 409.9113, F.S., requiring the AHCA to distribute moneys provided in the GAA to statutorily defined teaching hospitals and family practice teaching hospitals under the teaching hospitals disproportionate share program for Fiscal Year 2009-2010.

**Section 12.** Amends s. 409.9117, F.S., prohibiting the AHCA from distributing moneys under the primary care disproportionate share program for FY 2009-2010.

**Section 13.** Amends s. 409.912, F.S., relating to an integrated fixed-payment delivery program (Florida Senior Care); subject to a specific appropriation.

**Section 14.** Amends s. 409.91211, F.S., revising the date that the provider service networks convert from a fee-for-service model to a capitation rate model.

**Section 15.** Amends s. 430.04, F.S., transferring the administration and appropriations of all elder related waiver to the Department of Elderly Affairs.

**Section 16.** Amends s. 430.707, F.S., requiring the AHCA, in consultation with the DOEA, to accept and forward to the CMS an application for expansion of a pilot project from an entity that provides certain benefits under a federal program.

**Section 17.** Provides an effective date of July 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

\$135,564,503 million in federal Medicaid funds will be generated through implementation of DSH programs and the privately operated intermediate care facility assessment will generate \$18,897,903 in federal Medicaid funds.

#### 2. Expenditures:

	<u>FY 2009-10</u>	<u>FY 2010-11</u>
<b>MEDS-AD</b>		
General Revenue	\$113,039,411	
Grants and Donations Trust Fund	\$ 21,097,829	
Medical Care Trust Fund	<u>\$233,715,186</u>	
<b>Total</b>	<b>\$367,852,426</b>	
<b>Medically Needy</b>		
General Revenue	\$160,687,163	
Grants and Donations Trust Fund	\$ 42,938,064	
Medical Care Trust Fund	<u>\$325,123,181</u>	
<b>Total</b>	<b>\$528,748,408</b>	
<b>Adult Vision Services</b>		
General Revenue	(\$ 18,778)	(\$ 18,779)
Medical Care Trust Fund	(\$ 39,252)	(\$ 39,251)
Refugee Assistance Trust Fund	<u>(\$ 1,358)</u>	<u>(\$ 1,357)</u>
<b>Total</b>	<b>(\$ 59,388)</b>	<b>(\$ 59,387)</b>

**Nursing Home Quality Assessment****-- Nursing Home Rate Reduction**

General Revenue	(\$ 22,020,154)
Medical Care Trust Fund	<u>(\$ 46,027,291)</u>
<b>Total</b>	<b><u>(\$ 68,047,445)</u></b>

**Intermediate Care Facility Quality Assessment****-- Reimbursement Rates**

Grants and Donations Trust Fund	\$ 9,041,043	\$ 3,013,681
Medical Care Trust Fund	<u>\$ 18,897,903</u>	<u>\$ 6,299,301</u>
<b>Total</b>	<b>\$ 27,938,946</b>	<b>\$ 9,242,982</b>

**Disproportionate Share Program (DSH)**

General Revenue	\$ 6,198,263
Grants and Donations Trust Fund	\$104,807,811
Medical Care Trust Fund	<u>\$135,564,503</u>
<b>Total</b>	<b><u>\$246,570,577</u></b>

**Expanded Fraud and Abuse Recoupment**

General Revenue (5.0 FTE)	(\$ 2,960,040)	(\$ 2,427,000)
Medical Care Trust Fund	<u>(\$ 7,940,054)</u>	<u>(\$ 5,073,000)</u>
<b>Total</b>	<b><u>(\$ 10,900,094)</u></b>	<b><u>(\$ 7,500,000)</u></b>

**Elder Related Waivers**

General Revenue	<u>(\$107,889,946)</u>
<b>Total</b>	<b><u>(\$107,889,946)</u></b>

**GRAND TOTAL**

<b>General Revenue</b>	<b>\$147,035,919</b>	<b>(\$ 2,445,779)</b>
<b>Grants and Donations Trust Fund</b>	<b>\$177,884,747</b>	<b>\$ 3,013,681</b>
<b>Medical Care Trust Fund</b>	<b>\$659,294,176</b>	<b>\$ 1,187,050</b>
<b>Refugee Assistance Trust Fund</b>	<b>(\$ 1,358)</b>	<b>(\$ 1,357)</b>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

## 1. Revenues:

None.

## 2. Expenditures:

Local governments and other local political subdivisions may provide \$104,807,811 million in contributions for DSH programs.

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

Hospitals providing a disproportionate share of Medicaid or charity care services will receive additional reimbursements towards the cost of providing care to uninsured individuals.

The privately operated intermediate care facilities will be able to restore the reductions to the reimbursement rates through the quality assessments.

**D. FISCAL COMMENTS:**

This bill authorizes the transfer of administration and appropriations for all elder related waivers to the DOEA, effective July 1, 2009.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

This legislation does not appear to require counties or municipalities to take an action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The AHCA has sufficient rulemaking authority to implement the provisions of the bill.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

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

On April 2, 2009, the Health Care Appropriations Committee adopted a strike-all amendment and reported the PCB favorably. The original PCB and the strike-all amendment differ as follows:

- Amends provisions for Medicaid inpatient per diem rate adjustment for hospitals located in a county that has six or fewer acute care bed hospitals instead of five, offers obstetrical services, and has submitted a written request to the AHCA for a rate adjustment; clarifies the reference to "hospitals" as being applicable to acute care hospitals;
- Allows exemption from or the application of a lower quality assessment rate for qualified public, non-state owned or operated, nursing facilities;
- Specifies that the implementation of the integrated fixed-payment services delivery system (Florida Senior Care) for Medicaid recipients age 60 and older is subject to a specific appropriation instead of repealing the program.

The analysis is drafted to the amendment.