

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 488

INTRODUCER: Senators Braynon and Clemens

SUBJECT: Medicaid Dental Services

DATE: April 11, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Pre-meeting</b>
2.			CF	
3.			AHS	
4.			AP	
5.				
6.				

**I. Summary:**

SB 488 amends s. 409.906(6), F.S., to authorize the Agency for Health Care Administration (AHCA) to reimburse a health access setting operating as a Medicaid provider for dental services authorized under s. 466.024(2), F.S., provided to a recipient younger than 21 years of age and rendered by a licensed dental hygienist.

This bill substantially amends s. 409.906, F.S.

**II. Present Situation:**

Medicaid is a joint federal and state funded program that provides health care for low income Floridians. The program is administered by the AHCA and financed with federal and state funds. Over 3.3 million Floridians are currently enrolled in Medicaid and the program is expected to have more than \$22 billion in expenditures for fiscal year 2012-2013.<sup>1</sup> Of those enrollees, more than 1.7 million are children.<sup>2</sup> The statutory authority for the Medicaid program is contained in ch. 409, F.S.

Federal law establishes the minimum benefit levels to be covered in order to receive federal matching funds. Benefit requirements can vary by eligibility category. For example, more

<sup>1</sup> Agency for Health Care Administration, *Statewide Medicaid Managed Care Overview, Presentation to House Health Care Subcommittee*, (Jan. 15, 2013), [http://ahca.myflorida.com/Medicaid/recent\\_presentations/SMMC\\_Overview\\_House\\_HHS\\_Approps.pdf](http://ahca.myflorida.com/Medicaid/recent_presentations/SMMC_Overview_House_HHS_Approps.pdf) (last visited Mar. 8, 2013).

<sup>2</sup> Agency for Health Care Administration, *Florida KidCare Enrollment Report, March 2013* (on file with the Senate Health Policy Committee).

benefits are required for children than for the adult population. Florida's mandatory and optional benefits are prescribed in state law under ss. 409.905 and 409.906, F.S., respectively. Children's dental benefits are specifically covered under s. 409.906(6), F.S. and provided in more detail in the 2012-2013 Medicaid Summary of Services and the Medicaid Dental Services Coverage and Limitations Handbook.<sup>3,4</sup>

Florida Medicaid currently reimburses dental services provided to Medicaid recipients by a registered dental hygienist who is employed by or in a contractual agreement with a health access setting, as defined under s. 466.003(14), F.S., and is under the general supervision of a dentist as defined under s. 466.003(10), F.S.<sup>5,6</sup> The Medicaid-enrolled supervising dentist at the facility where the registered dental hygienist is employed or is in contractual agreement with is listed as the treating provider for these services.<sup>7</sup>

Chapter 466, F.S., addresses the practice of dentistry and dental hygiene. Specifically, s. 466.024(2), F.S., identifies the specific services that dental hygienists are permitted to perform, including dental cleanings and applications of topical fluoride and sealants, in health access settings without the physical presence of, prior examination by, or prior authorization of a dentist. Rules under Chapter 64B5-16, F.A.C., provide additional guidance as to the level of supervision required for dental hygienists and the tasks that may be delegated or performed by these personnel.

The expanded scope of practice legislation was passed in 2011, which permitted licensed dental hygienists to perform certain functions without the physical presence, prior examination or authorization of a dentist, in health access settings.<sup>8</sup> However, while the scope of services that could be performed without supervision was expanded for dental hygienists, the legislation did not specifically address whether the health access setting could bill Medicaid for the services provided when the services were not performed under the general supervision of a dentist.

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<sup>3</sup> Agency for Health Care Administration, *Florida Medicaid Summary of Services, Fiscal Year 2012-2013* [http://ahca.myflorida.com/Medicaid/pdf/files/2012-2013\\_Summary\\_of\\_Services\\_Final\\_121031.pdf](http://ahca.myflorida.com/Medicaid/pdf/files/2012-2013_Summary_of_Services_Final_121031.pdf) (last viewed April 11, 2013).

<sup>4</sup> Agency for Health Care Administration, *Florida Medicaid Dental Services Coverage and Limitations Handbook (November 2011)* [http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/Dental\\_Services\\_November\\_2011\\_Final\\_Handbook.pdf](http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/Dental_Services_November_2011_Final_Handbook.pdf) (last viewed April 11, 2013).

<sup>5</sup> A health access setting is defined under the statute as a program or an institution of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center or look-alike as defined by federal law, a school-based prevention program, a clinic operated by an accredited college of dentistry, or an accredited dental hygiene program in this state if such community service program or institution immediately reports to the Board of Dentistry all violations of s. 466.027, s. 466.028, or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such setting.

<sup>6</sup> "General Supervision" means a dentist authorizes the procedures that are being carried out but is not required to be present when those authorized procedures are being performed under the statutory definition.

<sup>7</sup> Agency for Health Care Administration, *House Bill 313/Senate Bill 488 Bill Analysis and Economic Impact Statement*, p.1, (Feb. 19, 2013) (on file with the Senate Health Policy Committee).

<sup>8</sup> See Chapter Law 2011-95, ss. 4-8, Laws of Florida and s. 466.024(2), F.S.

**III. Effect of Proposed Changes:**

**Section 1** amends subsection (6) of s. 409.906, F.S., to authorize the AHCA to reimburse a health access setting, as defined in s. 466.003, F.S., that operates as a Medicaid provider for dental services authorized under an appropriate statutory delegation of duties to a licensed dental hygienist and that have been provided to a Medicaid recipient under the age of 21.

**Section 2** provides an effective date of July 1, 2013.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:****V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Some health access settings may benefit from the additional revenue resource from providing newly reimbursable services. These health access settings may also be able to deliver current services in a more cost efficient manner through the expanded use of dental hygienists.

**C. Government Sector Impact:**

The Department of Health reports that there would be a fiscal impact on the county health departments but the actual calculation of costs and benefits cannot be determined from currently available data and resources.<sup>9</sup> The department indicates that SB 488 would allow local county health departments to bill for dental hygienists services for children under the age of 21. Local county health departments could increase the number of

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<sup>9</sup> Department of Health, *SB 488 Bill Analysis*, p.4, (on file with the Senate Health Policy Committee).

preventive services by hiring more dental hygienists and utilize the expertise of dentists more cost effectively for those services which may only be provided by a dentist.<sup>10</sup> The department indicates that a dental hygienist's salary is approximately one-half the cost of a dentist's salary.<sup>11</sup>

The AHCA indicates SB 488 has no fiscal impact as proposed and a small, but indeterminate negative fiscal impact, with a clarifying amendment.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The AHCA believes that a statutory conflict still exists that would restrict Medicaid reimbursement to only those services provided by or under the supervision of a dentist.<sup>12</sup> An amendment is suggested to clarify eligibility for Medicaid reimbursement for dental hygienist services both authorized under and rendered in accordance with the provisions of s. 466.024(2), F.S.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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

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<sup>10</sup> Id.

<sup>11</sup> Id.

<sup>12</sup> Agency for Health Care Administration, *supra*, note 6 at 2.