

**By** the Committees on Appropriations; and Health Policy; and  
Senator Stargel

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1                                   A bill to be entitled  
2       An act relating to Medicaid managed care; amending s.  
3       400.141, F.S.; requiring that nursing home facilities  
4       be prepared to provide confirmation within a specified  
5       timeframe to the Agency for Health Care Administration  
6       as to whether certain nursing home facility residents  
7       are candidates for certain services; amending s.  
8       409.964, F.S.; providing that covered services for  
9       long-term care under the Medicaid managed care program  
10      are those specified in part IV of ch. 409, F.S.;  
11      deleting an obsolete provision; amending s. 409.965,  
12      F.S.; providing that certain residents of nursing  
13      facilities are exempt from participation in the long-  
14      term care managed care program; providing for  
15      application of the exemption; providing that  
16      eligibility for the Medicaid managed medical  
17      assistance program is not affected by such provisions;  
18      providing conditions under which the exemption does  
19      not apply; requiring the agency to confirm whether  
20      certain persons have been identified as candidates for  
21      home and community-based services; requiring a certain  
22      notice to the agency by nursing facility  
23      administrators; amending s. 409.967, F.S.; requiring  
24      the agency to impose fines and authorizing other  
25      sanctions for willful failure to comply with specified  
26      payment provisions; amending s. 409.979, F.S.;  
27      providing that certain exempt Medicaid recipients are  
28      not required to receive long-term care services  
29      through the long-term care managed care program;

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30 amending s. 409.982, F.S.; revising parameters under  
31 which a long-term care managed care plan must contract  
32 with nursing homes and hospices; specifying that the  
33 agency must require certain plans to report  
34 information on the quality or performance criteria  
35 used in making a certain determination; providing  
36 effective dates.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Effective October 1, 2018, paragraph (v) is  
41 added to subsection (1) of section 400.141, Florida Statutes, to  
42 read:

43 400.141 Administration and management of nursing home  
44 facilities.—

45 (1) Every licensed facility shall comply with all  
46 applicable standards and rules of the agency and shall:

47 (v) Be prepared to confirm for the agency whether a nursing  
48 home facility resident who is a Medicaid recipient, or whose  
49 Medicaid eligibility is pending, is a candidate for home and  
50 community-based services under s. 409.965(3)(c), no later than  
51 the resident's 50th consecutive day of residency in the nursing  
52 home facility.

53 Section 2. Section 409.964, Florida Statutes, is amended to  
54 read:

55 409.964 Managed care program; state plan; waivers.—The  
56 Medicaid program is established as a statewide, integrated  
57 managed care program for all covered services, including long-  
58 term care services as specified under this part. The agency

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59 shall apply for and implement state plan amendments or waivers  
60 of applicable federal laws and regulations necessary to  
61 implement the program. Before seeking a waiver, the agency shall  
62 provide public notice and the opportunity for public comment and  
63 include public feedback in the waiver application. The agency  
64 shall hold one public meeting in each of the regions described  
65 in s. 409.966(2), and the time period for public comment for  
66 each region shall end no sooner than 30 days after the  
67 completion of the public meeting in that region. ~~The agency  
68 shall submit any state plan amendments, new waiver requests, or  
69 requests for extensions or expansions for existing waivers,  
70 needed to implement the managed care program by August 1, 2011.~~

71 Section 3. Effective October 1, 2018, section 409.965,  
72 Florida Statutes, is amended to read:

73 409.965 Mandatory enrollment.—All Medicaid recipients shall  
74 receive covered services through the statewide managed care  
75 program, except as provided by this part pursuant to an approved  
76 federal waiver.

77 (1) The following Medicaid recipients are exempt from  
78 participation in the statewide managed care program:

79 (a) ~~(1)~~ Women who are eligible only for family planning  
80 services.

81 (b) ~~(2)~~ Women who are eligible only for breast and cervical  
82 cancer services.

83 (c) ~~(3)~~ Persons who are eligible for emergency Medicaid for  
84 aliens.

85 (2) (a) Persons who are assigned into level of care 1 under  
86 s. 409.983(4) and have resided in a nursing facility for 60 or  
87 more consecutive days are exempt from participation in the long-

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88 term care managed care program. For a person who becomes exempt  
89 under this paragraph while enrolled in the long-term care  
90 managed care program, the exemption shall take effect on the  
91 first day of the first month after the person meets the criteria  
92 for the exemption. This paragraph does not affect a person's  
93 eligibility for the Medicaid managed medical assistance program.

94 (b) Persons receiving hospice care while residing in a  
95 nursing facility are exempt from participation in the long-term  
96 care managed care program. For a person who becomes exempt under  
97 this paragraph while enrolled in the long-term care managed care  
98 program, the exemption takes effect on the first day of the  
99 first month after the person meets the criteria for the  
100 exemption. This paragraph does not affect a person's eligibility  
101 for the Medicaid managed medical assistance program.

102 (3) Notwithstanding subsection (2):

103 (a) A Medicaid recipient who is otherwise eligible for the  
104 long-term care managed care program, who is 18 years of age or  
105 older, and who is eligible for Medicaid by reason of a  
106 disability is not exempt from the long-term care managed care  
107 program under subsection (2).

108 (b) A person who is afforded priority enrollment for home  
109 and community-based services under s. 409.979(3)(f) is not  
110 exempt from the long-term care managed care program under  
111 subsection (2).

112 (c) A nursing facility resident is not exempt from the  
113 long-term care managed care program under paragraph (2)(a) if  
114 the resident has been identified as a candidate for home and  
115 community-based services by the nursing facility administrator  
116 and any long-term care plan case manager assigned to the

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117 resident. Such identification must be made in consultation with  
118 the following persons:

119 1. The resident or the resident's legal representative or  
120 designee;

121 2. The resident's personal physician or, if the resident  
122 does not have a personal physician, the facility's medical  
123 director; and

124 3. A registered nurse who has participated in developing,  
125 maintaining, or reviewing the individual's resident care plan as  
126 defined in s. 400.021.

127 (d) Before determining that a person is exempt from the  
128 long-term care managed care program under paragraph (2) (a), the  
129 agency shall confirm whether the person has been identified as a  
130 candidate for home and community-based services under paragraph  
131 (c). If a nursing facility resident who has been determined  
132 exempt is later identified as a candidate for home and  
133 community-based services, the nursing facility administrator  
134 shall promptly notify the agency.

135 Section 4. Paragraph (j) of subsection (2) of section  
136 409.967, Florida Statutes, is amended to read:

137 409.967 Managed care plan accountability.—

138 (2) The agency shall establish such contract requirements  
139 as are necessary for the operation of the statewide managed care  
140 program. In addition to any other provisions the agency may deem  
141 necessary, the contract must require:

142 (j) *Prompt payment.*—Managed care plans shall comply with  
143 ss. 641.315, 641.3155, and 641.513, and the agency shall impose  
144 finances, and may impose other sanctions, on a plan that willfully  
145 fails to comply with those sections or s. 409.982(5).

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146 Section 5. Subsection (1) of section 409.979, Florida  
147 Statutes, is amended to read:

148 409.979 Eligibility.—

149 (1) PREREQUISITE CRITERIA FOR ELIGIBILITY.—Medicaid  
150 recipients who meet all of the following criteria are eligible  
151 to receive long-term care services and, unless exempt under s.  
152 409.965, must receive long-term care services by participating  
153 in the long-term care managed care program. The recipient must  
154 be:

155 (a) Sixty-five years of age or older, or age 18 or older  
156 and eligible for Medicaid by reason of a disability.

157 (b) Determined by the Comprehensive Assessment Review and  
158 Evaluation for Long-Term Care Services (CARES) preadmission  
159 screening program to require nursing facility care as defined in  
160 s. 409.985(3).

161 Section 6. Subsections (1) and (2) of section 409.982,  
162 Florida Statutes, are amended to read:

163 409.982 Long-term care managed care plan accountability.—In  
164 addition to the requirements of s. 409.967, plans and providers  
165 participating in the long-term care managed care program must  
166 comply with the requirements of this section.

167 (1) PROVIDER NETWORKS.—Managed care plans may limit the  
168 providers in their networks based on credentials, quality  
169 indicators, and price. For the first 12 months of a contract  
170 period following a procurement for the long-term care managed  
171 care program under s. 409.981, if a plan has been ~~period between~~  
172 October 1, 2013, and September 30, 2014, each selected for a  
173 region that the plan was not serving immediately prior to the  
174 procurement, the plan must offer a network contract to all

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175 nursing homes in that region which meet the recredentialing  
176 requirements and to all hospices in that region which meet the  
177 credentialing requirements specified in the plan's contract with  
178 the agency ~~the following providers in the region:~~

179 ~~(a) Nursing homes.~~

180 ~~(b) Hospices.~~

181 ~~(c) Aging network service providers that have previously~~  
182 ~~participated in home and community-based waivers serving elders~~  
183 ~~or community service programs administered by the Department of~~  
184 ~~Elderly Affairs. After a provider specified in this subsection~~  
185 has actively participated in a managed care plan's network for  
186 12 months of active participation in a managed care plan's  
187 network, the plan may exclude the provider any of the providers  
188 named in this subsection from the plan's network for failure to  
189 meet quality or performance criteria. If a the plan excludes a  
190 provider from its network under this subsection the plan, the  
191 plan must provide written notice to all recipients who have  
192 chosen that provider for care. The notice must be provided at  
193 least 30 days before the effective date of the exclusion. The  
194 agency shall establish contract provisions governing the  
195 transfer of recipients from excluded residential providers. The  
196 agency shall require a plan that excludes a provider from its  
197 network or that fails to renew the plan's contract with a  
198 provider under this subsection to report to the agency the  
199 quality or performance criteria the plan used in deciding to  
200 exclude the provider and to demonstrate how the provider failed  
201 to meet those criteria.

202 (2) SELECT PROVIDER PARTICIPATION.—Except as provided in  
203 this subsection, providers may limit the managed care plans they

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204 join. Nursing homes and hospices that are enrolled Medicaid  
205 providers must participate in all eligible plans selected by the  
206 agency in the region in which the provider is located, with the  
207 exception of plans from which the provider has been excluded  
208 under subsection (1).

209 Section 7. Except as otherwise provided in this act and  
210 except for this section, which shall take effect upon this act  
211 becoming a law, this act shall take effect July 1, 2017.