

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 955 Medicaid Eligibility Requirements

SPONSOR(S): Perez

TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Market Reform Subcommittee	8 Y, 4 N	Crosier	Crosier
2) Health Care Appropriations Subcommittee	7 Y, 3 N	Nobles	Clark
3) Health & Human Services Committee	9 Y, 6 N	Crosier	Calamas

SUMMARY ANALYSIS

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families (DCF), the Department of Health, the Agency for Persons with Disabilities, and the Department of Elderly Affairs.

HB 955 directs AHCA to request federal approval to require enrollees to engage in work activities to maintain eligibility for Managed Medical Assistance (MMA) benefits

The bill will have significant negative fiscal impact on DCF if federal approval is received. The bill would have an insignificant impact on AHCA.

The bill provides an effective date of July 1, 2019.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families (DCF), the Department of Health, the Agency for Persons with Disabilities, and the Department of Elderly Affairs (DOEA).

The structure of each state's Medicaid program varies and what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.¹ Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. These federal requirements create an entitlement that comes with constitutional due process protections. The entitlement means that two parts of the Medicaid cost equation – people and utilization – are largely predetermined for the states. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include physician services, hospital services, home health services, and family planning.² States can add benefits, with federal approval. Florida has added many optional benefits, including prescription drugs, ambulatory surgical center services, and dialysis.³

Florida Medicaid does not cover all low-income Floridians. The maximum income limits for programs are illustrated below as a percentage of the federal poverty level (FPL).

Current Medicaid and CHIP Eligibility Levels in Florida ⁴ (With Income Disregards and Modified Adjusted Gross Income)						
Children's Medicaid			CHIP (KidCare) Age 0-18	Pregnant Women	Parents Caretaker Relatives	Childless Adults (non-disabled)
Age 0-1	Age 1-5	Age 6-18				
206% FPL	140% FPL	133% FPL	210% FPL	191% FPL	31% FPL	0% FPL

Applicants for Medicaid must be United States citizens or qualified noncitizens, must be Florida residents, and must provide social security numbers for data matching. While self-attestation is permitted for a number of data elements on the application, most components are matched through the Federal Data Services Hub.⁵ Applicants must also agree to cooperate with Child Support Enforcement during the application process.⁶

¹ Title 42 U.S.C. §§ 1396-1396w-5; Title 42 C.F.R. Part 430-456 (§§ 430.0-456.725) (2016).

² S. 409.905, F.S.

³ S. 409.906, F.S.

⁴ U.S. Centers for Medicare and Medicaid Services, Medicaid.gov, *Florida*, <http://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-eligibility-levels/index.html> (last visited March 9, 2019).

⁵ Florida Dep't of Children and Families, *Family-Related Medicaid Programs Fact Sheet*, p. 3, <http://www.dcf.state.fl.us/programs/access/docs/Family-RelatedMedicaidFactSheet.pdf> (last visited March 9, 2019).

⁶ Id.

The Florida Medicaid program covers approximately 4 million low-income individuals.⁷ Medicaid is the second largest single program in the state, behind public education, representing 32 percent of the total FY 2018-2019 budget. Medicaid expenditures represent over 19 percent of the total state funds appropriated in FY 2018-2019. Florida’s program is the 4th largest in the nation by enrollment, and the 5th largest in terms of expenditures.⁸

Medicaid Waivers

States have some flexibility in the provision of Medicaid services. Section 1915(b) of the Social Security Act provides authority for the Secretary of the U.S. Department of Health and Human Services to waive requirements to the extent that he or she “finds it to be cost-effective and efficient and not inconsistent with the purposes of this title.” Also, Section 1115 of the Social Security Act allows states to use innovative service delivery systems that improve care, increase efficiency, and reduce costs.

States may also ask the federal government to waive federal requirements to expand populations or services, or to try new ways of service delivery. For example, Florida has a Section 1115 waiver to use a comprehensive managed care delivery model for primary and acute care services, the Statewide Medicaid Managed Care (SMMC) Managed Medical Assistance (MMA) program.⁹ In addition to the Section 1115 waiver for the MMA program, Florida also has a waiver under Sections 1915(b) and (c) of the Social Security Act to operate the SMMC Long-term Care (LTC) program.¹⁰

Approximately 79% of the Medicaid population in Florida is enrolled in the MMA and LTC programs.¹¹

Statewide Medicaid Managed Care (SMMC)

The SMMC program requires AHCA to competitively procure contracts with managed care plans in 11 regions of the state to provide comprehensive Medicaid coverage for most Medicaid program enrollees. The following map illustrates the SMMC regions.

The current Medicaid Managed Care waiver is approved as an 1115 waiver and is approved through June 30, 2022, unless otherwise specified, and contains two parts: (1) integrated managed medical assistance and long term care and (2) adult dental services.

The LTC component began enrolling Medicaid recipients in August 2013 and completed its initial statewide roll-out in March 2014. The MMA component began enrolling recipients in May 2014 and finished its initial roll-out in August 2014. These contracts were re-procured in 2017 and contract execution and implementation was completed in February 2019. The chart below shows the enrollment in MMA and LTC.

Statewide Medicaid Managed Care Enrollment (as of March 2019)			
Component	Start Date	Budget¹²	Enrollment¹³
Long-Term Care Plan	August 2013	\$4.5 billion	94,803
Managed Medical Assistance	May 2014	\$14.2 billion	3,233,235

⁷ Agency for Health Care Administration, *Florida Statewide Medicaid Monthly Enrollment Report*, January 2019, available at http://www.fdhc.state.fl.us/medicaid/Finance/data_analytics/enrollment_report/index.shtml (last accessed March 9, 2019).

⁸ Agency for Health Care Administration, email dated March 11, 2019 (on file with the Health and Human Services Committee).

⁹ S. 409.964, F.S.

¹⁰ Id.

¹¹ Agency for Health Care Administration, email dated March 10, 2019 (on file with the Health and Human Services Committee).

¹² Email from the Agency for Health Care Administration dated March 7, 2019, on file with the HHS Committee.

¹³ Agency for Health Care Administration, *SMMC MMA Enrollment by County by Plan* (as of March 2019), available at http://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/index.shtml (last visited March 9, 2019).

MMA Program

The MMA program provides acute health care services through non-specialty managed care plans contracted with AHCA in the 11 regions across the state. Specialty plans are also available to serve distinct populations, such as the Children's Medical Services Network for children with special health care needs, or those in the child welfare system. Medicaid recipients with HIV/AIDS, serious mental illness, dual enrollment with Medicare, chronic obstructive pulmonary disease, congestive heart failure, or cardiovascular disease may also select from specialized plans.

Most plans supplement the required benefits and offer enhanced options, such as hearing and vision coverage, outpatient hospital coverage and physician services. Under s. 409.967, F.S., accountability provisions for the managed care plans specify several conditions or requirements, including emergency care and physician reimbursement standards, access and credentialing requirements, encounter data submission guidelines, grievance and resolutions, and medical loss ratio calculations.

Most Medicaid recipients must be enrolled in the MMA program. Those individuals who are not required to enroll, but may choose to do so, are:

- Recipients who have other creditable coverage, excluding Medicare;
- Recipients who reside in residential commitment facilities through the Department of Juvenile Justice or mental health treatment facilities under s. 394.455(32), F.S.;
- Persons eligible for refugee assistance;
- Residents of a developmental disability center;
- Enrollees in the developmental disabilities home and community based waiver or those waiting for waiver services; and
- Children in a prescribed pediatric extended care center.¹⁴

Other Medicaid enrollees are exempt from the MMA program and receive Medicaid services on a fee-for-service basis. Exempt enrollees are:

- Women who are eligible for family planning services only;
- Women who are eligible only for breast and cervical cancer services; and
- Persons eligible for emergency Medicaid for aliens.

Eligibility and Enrollment in LTC

AHCA is the single state agency for Medicaid; however through an interagency agreement, the DOEA conducts Florida's federally mandated pre-admission screening program for nursing home applicants through its Long-Term Care Services (CARES) program, including for the LTC component.¹⁵ This frailty-based assessment results in a priority score for an individual, who is then placed on the wait list based on that score.

TANF Cash Assistance Work Requirements

Under the federal welfare reform legislation of 1996, the Temporary Aid for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children, the Job Opportunities and Basic Skills Training program, and the Emergency Assistance program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides federal funds to states, territories, and tribes each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005. States receive block grants to operate their individual programs and to accomplish the goals of the TANF program.

¹⁴ S. 409.972, F.S.

¹⁵ Florida Department of Elderly Affairs, *Comprehensive Assessment and Review for Long-Term Care Services (CARES)*, <http://elderaffairs.state.fl.us/doea/cares.php> (last visited March 9, 2019).

Florida's Temporary Cash Assistance Program

Florida's temporary cash assistance (TCA) program is one of several programs funded with TANF block grant funds. The purpose of the TCA program is to help families with children become self-supporting while allowing children to remain in their own homes. It provides cash assistance to families that meet the technical, income, and asset requirements.¹⁶ In January 2019, 9,732 adults and 55,333 children received TCA.¹⁷

Various state agencies and entities work together through a series of contracts or memoranda of understanding to administer the TCA program. DCF receives the federal TANF block grant and administers the TCA program, monitoring eligibility and dispersing benefits. The Department of Economic Opportunity (DEO) is responsible for financial and performance reporting to ensure compliance with federal and state measures, and for providing training and technical assistance to Regional Workforce Boards (RWBs). RWBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.¹⁸ CareerSource Florida has planning and oversight responsibilities for all workforce-related programs.

Full-Family and Child-Only TCA

Florida law specified two categories of families who are eligible for TCA: those families that are work-eligible and may receive TCA for the full-family, and those families who are eligible to receive child-only TCA. Within the full-family cases, the parent or parents are required to comply with work requirements to receive TCA for the parent(s) and child(ren). Additionally, there are two types of child-only TCA:

- Where the child has not been adjudicated dependent, but is living with a relative,¹⁹ or still resides with his or her custodial parent, but that parent is not eligible to receive TCA;²⁰ and
- The Relative Caregiver Program, where the child has been adjudicated dependent and has been placed with relatives by the court. These relatives are eligible for a payment that is higher than the typical child-only TCA.

The majority of cash assistance benefits are child-only, through the relative caregiver program, or to work-eligible cases where the adult is ineligible due to sanction for failure to meet TCA work requirements. In January 2019, 31,686 of the 40,944 families receiving TCA were child-only cases; many of these families are not subject to work requirements.²¹ In January 2019, there were 8,947 families receiving TCA through full-family cases containing an adult, 195 of which were two-parent families; these families are subject to work requirements.²²

¹⁶ Children must be under the age of 18, or under age 19 if they are full time secondary school students. Parents, children and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy.

¹⁷ Department of Children and Families, Monthly Flash Report Caseload Data: January 2019.

<http://www.dcf.state.fl.us/programs/access/reports/flash2005.xlsx> (last visited March 9, 2019)

¹⁸ Workforce Investment Act – Workforce Innovation and Opportunity Act Annual Report for 2015-2016 Program Year, CareerSource Florida, Inc., available at https://careersourceflorida.com/wp-content/uploads/2016/10/161003_AnnualReport.pdf (last visited April 6, 2017).

¹⁹ Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirements or the TANF time limit.

²⁰ Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments, situations where the parent is not a U.S. citizen and is ineligible for TCA due to their immigration status, and situations where the parent has been sanctioned for noncompliance with work requirements.

²¹ *Supra*, note 2.

²² *Id.*

TCA Work Requirement

To be eligible for full-family TCA, applicants must participate in work activities in accordance with s. 445.024, F.S., unless they qualify for an exemption.²³ Section 445.024(3), F.S., permits exemptions from the work requirements for:

- An individual who receives benefits under the Supplemental Security Income (SSI) program or the Social Security Disability Insurance (SSDI) program.
- An adult who is not defined as a work-eligible individual²⁴ under federal law.
- A single parent of a child under 3 months of age, except that the parent may be required to attend parenting classes or other activities to better prepare for raising a child.
- An individual who is exempt from the time limitations of TCA because of a hardship exemption.²⁵

When Congress created TANF in 1996, it allowed states to use their TANF funding in any manner “reasonably calculated to accomplish the purposes of TANF.” States were given broad flexibility to determine method of assistance, benefit levels, and eligibility requirements.²⁶

Florida law recognizes that certain participants are not immediately able to engage in work activities for medical reasons. If an individual cannot participate in assigned work activities due to a medical incapacity, the individual may be excepted from the activity for a specific period of time.²⁷ To be excused from the work activity requirements, the participant’s medical incapacity must be verified by a physician licensed under chapter 458 or chapter 459, in accordance with the procedures established by the department.²⁸

Individuals receiving TCA who are not otherwise exempt from work activity requirements must participate in work activities for the maximum number of hours allowable under federal law.²⁹ The number of required work or activity hours is determined by calculating the value of the cash benefits and then dividing that number by the hourly minimum wage amount. Federal law requires individuals to participate in work activities for at least:

- 20 hours per week (or attend a secondary school or the equivalent or participate in education directly related to employment) for those under the age of 20 and married or single head-of-household;
- 20 hours per week for single parents with a child under the age of six;
- 30 hours per week for all other single parents;
- 35 hours per week, combined, for two-parent families not receiving subsidized child care; or
- 55 hours per week, combined, for two-parent families receiving subsidized child care.

Pursuant to federal rule³⁰ and state law,³¹ job search, on-the-job training, education, and subsidized and unsubsidized employment, among other things, may be used individually or in combination to satisfy the work requirements for a participant in the TCA program.

²³ S. 414.095(1), F.S.

²⁴ 45 C.F.R. 261.2(n) excludes from the definition of “work-eligible individuals” minor parents who are not the head of household, ineligible non-citizens, recipients of SSI, parents caring for a disabled family member, parents who receive SSDI, and certain individuals participating in a Tribal TANF program.

²⁵ S. 414.105, F.S., provides hardship exemptions for individuals who have diligently participated in activities but have an inability to obtain employment or extraordinary barriers to employment, victims of domestic violence, individuals subject to a time limitation under the Family Transition Act of 1993, individuals who receive SSI or SSDI, and individuals who are totally responsible for the care of a disabled family member.

²⁶ P.L. 104-193 *Personal Responsibility and Work Opportunity Reconciliation Act of 1996*

²⁷ S. 414.065(4)(d), F.S.

²⁸ Rule 65A-4.206(2),(3), F.A.C.

²⁹ S. 445.024(2), F.S.

³⁰ 45 C.F.R. § 261.30.

TCA Workforce Services

If no exemptions from work requirements apply, DCF refers the TCA applicant to DEO.³² Upon referral, the participant must complete an intake application and undergo assessment by RWB staff which includes:

- Identifying barriers to employment;
- Identifying the participant's skills that will translate into employment and training opportunities;
- Reviewing the participant's work history; and
- Identifying whether a participant needs alternative requirements due to domestic violence, substance abuse, medical problems, mental health issues, hidden disabilities, learning disabilities or other problems which prevent the participant from engaging in full-time employment or activities.

Once the assessment is complete, the staff member and participant create an Individual Responsibility Plan (IRP). The IRP includes:

- The participant's employment goal;
- The participant's assigned activities;
- Services provided through program partners, community agencies and the workforce system;
- The weekly number of hours the participant is expected to complete; and
- Completion dates and deadlines for particular activities.

RWBs currently have discretion to assign an applicant to a work activity, including job search, before receiving TCA.³³ Currently, Florida's TANF Work Verification Plan³⁴ requires participants to record each on-site job contact and a representative of the employer or RWB provider staff to certify the validity of the log by signing each entry. If the applicant conducts a job search by phone or internet, the activity must be recorded on a job search report form and include detailed, specific information to allow follow-up and verification by the RWB provider staff.³⁵

Current Medicaid law does not require participation in work or work-related activities as a condition of program eligibility or enrollment in a managed care plan.

Effect of Proposed Changes

HB 955 requires AHCA to request approval from the federal government to impose work requirements as condition of eligibility for Medicaid and enrollment in a MMA plan. The work requirements and the Medicaid recipients subject to them must be consistent with those in the TANF TCA program.

Under the bill, the work requirements would only apply to MMA enrollees; not LTC enrollees. Assuming the federal government approves work requirements for Medicaid recipients consistent with those applicable to TCA, the work requirements would not apply to children or:

- An individual who receives SSI or SSDI benefits;

³¹ This information is not required as part of CareerSource Florida's annual report to the Legislature and Governor. See, s. 445.024, F.S.

³² This is an electronic referral through a system interface between DCF's computer system and DEO's computer system. Once the referral has been entered into the DEO system the information may be accessed by any of the RWBs or One-Stop Career Centers.

³³ Department of Children and Families, *Agency Analysis of 2016 House Bill 563* (Nov. 20, 2015) (on file with Children, Families, and Seniors Subcommittee staff).

³⁴ Department of Children and Families Economic Self-Sufficiency Program Office, *Temporary Assistance for Needy Families State Plan Renewal October 1, 2014 – September 30, 2017*, Nov. 14, 2014, available at www.dcf.state.fl.us/programs/access/docs/TANF-Plan.pdf (last visited April 6, 2017).

³⁵ *Supra*, note 43 at 2.

- An adult who is not defined as a work-eligible individual under federal law³⁶;
- A single parent of a child under 3 months, except that the parent may be required to attend parenting classes or other activities to better prepare for the responsibilities of raising a child; or
- An individual who is exempt from the time period pursuant to s. 414.105, F.S.³⁷.

Work requirements would apply to able-bodied adults with children, and able-bodied adults without children ages 19-20, who meet the current income eligibility requirements. Medicaid recipients who are also TCA beneficiaries are already subject to TANF work requirements. The application of work activities consistent with the TCA requirements would require an estimated 501,554 Medicaid recipients to be subject to work requirements.³⁸

Because the bill requires the Medicaid work requirements to be consistent with those for TCA, the medical exception in the TCA program would apply. A participant that cannot participate in assigned work activities due to a medical incapacity may be excepted from the activity for a specific period of time. The participant is required to comply with the course of treatment necessary for the participant to resume participation. The participant's medical incapacity must be verified by a physician licensed under chapter 458 or chapter 459, in accordance with the department's rule.

If approved by the federal government, MMA enrollees would be required to submit proof to DCF of work activities for no more than 40 hours per week, consistent with federal TCA requirements. Assuming the federal government approves work activities consistent with those applicable to TCA, work activities may be in the following categories:

- Unsubsidized employment;
- Subsidized private sector or public sector employment;
- On-the-job training;
- Community service programs;
- Work experience;
- Job search and job readiness assistance;
- Vocational educational training;
- Job skills training directly related to employment;
- Education directly related to employment;
- Satisfactory attendance at a secondary school or in a course of study leading to a high school equivalency diploma; or
- Providing child care services.³⁹

The bill provides an effective date of July 1, 2019.

³⁶ 45 CFR 261.2(n):

(1) Work-eligible individual means an adult (or minor child head-of-household) receiving assistance under TANF or a separate State program or a non-recipient parent living with a child receiving such assistance unless the parent is:

- (i) A minor parent and not the head-of-household;
- (ii) A non-citizen who is ineligible to receive assistance due to his or her immigration status; or
- (iii) At State option on a case-by-case basis, a recipient of Supplemental Security Income (SSI) benefits or Aid to the Aged, Blind or Disabled in the Territories.

(2) The term also excludes:

- (i) A parent providing care for a disabled family member living in the home, provided that there is medical documentation to support the need for the parent to remain in the home to care for the disabled family member;
- (ii) At State option on a case-by-case basis, a parent who is a recipient of Social Security Disability Insurance (SSDI) benefits; and
- (iii) An individual in a family receiving MOE-funded assistance under an approved Tribal TANF program, unless the State includes the Tribal family in calculating work participation rates, as permitted under §261.25.

³⁷ S. 414.105, F.S., provides hardship exemptions for individuals who have diligently participated in activities but have an inability to obtain employment or extraordinary barriers to employment, victims of domestic violence, individuals subject to a time limitation under the Family Transition Act of 1993, individuals who receive SSI or SSDI, and individuals who are totally responsible for the care of a disabled family member.

³⁸ Department of Children and Families, Agency Analysis of 2019 House Bill 955 (March 11, 2019)(on file with the Health and Human Services Committee).

³⁹ S. 445.024(1), F.S.

B. SECTION DIRECTORY:

Section 1: Amends s. 409.972, F.S., relating to mandatory and voluntary enrollment.

Section 2: Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

2. Expenditures:

If federal approval is received, DCF will be required to modify its Medicaid eligibility determination processes, which includes making changes to its data and eligibility determination information technology systems. According to DCF, the system programming changes will cost approximately \$1,863,696 in non-recurring funds (15,152 programming hours at \$123 per hour). Federal approval and implementation could potentially take 18 months.

The bill would have an insignificant impact on AHCA.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA and DCF have sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES