

**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.)

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

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BILL: CS/SB 1798

INTRODUCER: Health Policy Committee and Senator Trumbull

SUBJECT: Home Health Care Services

DATE: February 20, 2024

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Morgan</u>	<u>Brown</u>	<u>HP</u>	<b>Fav/CS</b>
2.	<u>Barr</u>	<u>McKnight</u>	<u>AHS</u>	<b>Favorable</b>
3.	<u>Morgan</u>	<u>Yeatman</u>	<u>FP</u>	<b>Favorable</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1798 amends s. 409.905, F.S., to authorize an advanced practice registered nurse (APRN) or a physician assistant to order or write prescriptions for Medicaid home health services.

This bill has no fiscal impact on state revenues or state expenditures.

The bill provides an effective date of July 1, 2024.

**II. Present Situation:**

**The Florida Medicaid Program**

The Medicaid program is a voluntary, joint federal-state program that finances health coverage for individuals, including eligible low-income adults, children, pregnant women, elderly adults and persons with disabilities.<sup>1</sup> The Centers for Medicare & Medicaid Services within the U.S. Department of Health and Human Services is responsible for administering the Medicaid program at the federal level. Florida Medicaid is the health care safety net for low-income Floridians. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.<sup>2</sup>

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<sup>1</sup> Medicaid.gov, Medicaid, available at <https://www.medicaid.gov/medicaid/index.html> (last visited Feb. 3, 2024).

<sup>2</sup> Section 20.42, F.S.

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

States that elect to participate in the Medicaid program agree to cover a host of mandatory Medicaid services in accordance with Title XIX of the Social Security Act. As the single-state agency responsible for the administration of Florida's Medicaid program, the AHCA is required to provide reimbursement for these services, including home health care, when furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were rendered. Medicaid services are only provided as medically necessary.<sup>3</sup>

Under Medicaid's home health care services benefit, the AHCA reimburses for nursing and home health aide<sup>4</sup> services, supplies, appliances, and durable medical equipment necessary to assist a recipient who is living at home. The AHCA requires prior authorization to determine the medical necessity for these services. A home health agency (HHA) must submit the recipient's plan of care and documentation that support the diagnosis to the AHCA when requesting prior authorization.<sup>5</sup>

The AHCA cannot pay for home health services unless the services are medically necessary and:<sup>6</sup>

- The services are ordered by a physician.
- The written prescription for the services is signed and dated by the recipient's physician before the development of a plan of care and any request requiring prior authorization.
- Outside of any exclusions, the physician ordering the services is not employed, under contract with, or otherwise affiliated with the HHA rendering the services.
- The physician ordering the services has examined the recipient within the 30 days preceding the initial request for the services and biannually thereafter.
- The written prescription for the services includes the recipient's acute or chronic medical condition or diagnosis, the home health service required, and, for skilled nursing services, the frequency and duration of the services.
- The national provider identifier, Medicaid identification number, or medical practitioner license number of the physician ordering the services is listed on the written prescription for the services, the claim for home health reimbursement, and the prior authorization request.

### **The Coronavirus Aid, Relief, and Economic Security Act**

The federal Coronavirus Aid, Relief, and Economic Security (CARES) Act provided fast and direct economic assistance for American workers, families, small businesses, and industries through the implementation of a variety of programs<sup>7</sup> to address issues related to the onset of the

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<sup>3</sup> Section 409.905, F.S.

<sup>4</sup> Under s. 400.462(14), F.S., a home health aide is a person who is trained or qualified, as provided by rule, and who provides hands-on personal care, performs simple procedures as an extension of therapy or nursing services, assists in ambulation or exercises, assists in administering medications as permitted in rule and for which the person has received training established by the Agency for Health Care Administration, or performs tasks delegated to him or her under ch. 464, F.S.

<sup>5</sup> Section 409.905(4), F.S.

<sup>6</sup> *Id.*

<sup>7</sup> Centers for Medicare & Medicaid Services, *Home Health Agencies: CMS Flexibilities to Fight COVID-19*, available at <https://www.cms.gov/files/document/home-health-agencies-cms-flexibilities-fight-covid-19.pdf> (last visited Feb. 3, 2024).

COVID-19 pandemic. The CARES Act was passed by Congress on March 25, 2020, and signed into law on March 27, 2020.<sup>8</sup>

### ***Improving Care Planning for Medicare and Medicaid Home Health Services***

Prior to the CARES Act, federal law allowed only a physician to order home health services for Medicare and Medicaid recipients.<sup>9</sup> Section 3708 of the CARES Act<sup>10</sup> expanded the allowable ordering provider type to include a nurse practitioner, a clinical nurse specialist, or a physician assistant.<sup>11</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 409.905, F.S., to authorize an advanced practice registered nurse (APRN) or a physician assistant to order or write prescriptions for Medicaid home health services. The APRN or physician assistant ordering the services may not be employed, under contract with, or otherwise affiliated with the home health agency (HHA) rendering the services.<sup>12</sup>

In order for the Agency for Health Care Administration to reimburse when an APRN or a physician assistant orders or writes prescriptions for HHA services, the bill also requires that:

- The examination of the recipient by the APRN or the physician assistant must happen within the 30 days preceding the initial request for the services and biannually thereafter, which are the same current-law requirements for physicians.
- The national provider identifier, Medicaid identification number, or medical practitioner license number of the APRN or the physician assistant must be listed on the written prescription, the claim for reimbursement, and the prior authorization request, which is also required of physicians under current law.

The bill provides an effective date of July 1, 2024.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>8</sup> U.S. Department of the Treasury, *About the CARES Act and the Consolidated Appropriations Act*, available at <https://home.treasury.gov/policy-issues/coronavirus/about-the-cares-act> (last visited Feb. 3, 2024).

<sup>9</sup> Congress.gov, *H.R.748 – CARES Act, Summary*, available at <https://www.congress.gov/bill/116th-congress/house-bill/748> (last visited Feb. 3, 2024).

<sup>10</sup> Kaiser Family Foundation, *The Coronavirus Aid, Relief, and Economic Security Act: Summary of Key Health Provisions*, available at <https://www.kff.org/coronavirus-covid-19/issue-brief/the-coronavirus-aid-relief-and-economic-security-act-summary-of-key-health-provisions/> (last visited Feb. 3, 2024).

<sup>11</sup> Congress.gov, *H.R.748 – CARES Act, Text*, available at <https://www.congress.gov/bill/116th-congress/house-bill/748/text> (last visited Feb. 3, 2024).

<sup>12</sup> Section 409.905(4)(c)3., F.S. However, this subparagraph does not apply to an HHA affiliated with a retirement community, of which the parent corporation or a related legal entity owns a rural health clinic certified under 42 CFR part 491, subpart A, ss. 1-11, a nursing home licensed under part II of ch. 400, F.S., or an apartment or single-family home for independent living. For purposes of this subparagraph, the AHCA may, on a case-by-case basis, provide an exception for medically fragile children who are younger than 21 years of age.

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

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

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

None.

**B. Private Sector Impact:**

By allowing an advance practice registered nurse or a physician assistant to order Medicaid home health services that only physicians may order under current law, the bill might streamline the provision of such services in the Medicaid program.

**C. Government Sector Impact:**

The bill has no fiscal impact on state revenues or state expenditures.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 409.905 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Health Policy on February 6, 2024:**

The committee substitute removes Section 1 and Section 2 of the underlying bill and further amends s. 409.905, F.S., to authorize both advance practice registered nurses and physician assistants to order and prescribe Medicaid home health services in the same capacity as a physician.

- 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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