

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 Appropriations Committee on Health and Human Services

BILL: CS/CS/SB 1490

INTRODUCER: Appropriations Committee on Health and Human Services; Health Policy Committee;
and Senator Harrell

SUBJECT: Children's Medical Services Program

DATE: April 14, 2025

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1490 transfers the operation of the Children's Medical Services (CMS) Managed Care Plan from the Department of Health (DOH) to the Agency for Health Care Administration (AHCA).

Under the bill, the DOH will retain responsibility for clinical eligibility determinations and must provide ongoing consultation to the AHCA on services to children and youth with special health care needs.

The bill repeals s. 391.037, F.S., effective January 1, 2026, deleting provisions that clarify instances in which it is not a violation of s. 112.313(7), F.S., for a physician who is involved with the DOH under certain circumstances to also be employed by the DOH to provide CMS services or services to assist in proceedings related to children.

The bill requires the AHCA to develop a plan to redesign the Florida Medicaid Model Waiver for home and community-based services (HCBS)¹ to include children who receive private duty nursing services. The bill also requires the AHCA to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2025, detailing certain aspects of the waiver redesign.

The bill will have no fiscal impact on state expenditures. **See Section V., Fiscal Impact Statement.**

The bill takes effect upon becoming a law, except as otherwise expressly provided.

II. Present Situation:

Florida Agency for Health Care Administration

The Agency for Health Care Administration (AHCA) was statutorily created by ch. 20, F.S., as the chief health policy and planning entity for the state. The AHCA is primarily responsible for the state's estimated \$33 billion Medicaid program (which is projected to serve 4.2 million Floridians in state fiscal year 2024-2025)², the licensure of the state's more than 50,500 health care facilities, and the sharing of health care data through the Florida Center for Health Information and Policy Analysis.³

The Florida Medicaid Program

The Medicaid program is a voluntary, federal-state program that finances health coverage for individuals, including eligible low-income adults, children, pregnant women, elderly adults, and persons with disabilities.⁴ The federal 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 and is financed through state and federal funds.⁵

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals

¹ HCBS are types of person-centered care delivered in the home and community. A variety of health and human services can be provided, including home health care, durable medical equipment, case management, personal care, and caregiver and client training. HCBS programs address the needs of people with functional limitations who need assistance with everyday activities, like getting dressed or bathing. HCBS are often designed to enable people to stay in their homes, rather than moving to a facility for care; see CMS.gov, *Home- and Community-Based Services*, available at <https://www.cms.gov/training-education/partner-outreach-resources/american-indian-alaska-native/ltss-ta-center/information/ltss-models/home-and-community-based-services> (last visited Mar. 30, 2025).

² Social Services Estimating Conference, *Medicaid Caseloads and Expenditures, February 12, 35 and 27, 2025, Executive Summary* available at <https://edr.state.fl.us/Content/conferences/medicaid/execsummary.pdf> (last visited Apr. 4, 2025).

³ Agency for Health Care Administration, *About the Agency for Health Care Administration*, available at <https://ahca.myflorida.com/about-the-agency-for-health-care-administration> (last visited Mar. 30, 2025).

⁴ Medicaid.gov, *Medicaid*, available at <https://www.medicaid.gov/medicaid> (last visited Mar. 30, 2025).

⁵ Section 20.42, F.S.

covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.⁶

Florida KidCare – The Children’s Health Insurance Program

Florida KidCare is the state’s children’s health insurance program (CHIP) for uninsured children who meet income and eligibility requirements. In 1998, the Florida Legislature created Florida KidCare in response to the passage of Title XXI of the Social Security Act (SSA) in 1997. Three state agencies⁷ and the Florida Healthy Kids Corporation, a non-profit organization, form the Florida KidCare partnership. MediKids, Florida Healthy Kids, and Title XXI Children’s Medical Services (CMS) Managed Care Plan compose Florida KidCare. Florida KidCare is not an entitlement program, and the families pay a monthly premium that varies depending on the family’s income. Florida KidCare also includes Medicaid for children.⁸

Statewide Medicaid Managed Care

Approximately 72.5 percent of Florida Medicaid recipients⁹ receive services through a managed care plan contracted with the AHCA under the Statewide Medicaid Managed Care (SMMC) program.¹⁰ The SMMC program has three components: Managed Medical Assistance (MMA), Long-Term Care (LTC), and the Prepaid Dental Health program.¹¹ Among these three components, Florida’s SMMC program offers a health care package covering acute, preventive, behavioral health, prescribed drugs, long-term care, and dental services. Florida’s SMMC program benefits are authorized through federal waivers and are specifically required by the Florida Legislature in ss. 409.973, 409.98, and 409.9855, F.S.¹²

The AHCA contracts with managed care plans on a regional basis to provide services to eligible recipients. The MMA program, which covers most medical and acute care services for managed care plan enrollees, was fully implemented in 2014 and was re-procured for a period beginning December 2018 and ending in 2023.¹³ In 2020, the Legislature extended the allowable term of the SMMC contracts from five to six years.¹⁴ As a result, the AHCA’s previous contracts

⁶ Medicaid.gov, *Medicaid State Plan Amendments*, available at <https://www.medicaid.gov/medicaid-state-planamendments/index.html> (last visited Mar. 30, 2025).

⁷ The Agency for Health Care Administration, the Department of Children and Families, and the Department of Health.

⁸ Agency for Health Care Administration, *Florida KidCare – Title XXI – Children’s Health Insurance Program (CHIP)*, available at <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/program-policy/florida-kidcare-title-xxi-children-s-health-insurance-program-chip> (last visited Mar. 30, 2025).

⁹ The other 27.5 percent of recipients receive Medicaid services through the fee-for-service (FFS) delivery model, where providers contract directly with the AHCA to render services, billing and receiving reimbursement directly from the AHCA; Agency for Health Care Administration, *Senate Bill 306* (Feb. 7, 2025) (on file with Senate Committee on Health Policy).

¹⁰ Agency for Health Care Administration, *Florida Statewide Medicaid Enrollment Report As of February 28, 2025 (including Medikids Population)*, available at https://ahca.myflorida.com/content/download/26230/file/ENR_202502.xls (last visited Mar. 30, 2025).

¹¹ Agency for Health Care Administration, *Statewide Medicaid Managed Care*, available at <https://ahca.myflorida.com/medicaid/statewide-medicicaid-managed-care> (last visited Mar. 27, 2025).

¹² Agency for Health Care Administration, *Senate Bill 1490* (Nov. 4, 2024) (on file with Senate Committee on Health Policy).

¹³ Agency for Health Care Administration, *Statewide Medicaid Managed Care: Overview*, available at https://ahca.myflorida.com/medicaid/statewide_mc/pdf/mma/SMMC_Overview_12042018.pdf (last visited Mar. 30, 2025).

¹⁴ Chapter 2020-156, s. 44, Laws of Florida.

recently ended in December 2024. On February 1, 2025, the AHCA implemented new SMMC contracts, and the contractual period runs through 2030.¹⁵

Florida Medicaid Waivers

State Medicaid programs may request a formal waiver of the requirements codified in the federal Social Security Act. Federal waivers give states flexibility not afforded through their Medicaid state plan. Of the available waiver types,^{16,17} Florida's current Medicaid waivers are as follows:¹⁸

- Section 1115 – Research & Demonstration Projects¹⁹
 - 1115 Florida MMA Waiver²⁰
 - 1115 Florida Medicaid Family Planning Waiver²¹
- Section 1915(b) – Managed Care Waivers²²
 - 1915(b)(1)(4) Florida Non-Emergency Transportation (NET) Waiver²³

¹⁵ Agency for Health Care Administration, *Statewide Medicaid Managed Care 3.0 Overview*, available at https://ahca.myflorida.com/content/download/25090/file/Statewide%20Medicaid%20Managed%20Care%20Full%20Deck_09172024.pdf (last visited Mar. 30, 2025).

¹⁶ Medicaid.gov, *Managed Care Authorities*, available at <https://www.medicaid.gov/medicaid/managed-care/managed-care-authorities> (last visited Mar. 30, 2025).

¹⁷ Medicaid.gov, *Home & Community Based Services Authorities*, available at <https://www.medicaid.gov/medicaid/home-community-based-services/home-community-based-services-authorities> (last visited Mar. 30, 2025).

¹⁸ Agency for Health Care Administration, *2025 Agency Legislative Bill Analysis – Senate Bill 1490* (Nov. 4, 2024) (on file with Senate Committee on Health Policy).

¹⁹ Section 1115 of the SSA gives the Secretary of HHS authority to approve experimental, pilot, or demonstration projects that promote the objectives of the Medicaid and CHIP programs. The purpose of these demonstrations, which give states additional flexibility to design and improve their programs, is to demonstrate and evaluate policy approaches, such as expanding eligibility to individuals who are not otherwise Medicaid or CHIP eligible, providing services not typically covered by Medicaid, and using innovative service delivery systems that improve care, increase efficiency, and reduce costs; see Medicaid.gov, *Managed Care Authorities*, available at <https://www.medicaid.gov/medicaid/managed-care/managed-care-authorities> (last visited Mar. 30, 2025).

²⁰ The MMA program provides primary and acute medical care, and behavioral health and dental services for the majority of Medicaid recipients. Recipients receive their services through competitively selected health plans; see Agency for Health Care Administration, *Federal Waivers*, available at <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/federal-authorities/federal-waivers> (last visited Mar. 30, 2025).

²¹ The family planning waiver provides family planning and family planning-related services to all women of childbearing age (14-55) losing Medicaid coverage, who have a family income at or below 191 percent of the federal poverty level and who are not otherwise eligible for Medicaid, CHIP, or other health insurance coverage providing family planning services. Coverage is available for up to two years after loss of Medicaid eligibility; see Agency for Health Care Administration, *Federal Waivers*, available at <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/federal-authorities/federal-waivers> (last visited Mar. 30, 2025).

²² States can also implement a managed care delivery system using waiver authority under 1915(b) of the SSA. There are four 1915(b) waivers: (b)(1) Freedom of Choice - restricts Medicaid enrollees from receiving services within the managed care network; (b)(2) Enrollment Broker - utilizes a “central broker;” (b)(3) Non-Medicaid Services Waiver - uses cost savings to provide additional services to beneficiaries; and (b)(4) Selective Contracting Waiver - restricts the provider from whom the Medicaid eligible may obtain services. See Medicaid.gov, *Managed Care Authorities*, available at <https://www.medicaid.gov/medicaid/managed-care/managed-care-authorities> (last visited Mar. 30, 2025).

²³ The Florida NET waiver provides NET services to eligible Medicaid recipients; see Agency for Health Care Administration, *FL 1915(b) Managed Care Waiver*, available at <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/federal-authorities/federal-waivers/fl-1915-b-managed-care-waiver> (last visited Mar. 30, 2025).

- Concurrent Section 1915(b) and 1915(c)²⁴ Waivers
 - 1915(b)(c) Florida LTC Managed Care Waiver²⁵
- Concurrent Section 1915(a)²⁶ and 1915(c) Waivers
 - 1915(a)(c) Florida Comprehensive Intellectual and Developmental Disabilities Managed Care (IDD Pilot) Waiver²⁷
- Section 1915(c) – Home and Community Based Services (HCBS) Waivers
 - 1915(c) Florida Developmental Disabilities Individual Budgeting (iBudget) Waiver²⁸
 - 1915(c) Florida Familial Dysautonomia (FD) Waiver²⁹
 - 1915(c) Florida Model Waiver

The Florida Medicaid Model Waiver

The current 1915(c) Model waiver was implemented in 1991, and it is authorized under s. 409.906, F.S., and Rule 59G-13.080, F.A.C. The waiver provides HCBS to eligible children and is designed to delay or prevent institutionalization and allow waiver recipients to maintain stable health while living at home in their community. The Model Waiver is a Katie Beckett Waiver, also known as the federal Tax Equity and Fiscal Responsibility Act (TEFRA) waiver, which permits the state to disregard the family income for certain children when determining eligibility for the waiver (also commonly referred to as “family of one”).³⁰

²⁴ The Medicaid HCBS waiver program is authorized in s. 1915(c) of the SSA. The program permits a state to furnish an array of HCBS that assist Medicaid beneficiaries to live in the community and avoid institutionalization; *see* CMS Waiver Applications, *1915(c) Waiver Application & 372 Reports*, available at <https://wms-mmdl.cms.gov/WMS/faces/portal.jsp> (last visited Mar. 30, 2025).

²⁵ The LTC program provides LTC services and supports to eligible disabled individuals aged 18-64 and elderly individuals aged 65 or older, including individuals over the age of 18 with a diagnosis of cystic fibrosis, AIDS, or a traumatic brain or spinal cord injury. Program recipients receive their services through competitively selected managed care organizations; *see* Agency for Health Care Administration, *Federal Waivers*, available at <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/federal-authorities/federal-waivers> (last visited Mar. 30, 2025).

²⁶ States can implement a voluntary managed care program simply by executing a contract with companies that the state has procured using a competitive procurement process. The Centers for Medicare & Medicaid Services must approve the state in order to make payment. Currently, 13 states (and Puerto Rico) use 1915(a) contracts to administer 24 voluntary managed care programs; *see* Medicaid.gov, *Managed Care Authorities*, available at <https://www.medicaid.gov/medicaid/managed-care/managed-care-authorities> (last visited Mar. 30, 2025).

²⁷ The IDD Pilot Waiver is a voluntary, comprehensive program consisting of MMA, LTC waiver, and Florida Developmental Disabilities Individual Budgeting (iBudget) waiver services; *see* Agency for Health Care Administration, *Comprehensive Intellectual and Developmental Disabilities Managed Care Waiver*, available at <https://ahca.myflorida.com/medicaid/medicaid-policy-quality-and-operations/medicaid-policy-and-quality/medicaid-policy/federal-authorities/federal-waivers/comprehensive-intellectual-and-developmental-disabilities-managed-care-waiver> (last visited Mar. 30, 2025).

²⁸ The purpose of the Medicaid iBudget waiver is to provide home and community-based supports and services to eligible persons with developmental disabilities living at home or in a home-like setting utilizing an individual budgeting approach, and to provide enhanced opportunities for self-determination; *see* Agency for Health Care Administration, *Developmental Disabilities Individual Budgeting (iBudget) Waiver*, available at <https://ahca.myflorida.com/medicaid/home-and-community-based-settings-rule/developmental-disabilities-individual-budgeting-ibudget-waiver> (last visited Mar. 30, 2025).

²⁹ The FD waiver is designed to promote, maintain, and restore the health of eligible recipients with FD and to minimize the effects of illness and disabilities through the provision of needed supports and services in order to delay or prevent hospital placement or institutionalization; *see* Agency for Health Care Administration, *Familial Dysautonomia Waiver*, available at <https://ahca.myflorida.com/medicaid/home-and-community-based-settings-rule/familial-dysautonomia-waiver> (last visited Mar. 30, 2025).

³⁰ Agency for Health Care Administration, *Medicaid 2025 General Session CMS Transfer Briefing* (Feb. 19, 2025) (on file with Senate Committee on Health Policy).

The current eligibility criteria for the Model waiver require that eligible individuals must be:³¹

- 20 years of age or younger;
- Determined disabled using criteria established by the federal Social Security Administration;
- Determined at-risk for hospitalization by the Children’s Multidisciplinary Assessment Team (CMAT); and
- Diagnosed as having degenerative spinocerebellar disease or deemed medically fragile and have resided in a skilled nursing facility for at least 60 consecutive days prior to enrollment.

The Model waiver currently has 20 enrollment slots available of which five are for children in the community with degenerative spinocerebellar disease and 15 are for children deemed medically fragile that have resided in a skilled nursing facility for at least 60 consecutive days. Currently, the enrollment slots do not include children that receive private duty nursing services who do not have degenerative spinocerebellar disease.³² Model waiver services include environmental accessibility adaptations, nursing home transition services, and respite care.³³

Services to Medically Fragile Children

Private Duty Nursing (PDN) services are medically necessary skilled nursing services that may be provided to recipients under the age of 21 years in their home or community to support the care required by their complex medical condition, illness, or injury. Florida Medicaid covers PDN services under the state plan. There are approximately 3,000 Medicaid-eligible children currently receiving PDN services for a variety of medical conditions.³⁴ Under the Florida Medicaid PDN and Family Home Health Aide Services Coverage Policy,³⁵ PDN services are provided by a licensed practical nurse or a registered nurse licensed in accordance with ch. 464, F.S., working within the scope of his or her practice and employed by home health agencies licensed in accordance with ss. 400.464 and 408.810, F.S., and rule chs. 59A-8 and 59A-35, F.A.C.

During Florida’s 2023 Legislative Session, HB 391, titled Home Health Aides for Medically Fragile Children, was enacted. The bill authorized home health agencies to employ and train a family caregiver of an eligible relative to be a home health aide for eligible medically fragile children. Additionally, the bill directed the AHCA to establish a Medicaid fee schedule for home health agencies employing a home health aide for medically fragile children at \$25 per hour with a utilization cap of no more than eight hours per day. To implement this requirement, the AHCA

³¹ Agency for Health Care Administration, *Model Waiver*, available at <https://ahca.myflorida.com/medicaid/home-and-community-based-settings-rule/model-waiver> (last visited Mar. 30, 2025).

³² The FD waiver is designed to promote, maintain, and restore the health of eligible recipients with FD and to minimize the effects of illness and disabilities through the provision of needed supports and services in order to delay or prevent hospital placement or institutionalization; see Agency for Health Care Administration, *Familial Dysautonomia Waiver*, available at <https://ahca.myflorida.com/medicaid/home-and-community-based-settings-rule/familial-dysautonomia-waiver> (last visited Mar. 30, 2025).

³³ Agency for Health Care Administration, *Medicaid 2025 General Session CMS Transfer Briefing* (Feb. 19, 2025) (on file with Senate Committee on Health Policy).

³⁴ *Supra* note 32.

³⁵ Agency for Health Care Administration, *Florida Medicaid Private Duty Nursing and Family Home Health Aide Services Coverage Policy* (Sep. 2024), available at https://ahca.myflorida.com/content/download/7036/file/59G-4.261%20Private%20Duty%20Nursing%20Services%20Coverage%20Policy_FINAL.pdf (last visited Mar. 30, 2025).

amended Rule 59G-4.261, F.A.C., Florida Medicaid PDN and Family Home Health Aide Services, effective October 1, 2024.³⁶

On July 14, 2023, a federal court order of injunction was entered in *United States v. Florida*, No. 12-60460-CV (S.D.Fla.). The injunction outlines the requirements of the state to comply with three main orders:³⁷

- Require Medicaid managed care plans to ensure the provision of all covered and authorized PDN services and develop methods to measure provider performance, including real-time reporting of PDN provider issues;
- Inform and facilitate the transition of children from nursing facilities; and
- Improve the existing Care Coordination system to strengthen accountability and eliminate silos of care.

The injunction requires that 90 percent of PDN be provided for children receiving 24/7 PDN and 70 percent of PDN for all other children prior authorized to receive PDN.³⁸

Under the state plan, Florida Medicaid does not currently offer children receiving PDN services respite or home modifications.³⁹

Florida Department of Health

The Florida Department of Health (DOH) is responsible for the state's public health system, which must be designed to promote, protect, and improve the health of all people in the state.⁴⁰

The DOH's Division of Children's Medical Services

The DOH's Division of CMS is a collection of programs serving children with special health care needs, including the:

- Child Abuse Death Review Unit,⁴¹
- Child Protection Teams,⁴²
- CMS Managed Care Plan;

³⁶ Agency for Health Care Administration, *Medicaid 2025 General Session CMS Transfer Briefing* (Feb. 19, 2025) (on file with Senate Committee on Health Policy).

³⁷ Agency for Health Care Administration, *Medicaid 2025 General Session CMS Transfer Briefing* (Feb. 19, 2025) (on file with Senate Committee on Health Policy).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Section 381.001, F.S.

⁴¹ The DOH's Division of CMS, Bureau of Child Protection and Special Technologies, Child Abuse Death Review (CADR) Unit, administers the CADR system, which utilizes local CADR committees to conduct comprehensive evaluations of the circumstances surrounding child fatalities reported to the DCF's Florida Abuse Hotline and accepted for investigation; see Department of Health, *Child Abuse Death Review*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/cadr/index.html> (last visited Mar. 30, 2025). See also s. 383.402, F.S.

⁴² The Child Protection Teams, as mandated by s. 39.303, F.S., assist the DCF and local Sheriff's offices responsible for child protective investigations to assess allegations of abuse and neglect through the provision of multidisciplinary assessments, including medical evaluations and other clinical assessments; see Department of Health, *Child Protection*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/Child-Protection/index.html> (last visited Mar. 30, 2025).

- Children’s Multidisciplinary Assessment Team;⁴³
- Early Steps;⁴⁴
- Medical Foster Care Program;⁴⁵
- Newborn Screening Program;⁴⁶
- Poison Information Center Network;⁴⁷
- Regional Perinatal Intensive Care Centers Program;⁴⁸
- Safety Net Program;⁴⁹
- Sexual Abuse Treatment Program;⁵⁰ and

⁴³ When a child or youth under 21 years of age has a serious or complex medical condition that may require LTC services, the CMAT may review the medical and psychosocial assessment and make a medically necessary determination of eligibility for Medicaid funded LTC services; see Department of Health, *Children’s Multidisciplinary Assessment Team (CMAT)*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/cmat/index.html> (last visited Mar. 30, 2025).

⁴⁴ Early Steps is Florida’s early intervention system that offers services to eligible infants and toddlers, age birth to 36 months, who have or are at-risk for developmental disabilities or delays; see Department of Health, *Early Steps*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/early-steps/index.html> (last visited Mar. 30, 2025).

⁴⁵ The Medical Foster Care Program is facilitated through the DOH, providing foster children with medical conditions an opportunity to receive care within a family setting; see Department of Health, *Medical Foster Care*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/medical-foster-care/index.html> (last visited Mar. 30, 2025).

⁴⁶ Newborns are screened for certain genetic, endocrine, hemoglobinopathy, immunologic, and metabolic conditions. Screenings for hearing loss and critical congenital heart defects are completed prior to discharge from a hospital or birth facility. Florida screens for 37 core conditions and may detect an additional 23 secondary conditions (a total of 60 conditions); see Florida Newborn Screening, *For Parents*, available at <https://floridanewbornscreening.com/> (last visited Mar. 30, 2025).

⁴⁷ The DOH’s Division of CMS contracts with the three certified regional poison control centers, located in Jacksonville (North), Tampa (Central), and Miami (South), which comprise the Florida Poison Information Center Network. These centers operate under the oversight of the CMS program and are responsible for the provision of toll-free access to poison information for the public; the management of poison cases; offering professional consultation to healthcare practitioners; delivering prevention education to the public; and collecting and reporting poison-related data. See s. 395.1027, F.S. See also Department of Health, *Child Protection, Florida Poison Control Center*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/Child-Protection/index.html> (last visited Mar. 30, 2025).

⁴⁸ The Regional Perinatal Intensive Care Centers work to improve the outcome of pregnancy and the quality of life from birth. These centers provide obstetrical services to women who have a high-risk pregnancy and care for newborns with special health needs, such as critical illness or low birth weight; see Department of Health, *Regional Perinatal Intensive Care Centers (RPICC) Program*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/regional-perinatal-intensive-care-centers-program/index.html> (last visited Mar. 30, 2025).

⁴⁹ The CMS Safety Net Program helps pay for some medically necessary health services and family needs. Safety Net serves children with chronic and serious health conditions who do not qualify for Florida Medicaid or KidCare, or are unable to access services; see Department of Health, *Safety Net Program*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/safety-net/index.html> (last visited Mar. 30, 2025).

⁵⁰ The CMS Sexual Abuse Treatment Program provides a combination of group, family, and individual counseling for child sexual abuse survivors and their families to reduce the trauma caused by the child sexual victimization, assist the family to recover from the victimization, prevent further child sexual victimization from occurring, and enable families to have healthy, non-abusive relationships; see Department of Health, *Child Protection, Sexual Abuse Treatment Programs*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/Child-Protection/index.html> (last visited Mar. 30, 2025).

- Title V Program.⁵¹

The DOH's Division of CMS, also known as the CMS program, is statutorily authorized to operate the CMS Managed Care Plan for children with special health care needs⁵² for Florida KidCare and Medicaid.⁵³

The CMS Managed Care Plan

The CMS Network⁵⁴ was established to provide children with special health care needs with a family-centered, comprehensive, and coordinated statewide managed system of care and to provide essential preventative, evaluative, and early intervention services for children at risk for or having special health care needs. Originally, the CMS Network was a fee-for-service program serving children with special health care needs who were enrolled in either Medicaid or Florida KidCare.⁵⁵

In August 2014, the CMS Network was transitioned to a managed care model within the AHCA and became known as the CMS Managed Care Plan. The AHCA contracts with the DOH to administer the CMS Managed Care Plan, and the DOH subsequently subcontracts with a health maintenance organization⁵⁶ to provide managed medical services to CMS Managed Care Plan enrollees. The DOH conducts clinical eligibility determinations for the CMS Managed Care Plan and provides vendor oversight into the areas of clinical operations, compliance, performance management, family level grievance remedies, and provider technical assistance.⁵⁷

Currently, the DOH sends invoices for CMS Managed Care Plan services to the AHCA for payment, often causing delays. At present, Florida law has not been updated to reflect the change

⁵¹ Florida's Title V Program, the Maternal and Child Health program and the Youth with Special Health Care Needs program, supports statewide public health efforts to protect, promote, and improve the health of children and young adults with chronic and serious physical, developmental, behavioral, or emotional conditions through a comprehensive system of care; see Department of Health, *CMS Title V Program*, available at <https://www.floridahealth.gov/programs-and-services/childrens-health/cms-specialty-programs/title-5-program/index.html> (last visited Mar. 30, 2025).

⁵² "Children with special health care needs" means those children younger than 21 years of age who have chronic and serious physical, developmental, behavioral, or emotional conditions and who require health care and related services of a type or amount beyond that which is generally required by children; s. 391.021(2), F.S.

⁵³ Part I, of ch. 391, F.S.

⁵⁴ "Children's Medical Services network" or "network" means a statewide managed care service system that includes health care providers (a health professional, health care facility, or entity licensed or certified to provide health services in this state that meets the criteria as established by the DOH); see s. 391.021, F.S.

⁵⁵ Agency for Health Care Administration, *2025 Agency Legislative Bill Analysis – Senate Bill 1490* (Nov. 4, 2024) (on file with Senate Committee on Health Policy).

⁵⁶ Health maintenance organization (HMO) plans offer a wide range of health care services through a network of providers. An HMO gives subscribers access to certain doctors, hospitals and other providers within its network. The network consists of providers who agreed to supply services to subscribers for pre-negotiated rates, as well as meet certain quality standards. Unlike some other insurance plan types, care is covered only if a subscriber sees a provider within the HMO's network, except in the case of an emergency; see Department of Financial Services, *Health Insurance and Health Maintenance Organizations – a guide for consumers*, available at https://myfloridacfo.com/docs-sf/consumer-services-libraries/consumerservices-documents/understanding-coverage/consumer-guides/health-insurance-guide.pdf?sfvrsn=5546b2b_4 (last visited Mar. 30, 2025). See also s. 641.19(12), F.S.

⁵⁷ *Supra* note 54.

from the CMS Network to the CMS Managed Care Plan; however, the word “network” is used interchangeably with the CMS Managed Care Plan.⁵⁸

Enrollment in the CMS Managed Care Plan has continually increased. In May 2024, the CMS Managed Care Plan provided services to 90,207 Medicaid and 11,458 Florida KidCare enrolled members.⁵⁹

III. Effect of Proposed Changes:

Section 1 transfers all statutory powers, duties, functions, records, personnel, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds for the operation of the Department of Health’s (DOH) Children’s Medical Services (CMS) Managed Care Plan to the Agency for Health Care Administration (AHCA) effective July 1, 2025.

The bill indicates that the transfer of operations of the CMS Managed Care Plan does not affect the validity of any judicial or administrative action pending as of 11:59 p.m., on the day before the effective date of the transfer to which the DOH’s CMS Managed Care Plan is at that time a party, and that the AHCA must be substituted as a party in interest in any such action.

The bill requires the DOH’s CMS program to collaborate with the AHCA in the care of children and youth with special health care needs. The DOH’s CMS program must:

- Conduct clinical eligibility screening for children and youth with special health care needs who are eligible for or enrolled in Medicaid or the Children’s Health Insurance Program (CHIP).
- Provide ongoing consultation to the AHCA to ensure high-quality, family-centered, coordinated health services within an effective system of care for children and youth with special health care needs.

Section 2 requires the DOH’s CMS program to do all of the following:

- Effective July 1, 2025, transfer to the AHCA the operation of managed care contracts procured by the DOH for Medicaid and CHIP services provided to children and youth with special health care needs who are enrolled in the CMS Managed Care Plan.
- Conduct clinical eligibility screening for children and youth with special health care needs who are eligible for or are enrolled in Medicaid or CHIP.
- Provide ongoing consultation to the AHCA to ensure high-quality, family-centered, coordinated health services are provided within an effective system of care for children and youth with special health care needs.

The bill also requires the AHCA to establish specific measures of access, quality, and costs of providing health care services to children and youth with special health care needs. The AHCA must contract with an independent evaluator to conduct an evaluation of the services provided. The evaluation must include, but need not be limited to, the following:

⁵⁸ Agency for Health Care Administration, *2025 Agency Legislative Bill Analysis – Senate Bill 1490* (Nov. 4, 2024) (on file with Senate Committee on Health Policy).

⁵⁹ *Id.*

- A performance comparison of plans contracted to provide services to children and youth with special health care needs as well as plans contracted to serve a broader population of MMA enrollees. The performance comparison must be based on the measures established by the AHCA and differentiated based on the age and medical condition or diagnosis of patients receiving services under each plan.
- For each plan, an assessment of cost savings, patient choice, access to services, coordination of care, person-centered planning, health and quality-of-life outcomes, patient and provider satisfaction, and provider networks and quality of care.

The bill requires the AHCA to submit the results of the evaluation to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 15, 2028.

Section 3 amends s. 391.016, F.S., to expand the purpose of the CMS program to include youth and delete the requirement that the CMS program coordinate and maintain a consistent medical home for participating children.

Section 4 amends s. 391.021, F.S., to rename “Children’s Medical Services Network” to “Children’s Medical Services Managed Care Plan,” and “Children with special health care needs” to “Children and youth with special health care needs.” The bill also expands the definition of “Eligible individual” to include youth.

Section 5 amends s. 391.025, F.S., to:

- Update the statutes to reflect current practices by officially expanding the scope of the CMS program to include the newborn, infant, and toddler hearing screening program established in s. 383.145, F.S.; the Children’s Multidisciplinary Assessment Team; the Medical Foster Care Program; the Title V Children and Youth with Special Health Care Needs program; the Safety Net Program; Child Protection Teams and sexual abuse treatment programs established under s. 39.303, F.S., and the State Child Abuse Death Review Committee and local child abuse death review committees established in s. 383.402, F.S.
- Incorporate a reference to clarify that the Early Steps Program, which is a component of the CMS program, is established in ss. 391.301-391.308, F.S.
- Clarify the CMS Managed Care Plan is a component of the CMS program through the end of June 30, 2025.

Section 6 amends s. 391.026, F.S., to:

- Updates statute to reflect current practices by expanding the powers and duties of the DOH to include:
 - Sponsoring or promoting grants for projects, programs, education, or research in the field of youth with special health care needs.
 - Recruitment, training, assessment, and monitoring for the Medical Foster Care Program.
 - Monitoring access and facilitating admissions of eligible children and youth to the Medical Foster Care Program and designated medical foster care homes.
 - Coordinating with the Department of Children and Families and the AHCA or their designees as it pertains to the Medical Foster Care Program.

- Clarify the DOH is responsible for the oversight and operation of the CMS Managed Care Plan, including the management of health care premiums, capitation payments, and funds from government and private entities, through the end of June 30, 2025.
- Delete the following powers, duties, and responsibilities of the DOH requiring that the department:
 - Establish reimbursement mechanisms for the CMS network.
 - Establish CMS network standards and credentialing requirements for health care providers and services.
 - Serve as a provider and principal case manager for children with special health care needs under Titles XIX and XXI of the SSA.
 - Establish and operate a grievance resolution process for participants and health care providers.
 - Maintain program integrity in the CMS program.
- Update the term “Children with Special Health Care Needs program” to “Children and Youth with Special Health Care Needs program.”
- Delete the authorization allowing the DOH to maintain a minimum reserve for the CMS network.

Section 7 repeals subsections 391.026(8)-(11), F.S., effective July 1, 2025.

Section 8 repeals s. 391.028, F.S., effective July 1, 2025, to delete the following:

- The requirement providing that the Director of the DOH CMS program be a physician who has specialized training and experience in the provision of health care to children, serve as the deputy secretary and Deputy State Health Officer for CMS, and be appointed by the State Surgeon General.
- All required program activities under physician supervision on a statewide basis.
- The requirement that each CMS area office be directed by a physician who has specialized training and experience in the provision of health care to children and be appointed by the director from the active panel of CMS physician consultants.

Section 9 amends s. 391.029, F.S., to clarify that the high-risk pregnant females enrolled in Medicaid who are eligible to receive services through the DOH CMS program are related to the regional perinatal intensive care centers. The bill updates the provisions related to eligibility for the DOH CMS program, amending the language to conform with other technical changes, indicating that children and youth with serious special health care needs who are enrolled in Medicaid or CHIP will be eligible.

The bill also clarifies that children and youth with serious special health care needs who do not qualify for Medicaid or CHIP but who are unable to access services, as well as children and youth as provided in Title V of the Social Security Act, may receive services under the CMS Safety Net program.

The bill also deletes the requirement that the Florida Birth-Related Neurological Injury Compensation Association⁶⁰ reimburse the CMS Network the state's share of funding to obtain matching federal funds under CHIP.

Section 10 requires that benefits provided under the CMS Managed Care Plan be equivalent to Medicaid benefits mandated under ss. 409.905 and 409.906, F.S. The bill clarifies that the DOH is authorized to offer additional benefits through the components of the CMS program.

The bill repeals this section of statute on January 1, 2026.

Section 11 repeals s. 391.035, F.S., relating to CMS provider qualifications.

Section 12 repeals s. 391.037, F.S., effective January 1, 2026, deleting provisions that clarify circumstances in which it is not a violation of s. 112.313(7), F.S., for a physician who is providing private sector services to clients of the DOH or who is employed by or has a contractual relationship with any business entity or agency that is a contract provider of the DOH to also be employed by the DOH to provide CMS services or services to assist in proceedings related to children.

Section 13 repeals s. 391.045, F.S., related to the reimbursement of CMS network health care providers by the DOH and reimbursement to the CMS program for applicable Florida Kidcare recipients.

Section 14 repeals s. 391.047, F.S., effective January 1, 2026, which requires the CMS program to comply with s. 402.24, F.S., concerning third-party liabilities and recovery of third-party payments for health services.

Section 15 repeals s. 391.055, F.S., effective January 1, 2026, related to service delivery systems of the CMS network.

Section 16 repeals s. 391.071, F.S., effective January 1, 2026, related to quality-of-care requirements for health care providers participating in the CMS program.

⁶⁰ The state of Florida faced a medical malpractice crisis in the 1970s and 80s. During that time, obstetrics malpractice claims rose sharply and medical liability insurance skyrocketed. Therefore, in 1986, the Legislature created a special task force to study the Florida medical malpractice crisis and address the OB-GYN impact on that crisis. The task force evaluated the rising insurance costs and reported that litigation costs and attorney's fees had increased between 1975 and 1986, but there was no particular change in substantive law to account for the change. Moreover, some physicians became reluctant to treat high-risk patients and practice certain high-risk specialties altogether. In 1985, OB-GYNs in Florida paid an average medical malpractice liability premium of \$185,460, compared to a national average for OB-GYNs of \$23,300. In response, the Florida Legislature created the Florida Birth-Related Neurological Injury Compensation Association (NICA) in 1988 to promote and protect the health and best interests of children with birth-related neurological injuries who have been accepted into the plan by striving to ensure that their medically necessary needs are being met. NICA is a no-fault alternative to medical malpractice lawsuits for the kind of injuries that carry the highest cost and system impact. The program shifts those costly cases out of the tort system, which helped to stabilize Florida's medical malpractice insurance market and encouraged Florida's obstetricians to continue delivering babies. See NICA, *About NICA*, available at <https://www.nica.com/about-nica/> (last visited Mar. 30, 2025).

Section 17 deletes the requirement that the CMS network be included in any evaluation conducted in accordance with the provisions of CHIP as enacted by the Legislature.

Section 18 repeals ss. 391.221 and 391.223, F.S., eliminating the Statewide CMS Network Advisory Council and CMS program technical advisory panels.

Section 19 amends s. 409.166, F.S., to substitute CMS network services provided under the purview of the DOH for services through a plan under contract with the AHCA to serve children and youth with special health care needs effective July 1, 2025.

Section 20 amends s. 409.811, F.S., to delete the definition of “Children’s Medical Services Network” or “network” effective July 1, 2025, as it applies to the Florida Kidcare Act.

Section 21 amends s. 409.813, F.S., to replace the CMS network established under ch. 391, F.S., with plans under contract with the AHCA to serve children and youth with special health care needs as a program component of the Florida Kidcare program effective July 1, 2025.

Sections 22, 24, and 25 amend ss. 409.8134, 409.815, and 409.8177, F.S., to replace the term “Children’s Medical Services Network” with “a plan under contract with the AHCA to serve children with special health care needs” effective July 1, 2025.

Section 23 amends s. 409.814, F.S., to replace the term “Children’s Medical Services Network” with “a plan under contract with the AHCA to serve children with special health care needs,” and “clinical screening” with “CMS clinical screening.”

Section 26 amends s. 409.818, F.S., to delete the CMS Network from the entities excluded from certification⁶¹ by the Florida Office of Insurance Regulation (OIR)⁶² effective July 1, 2025.

Section 27 amends s. 409.912, F.S., to delete the reference to the CMS network as it pertains to the program of all-inclusive care for children (PACC)⁶³ effective July 1, 2025.

Section 28 amends s. 409.9126, F.S., to clarify that children eligible for the CMS program receiving Medicaid benefits, and other Medicaid-eligible children with special health care needs,

⁶¹ The Company Admission units of the OIR work closely with companies to submit applications for a Certificate of Authority to transact insurance in this state and facilitate the application process. See Office of Insurance Regulation, *Organization and Operation*, available at <https://floir.com/about-us/organization-and-operation> (last visited Mar. 30, 2025).

⁶² The OIR is responsible for all activities concerning insurers and other risk bearing entities, including licensing, rates, policy forms, market conduct, claims, issuance of certificates of authority, solvency, viatical settlements, premium financing, and administrative supervision, as provided under the Florida Insurance Code or ch. 636, F.S. See Office of Insurance Regulation, *Organization and Operation*, available at <https://floir.com/about-us/organization-and-operation> (last visited Mar. 30, 2025).

⁶³ PACC is a palliative care model providing pediatric palliative care to enrollees of the CMS Managed Care Plan who have special health care needs and a potentially life-threatening condition. Services are provided from the time of diagnosis throughout the treatment phase of illness, including end-of-life care, to reduce hospitalizations. See Florida Department of Health, *Florida’s Program for All Inclusive Care for Children, PARTNERS IN CARE: TOGETHER FOR KIDS, PROGRAM GUIDELINES* (Nov. 2021), available at https://www.floridahealth.gov/programs-and-services/childrens-health/cms-plan/partners-in-care/_documents/PICTFKProgramGuidelines.pdf (last visited Mar. 30, 2025).

are exempt from s. 409.9122, F.S., effective July 1, 2025. The bill also removes the provision that these children would be served through the CMS network established in ch. 391, F.S.

Section 29 amends s. 409.9131, F.S., to delete the requirement that the AHCA consider whether individual patients are clients of the CMS Network established in ch. 391, F.S., when considering the patient case mix of a physician for the determination of overpayment, effective July 1, 2025.

Section 30 amends s. 409.920, F.S., to delete the CMS Network authorized under ch. 391, F.S., from the definition of a managed care plan, effective July 1, 2025.

Section 31 amends s. 409.962, F.S., to delete the CMS Network authorized under ch. 391, F.S., from the definition of an eligible plan, effective July 1, 2025.

Section 32 requires the AHCA to develop a comprehensive plan to redesign the Florida Medicaid Model Waiver for home and community-based services to include children who receive private duty nursing (PDN) services. The plan must propose an array of tiered services with the goal of ensuring that institutional care is avoided so children can remain in the home or other community setting. The AHCA must work with stakeholders in developing the plan, including, but not limited to, families of children who are in the model waiver or receiving PDN, advocates for children, providers of services to children receiving PDN, and Statewide Medicaid Managed Care (SMMC) plans. The AHCA is authorized to contract with necessary experts to assist in developing the plan.

The bill also requires the AHCA submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2025, addressing, at a minimum, all of the following:

- The purpose, rationale, and expected benefits of the redesigned waiver plan.
- The proposed eligibility criteria for clients and service benefit packages to be offered through the redesigned waiver plan. Managed care plans participating in the SMMC program must provide services under the redesigned waiver plan.
- A proposed implementation plan and timeline, including, but not limited to, recommendations for the number of clients served by the redesigned waiver plan at initial implementation, changes over time, and any per-client benefit caps.
- The fiscal impact for the implementation year and projections for the next five years determined on an actuarially sound basis.
- An analysis of the availability of services and service providers that would be offered under the redesigned waiver plan and recommendations to increase the availability of such services, as applicable.
- A list of all stakeholders, public and private, who were consulted or contacted during the development of the plan.

Section 33 provides that the bill takes effect upon becoming a law, except as otherwise expressly provided.

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Section 6 of Article III, s. 6 of the State Constitution, requires that every law embrace but one subject and matter properly connected therewith, and the subject must be briefly expressed in the title. As written, the title, Children's Medical Services program, does not reflect all content of the bill relating to the Florida Medicaid Model waiver.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The proposed transfer of staff from the Department of Health's Division of Children's Medical Services to the Agency for Health Care Administration is budget neutral.

VI. Technical Deficiencies:

Under s. 409.166(4)(f), F.S., the Department of Children and Families may provide adoption assistance to adoptive parents for medical assistance initiated after the adoption of a child for medical, surgical, hospital, and related services needed as a result of the physical or mental condition of the child which existed before the adoption and is not covered by Medicaid, Children's Medical Services (CMS), or Children's Mental Health Services. As the bill is written, it is unclear whether "Children's Medical Services" references the program, the Managed Care Plan, or both.

The bill amends s. 409.814(10)(c), F.S., to clarify that the term “clinical screening” is referencing a CMS clinical screening. It may be beneficial to indicate the clinical screening is one conducted by the CMS program for further clarity.

VII. Related Issues:

The following deletions may result in Children’s Medical Services (CMS) program operational issues and confusion:

- Section 6 of the bill deletes the requirement that the Department of Health (DOH) maintain program integrity in the CMS program.
- Section 12 deletes provisions that clarify instances in which it is not a violation of s. 112.313(7), F.S., for a physician who is involved with the DOH under certain circumstances to also be employed by the DOH to provide CMS services or services to assist in proceedings related to children.
- Section 14 repeals the requirement that the CMS program comply with s. 402.24, F.S., concerning third-party liabilities and recovery of third-party payments for health services.
- Section 16 repeals provisions related to quality-of-care requirements for health care providers participating in the CMS program.

VIII. Statutes Affected:

The bill creates undesignated sections of the Laws of Florida.

This bill substantially amends the following sections of the Florida Statutes: 391.016, 391.021, 391.025, 391.026, 391.029, 391.0315, 391.097, 409.166, 409.811, 409.813, 409.8134, 409.814, 409.815, 409.8177, 409.818, 409.912, 409.9126, 409.9131, 409.920, 409.962, and 409.974.

This bill repeals the following sections of the Florida Statutes: 391.026(8), 391.026(9), 391.026(10), 391.026(11), 391.028, 391.035, 391.037, 391.045, 391.047, 391.055, 391.071, 391.221, and 391.223.

IX. Additional Information:

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

CS/CS by Appropriations Committee on Health and Human Services on April 10, 2025:

The committee substitute revises the due date from September 30, 2025, to December 31, 2025, for the study of a redesign of the Florida Medicaid Model Waiver required in Section 32 of the underlying bill.

CS by Health Policy on April 1, 2025:

The committee substitute:

- Deletes the underlying bill’s provisions shifting Florida Medicaid’s prescribed pediatric extended care (PPEC) services from a fee-for-service delivery model to managed care.

- Removes the underlying bill's requirement that the Agency for Health Care Administration (AHCA) seek federal approval to revise Florida's Medicaid Model Waiver, instead requiring the AHCA to develop a comprehensive plan to redesign the Medicaid Model Waiver and submit a report to the Governor and the Legislature by September 30, 2025.

B. Amendments:

None.

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