HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HCC 08-20 Alzheimer's Medicaid Waiver Program
SPONSOR(S): Healthcare Council and Rep. H. Gibson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council		DePalma/Massengale	Gormley
1)			
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill extends the repeal date for the Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease so that the program is automatically eliminated at the close of the 2010 Regular Session of the Legislature, rather than following the 2008 Regular Session.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an evaluation of comparable Medicaid home and community-based services waiver programs to determine their comparative cost effectiveness and ability to delay or prevent institutionalization of Medicaid recipients. The bill requires OPPAGA to coordinate with relevant experts to determine which waiver programs should be included in the evaluation in order to make reasonable comparisons. The evaluation must also include a review of the flexibility provided to states by operation of the federal Deficit Reduction Act (DRA) of 2005. The bill requires that the findings and recommendations of the evaluation are to be submitted to the Speaker of the House of Representatives and the President of the Senate by February 1, 2010.

The bill codifies the recommendations of the Senate Interim Project Report 2008-113, titled the "Review of the Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease."

The waiver program is appropriated $5,057,409 for state fiscal year 2007-2008. Extending the waiver program two additional years would require continuation budget to maintain the program.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families – This bill extends the repeal date for the Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease. The waiver program permits up to 350 Medicaid recipients with Alzheimer's disease to live in the community as long as possible – while avoiding institutional care in nursing facilities – by providing certain supportive services to program beneficiaries and their live-in caregivers.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Alzheimer's Disease

Dementia describes a group of symptoms related to a brain disorder that seriously affects a person's ability to carry out activities of daily living, such as cooking, driving, shopping, or attending to personal hygiene. The two most common forms of dementia among older people are Alzheimer's disease (which initially involves the parts of the brain that control thought, memory, and language) and multi-infarct dementia (caused by a series of small strokes or changes in the brain's blood supply, which result in the death of brain tissue). It is still not known what causes Alzheimer's disease, and there is presently no cure for the ailment.[1]

Alzheimer's disease affects approximately 5.1 million persons in the United States as of 2007. It is estimated that 360,000 Floridians had Alzheimer's disease in 2000, and this number is expected to reach 450,000 (a 25 percent increase) by 2010. Ninety-six percent of persons with Alzheimer's disease are 65 years of age or older.[2] The mortality rate for persons with Alzheimer's disease has increased over the last few years. Alzheimer's disease is now the seventh-leading cause of death in the United States (65,965 deaths reported in 2004). For purposes of comparison, while age-adjusted death rates decreased significantly from 2003 to 2004 for nine of the 15 leading causes of death, significant increases in mortality rates occurred for unintentional injuries, hypertension, and Alzheimer's disease.[3]

This increase in Alzheimer's disease morbidity and mortality has direct fiscal effects on federal and state health initiatives. Persons with Alzheimer's disease and other forms of dementia tend to use more medical services and have higher overall medical expenses than persons without these conditions. In 2000, Medicare spent nearly three times as much annually, on average, for people with Alzheimer's disease and other dementias as the amount spent on beneficiaries without dementia ($13,207 versus $4,454, per beneficiary). Additionally, approximately 30 percent of Medicare beneficiaries with Alzheimer's disease and other dementias also receive services financed by Medicaid, particularly long-term care services. Among nursing home patients with Alzheimer's disease and other forms of dementia, 51 percent used Medicaid to pay for their nursing home care in 2000.[4]

Florida's Alzheimer's Disease Initiative

[1] "Alzheimer's Disease Fact Sheet," United States Department of Health and Human Services, National Institute on Aging, July 2006, available at: http://www.nia.nih.gov/alzheimers/publications/adfact.htm.
[2] "Alzheimer's Disease Facts and Figures 2007," Alzheimer's Association, 2007, available at: http://www.alz.org/national/documents/Report_2007FactsAndFigures.pdf.
[3] "Deaths: Final Data for 2004," Centers for Disease Control and Prevention, National Center for Health Statistics, accessed 26 February, 2008, available at: http://www.cdc.gov/nchs/products/pubs/pubd/hestats/finaldeaths04/finaldeaths04.htm.
[4] "Alzheimer's Disease Facts and Figures 2007," Alzheimer's Association, *supra*.

Due in large part to the growing number of persons at risk for Alzheimer's disease in Florida, the Legislature created the Alzheimer's Disease Initiative (ADI) in 1985 to provide a continuum of services to meet the changing needs of individuals affected by Alzheimer's disease and related memory disorders. The initiative is comprised of four components: 1) memory disorder clinics providing diagnosis, research, treatment, and referrals; 2) model day care programs to test new care alternatives; 3) a research database and brain bank to support research; and 4) supportive services, including case management, counseling, consumable medical supplies, respite for caregivers, and nine other services as part of the Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease. The statutory authorization for the ADI is found in ss. 430.501-430.504, F.S. The authority to continue the waiver program will be automatically eliminated at the close of the 2008 Regular Session, unless the Legislature takes action to continue the program.

Medicaid Home and Community-Based Services Waiver Programs

In 1981, the U.S. Congress approved the use of Medicaid home and community-based services (HCBS) waiver programs to allow states to provide certain Medicaid services in the home for persons who would otherwise require institutional care in a hospital, nursing facility, or intermediate care facility. These programs are federally-approved Medicaid initiatives authorized by Title XIX of the Social Security Act, Section 1915.

States may offer a variety of services to consumers under an HCBS waiver program, and the number of services that can be provided is not limited. These programs may provide a combination of both traditional medical services (i.e., dental services, skilled nursing services, etc.), and non-medical services (i.e., respite care, case management, environmental modifications, etc.). Family members and friends may be providers of waiver services if they meet the specified provider qualifications. The HCBS waiver programs are initially approved for 3 years, and may be renewed at 5-year intervals.

If a state terminates a HCBS waiver, federal law requires that recipients receive continued services in an amount that does not violate the comparability of service requirements established in the Social Security Act.[5] In effect, this requirement dictates that states must transition recipients into programs with comparable services upon termination of a HCBS waiver.

Florida presently operates the following home and community-based services waiver programs:

- Adult Cystic Fibrosis;
- Aged/Disabled Adult Services;
- Adult Day Health Care;
- Assisted Living for the Elderly;
- Alzheimer's Disease;
- Channeling Services for the Frail Elderly;
- Consumer Directed Care Plus;
- Developmental Disabilities;
- Familial Dysautonomia;
- Family and Supported Living Model;
- Nursing Home Diversion;
- Project AIDS Care; and,
- Traumatic Brain Injury and Spinal Cord Injury.

Recent Changes in Federal Medicaid Law Pertaining to HCBS Waivers

[5] 42 C.F.R. 441.356

Congress provided new flexibility to state Medicaid programs through passage of the Deficit Reduction Act (DRA) of 2005.[6] Among the DRA's numerous changes to the Medicaid program is a provision allowing states to include home and community-based services for the elderly and disabled as an optional benefit instead of requiring a waiver.[7] In addition, unlike other optional services (such as rehabilitation or personal care), states are allowed to cap the number of people eligible for the services through modifications to the needs-based eligibility criteria established by the state. The DRA also removes the prior statutory requirement that beneficiaries receive needed services at home only if they would need institutional care without them. States can now provide home and community-based care under their state plans to those who may not yet be at risk for immediate institutionalization.

Senate Interim Project 2008-133

In Interim Project 2008-133, Senate staff reviewed subsections (7), (8), and (9) of s. 430.502, F.S., which require the Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DOEA) to implement a Medicaid home and community-based waiver program for persons with Alzheimer's disease.[8] The goal of the waiver program is to allow Medicaid recipients with Alzheimer's disease to live in the community as long as possible, and avoid long-term care in nursing facilities by providing supportive services to beneficiaries and their caregivers.

The Medicaid Alzheimer's Disease HCBS Waiver Program

The Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease serves individuals ages 60 and over who have a specific diagnosis of Alzheimer's disease (no other dementias qualify), and who have a live-in caregiver. Eligible waiver participants must be diagnosed with Alzheimer's disease by a physician, as confirmed by a Memory Disorder Clinic, a board certified neurologist, or a licensed medical doctor with experience in neurology. -Eligible participants must also meet the nursing home level of care criteria as assessed by DOEA's Comprehensive Assessment Review and Evaluation Services (CARES) unit. Persons already living in a nursing home or an intermediate care facility for individuals with mental retardation, the medically needy, and those persons receiving services through another Medicaid home and community-based waiver program are ineligible for participation.

The authorized services delivered through the Medicaid Alzheimer's Disease waiver program include:

- Case management;
- Adult day care;
- Respite care;
- Wanderer alarm systems;
- Wanderer identification and location programs;
- Caregiver training;
- Behavioral assessment and intervention;
- Incontinence supplies;
- Personal care assistance;
- Environmental modifications; and,
- Pharmacy review.

The Alzheimer's disease waiver program began enrolling participants in late 2005 in three areas of the state: Miami-Dade/Broward, Palm Beach, and Pinellas Counties. AHCA and DOEA selected vendors through a competitive bid process. Each vendor, in turn, was contracted to develop a network of service

[6] P.L. 109-171
[7] Section 6086 of the Deficit Reduction Act of 2005.
[8] Ch. 2003-57, s. 26. L.O.F.

providers to deliver direct waiver services consistent with those listed above. The subsequent contracts entered into were for 36-month periods, with the beginning and ending dates varying with each vendor.[9]

Interim Project Findings

The objectives of the interim project were to assess how many people were enrolled in and using the waiver services, whether the waiver program was considered effective and efficient in helping individuals with Alzheimer's disease remain in the community, and whether the waiver should be reauthorized during the 2008 Regular Session of the Legislature. Senate staff from the Health Policy Committee and the Children, Families, and Elder Affairs Committee conducted a joint project to develop recommendations regarding reauthorization of the waiver program. Staff conducted interviews with operational staff in AHCA and DOEA, as well as with staff of the contract vendors, to assess the implementation of the waiver program. Staff also reviewed evaluations of the waiver program conducted by the Louis de la Parte Florida Mental Health Institute at the University of South Florida. Finally, staff also analyzed vendor contracts supplied by AHCA.

Based on this review, Senate staff concluded that implementation of the Alzheimer's disease waiver program was slow, and the program had experienced limited participation since its inception. As of October, 2007 (the third year of the program), the waiver program was serving only 207 Medicaid recipients (roughly 60 percent of the 350 available slots). Comparatively, most of the other Medicaid home and community-based services waiver programs are at capacity, and new slots for these programs are added through the appropriations process and typically filled within the same fiscal year. Staff identified a number of reasons for this slow implementation, including: a contract award challenge, programming issues that hindered provider enrollment, staff turnover at AHCA and among the vendors, and a limited pool of eligible recipients.

A review of the evaluations by the University of South Florida found that individuals choosing to enroll in the waiver program spent less days, on average, in institutional settings such as nursing homes and hospitals than similarly-situated individuals not enrolling in the waiver program. Participants in the Alzheimer's disease waiver program spent an average of 3.6 days in nursing homes over the course of a year, compared to an average of 4.79 days in nursing homes for individuals in the Aged and Disabled waiver program, and an average of 9.16 days in nursing homes for non-waiver Medicaid recipients with similar health conditions. However, the average per member program cost associated with delaying these participants from going into nursing homes was substantially higher compared to the cost for those who did not receive any waiver services. The non-waiver group had the lowest average annual expenditures of all the comparison groups, with almost $5,900 less in expenditures on average, per person, than the 12-month Alzheimer's disease waiver program participant.

Interim Project Recommendations

Based on the limited availability of program data, and the short period of time that the program has been operational, Senate staff recommended that the Alzheimer's disease waiver program be saved from repeal for a period of 2 years. During this 2-year period, it was recommended that a comprehensive study comparing cost savings and nursing home diversion effectiveness of this and similar home and community-based waiver initiatives be conducted. It was recommended that the study also examine whether the state could achieve similar results by using the flexibility provided to states through the federal DRA to provide home and community-based services without reliance upon waiver programs.

[9] The contract with Gulf Coast Jewish Family Services, Inc., is for $388,800 ($135 per member, per month, at a maximum average caseload of 90 individuals), and is effective from February 15, 2005 through February 14, 2008. The contract with Miami Jewish Home and Hospital for the Aged, Inc., is for $874,800 ($135 per member, per month, at a maximum average caseload of 180 individuals), and is effective from March 15, 2005 through March 14, 2008. The contract with Alzheimer's Community Care, Inc., is for $388,800 ($135 per member, per month, at a maximum average caseload of 80 individuals), and is effective from September 20, 2005 through June 30, 2008.

Effect of Proposed Changes

The bill extends the repeal date for the Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease so that the program is automatically eliminated at the close of the 2010 Regular Session of the Legislature, effectively preventing a sunset of the waiver program following the 2008 Legislative session.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an evaluation of comparable Medicaid home and community-based services waiver programs. This report will include a determination of the waiver program's comparative cost effectiveness and ability to delay or prevent institutionalization of Medicaid recipients. The bill further requires OPPAGA to consult with AHCA, DOEA, appropriate substantive and fiscal legislative committees, and other subject matter experts to determine which waiver programs should be included in the evaluation in order to make reasonable comparisons. The evaluation must also include a review of the flexibility provided to states by the federal Deficit Reduction Act (DRA) of 2005. Finally, the bill requires that the findings and recommendations of the evaluation are to be submitted to the Speaker of the House of Representatives and the President of the Senate by February 1, 2010.

C. SECTION DIRECTORY:

Section 1. Amends s. 430.502(9), F.S., specifying that the authority to continue the waiver program shall be automatically eliminated at the close of the 2010 Regular Session of the Legislature, unless further legislative action is taken to continue the program.

Section 2. Directs OPPAGA to conduct an evaluation of comparable Medicaid home and community-based services waiver programs; requiring OPPAGA to consult with AHCA, DOEA, appropriate substantive and fiscal legislative committees, and other subject matter experts to determine which waiver programs should be included in the evaluation; providing that the evaluation shall include a review of the flexibility provided to states through operation of the federal Deficit Reduction Act of 2005; requiring findings and recommendations to be submitted to the Speaker of the House of Representatives and the President of the Senate by February 1, 2010.

Section 3. Provides that the legislation is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The waiver program is appropriated $5,057,409 for state fiscal year 2007-2008. Extending the waiver program two additional years would require continuation budget to maintain the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Two factors make calculating the net fiscal effect of continuing, or discontinuing, the waiver program unclear. First, the waiver program has never attained full enrollment of the available 350 slots. For state fiscal year 2007-2008, the average monthly enrollment in the program is 226 individuals, with an estimated annual expenditure of $3,284,916 ($1,722,493 below the program's FY 2007-08 General Appropriations Act appropriation). To the extent that the program does not achieve full enrollment during the 2-year extension provided in the bill, expenditures will likely continue to be below the program's annual appropriation.

However, if the Legislature chooses to allow the program to sunset following the 2008 Regular Session, current enrollees would need to be transitioned into a similar waiver program to comply with federal law. The cost of serving these individuals under a similar waiver program would be comparable, or greater, than current expenditures under the Alzheimer's Disease HCBS Waiver Program. Any cost savings would only be derived from the number of unfulfilled slots at the time program enrollment ceased, and the attrition of individuals if they cannot be replaced with new participants.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This legislation does not appear to require counties or municipalities to spend funds or take any action requiring the expenditure of funds; reduce the authority that municipalities or counties have to raise revenue in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

N/A

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES