

Committee on Healthy Seniors

**Tuesday, February 19, 2008
9:00 AM - 10:00 AM
24 HOB**

**Marco Rubio
Speaker**

**Hugh Gibson
Chair**



House of Representatives
Committee on Healthy Seniors

A G E N D A

February 19, 2008
9:00 AM – 10:00 AM
24 HOB



- I. Opening Remarks by Chair Gibson**
- II. Consideration of the following bill:**

HM 189 Federal Funding for Home Health Services for the Elderly by Rep. Bucher
- III. Overview of Home Health Services:**

**Jeff Gregg, Chief, Bureau of Health Facility Regulation
Agency for Health Care Administration**
- IV. Closing Remarks by Chair Gibson**
- V. Adjournment**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 189 Federal Funding for Home Health Services for the Elderly
SPONSOR(S): Bucher and others
TIED BILLS: **IDEN./SIM. BILLS:** SM 288

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Healthy Seniors</u>	_____	DePalma 	Ciccone 
2) <u>Healthcare Council</u>	_____	_____	_____
3) <u>Rules & Calendar Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

House Memorial 189 requests that Congress increase federal financial assistance for home health services for elderly patients upon the determination that a patient is in need of such services. Furthermore, the memorial urges Congress to establish federal guidelines for students and schools responsible for training certified nursing assistants (CNAs) and home health aides (HHAs).

The legislation directs that copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

The memorial has no direct fiscal impact on state funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families – Increased federal funding for home health services would assist individuals in delaying or avoiding the need for nursing care and other institutional treatment.

B. EFFECT OF PROPOSED CHANGES:

Home Health Services

In general, “home health services” refers to the broad range of health care services provided through licensed home health agencies (and other related home health care entities), which are intended to permit recipients to avoid or delay institutionalization through the provision of medical services and supplies furnished in an individual’s home or place of residence.

Part III of chapter 400, F.S., the “Home Health Services Act”, governs home health agencies, which are defined in s. 400.462(11), F.S., as organizations providing home health services and staffing services, and which are licensed by the Agency for Health Care Administration (AHCA). Such home health services may include nursing care; physical, occupational, respiratory, and speech therapy; certain home health aide services (assistance with daily living – such as bathing, dressing, eating, personal hygiene, and ambulation); dietetics and nutrition practice/counseling; and the distribution of medical supplies (restricted to drugs and other biologicals prescribed by a physician).

Federal financial assistance for home health services is provided through Medicare, Medicaid and Medicaid Waiver, and, to a limited extent, through the Older Americans Act. None of these federal funding sources pay for 24-hour care for elderly patients at home.¹

In 2005, annual expenditures for home health care exceeded \$53.4 billion.² Medicare is the largest single payer of home health care services. In 2006, Medicare spending accounted for approximately 37 percent of home health expenditures.³ In partial response to tremendous spending growth in Medicare home health services, Congress passed the Balanced Budget Act of 1997 (“the BBA”). Among other provisions intended to generate efficiencies in home health expenditures, the BBA mandated a prospective payment system to replace the traditional cost-based reimbursement methodology for home health services.⁴ These measures have resulted in a general slowing of Medicare home health spending since 1997.⁵

¹ “Medicare and Home Health Care”, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 2007, available at: <http://www.medicare.gov/Publications/Pubs/pdf/10969.pdf>.

² “Basic Statistics About Home Care”, prepared by the National Association for Home Care and Hospice, 2007, available at: http://www.nahc.org/facts/07HC_Stats.pdf.

³ *Id.*

⁴ “FYI: Who Uses Medicare’s Home Health Benefit?” American Association of Retired Persons Public Policy Institute, 1998, available at: <http://www.aarp.org/research/housing-mobility/homecare/aresearch-import-693-FYI.html>. See also, “Access to Home Health Services under Medicare’s Interim Payment System”, National Health Policy Forum, 1999, available at: http://nhpf.ags.com/pdfs_ib/IB744_HomeHealth_7-13-99.pdf.

⁵ “Basic Statistics About Home Care”, National Association for Home Care and Hospice, *Supra*.

While Medicare pays for the largest share of home health care expenditures, combined federal-state Medicaid outlays for in-home services (including personal care services, which Medicare does not reimburse for) are actually greater. Medicaid home health spending was anticipated to grow 19.8 percent in 2006, and average a 9.8 percent growth rate, per year, from 2007 to 2016.⁶

Florida Medicaid requires state matching funds for home health services. Medicaid Waiver federal funding is limited, and also requires matching funds. Medicare reimbursement is provided directly to home health agencies, and is limited to 60-day episodes through the prospective payment system mandated by the BBA. However, all Medicare patients that are homebound and have medically-necessary services ordered by physicians may receive part-time home health services. In Florida, total expenditures for home health services during Fiscal Year 2006-2007 were \$160,103,520.⁷

Certified Nursing Assistant and Home Health Aide Training

Certified Nursing Assistants (CNAs) are individuals certified by the Board of Nursing within the Department of Health as having satisfied the provisions of part II of Chapter 464, F.S. In general, CNAs provide care and assist individuals with tasks relating to the activities of daily living.⁸ Similarly, for purposes of part III of chapter 400, F.S., Home Health Aides (HHAs) are individuals providing hands-on personal care, performing simple procedures as an extension of therapy or nursing services, assisting in ambulation or exercises, or assisting in the administration of medications as permitted by rule.⁹

The Florida Department of Education has established CNA and HHA training curricula that is used in adult vocational technical schools and licensed non-public career education schools. Pursuant to s. 464.203, F.S., it is possible for a CNA to take the test for state certification without successfully completing an approved training program. While general training curricula have been established, there is no uniform state certification for HHAs in Florida.

For both CNAs and HHAs, a licensed home health agency is statutorily-required to ensure that such individual is adequately trained to perform the tasks of a CNA or HHA in the home setting.¹⁰ Moreover, home health agencies are required to have on file a copy of each CNA's State of Florida certification, as well as documentation of each HHA's successful completion of at least 40 hours of training pursuant to s. 400.497(1), F.S.¹¹ Additional screening requirements of CNAs, HHAs and other employees and contractors of home health agencies are imposed by s. 400.512, F.S.¹²

Federal regulations for home health agencies enrolled in Medicare and Medicaid permit Home Health Aides to take competency evaluations given by home health agencies in lieu of training. Training of aides can be provided by home health agencies. At a minimum, aide training programs are federally required to include 75 hours of training across thirteen specified training areas, including at least 16

⁶ "National Health Expenditure Projections: 2006-2016", Centers for Medicare and Medicaid Services, 2007, available at: <http://www.cms.hhs.gov/NationalHealthExpendData/downloads/proj2006.pdf>.

⁷ Agency for Health Care Administration Legislative Analysis, February 2008, on file with Committee staff.

⁸ S. 464.201(5), F.S.

⁹ S. 400.462(14), F.S.

¹⁰ S. 400.462, F.S.

¹¹ Rules 59A-8.0095 and 59A-18.0081, F.A.C.

¹² Per s. 400.512, F.S., the Level I screening requirements of chapter 435 apply.

hours of supervised practical training.¹³ CNAs may work as home health aides in a home health agency setting. There are no federal regulations for HHAs and CNAs choosing to work on their own.

Effect of Proposed Changes

The bill urges Congress to increase federal financial assistance for home health services for elderly patients upon the determination that a patient is in need of such services. Furthermore, the memorial requests that Congress establish federal guidelines for students and schools responsible for training certified nursing assistants (CNAs) and home health aides (HHAs).

The legislation directs that copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹³ 42 C.F.R. 484.36; "supervised practical training" means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual basis under the direct supervision of a registered nurse or licensed practical nurse.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. Further, this bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

House Memorial

A memorial to the Congress of the United States, urging Congress to increase federal funding for home health services for the elderly.

WHEREAS, federal financial assistance is provided for nursing home care under the Medicaid program for elderly patients, and

WHEREAS, studies document improved outcomes and better quality of care and life for elderly patients who are furnished health care in the patients' homes in contrast to nursing homes, and

WHEREAS, there are only a few programs under which federal financial assistance is provided for home health services for elderly patients, and

WHEREAS, the federal financial assistance that is available for home health services is insufficient to support 24-hour care for elderly patients, and

WHEREAS, a home health agency may hire home health aides but not require any structured education or training for such aides, and

WHEREAS, an individual may take the examination to be certified as a nurse assistant without any formal education and training, and

WHEREAS, there is little or no supervision of caregivers placed in the home of an elderly patient to care for the patient, and

WHEREAS, home health services benefit not only people who

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29 are parents and grandparents but also their children and
 30 grandchildren, NOW, THEREFORE,

31

32 Be It Resolved by the Legislature of the State of Florida:

33

34 That the Congress of the United States is urged to:

35 (1) Increase federal financial assistance for home health
 36 services for elderly patients when it is determined that a
 37 patient is in need of such services; and

38 (2) Establish federal guideline requirements for students
 39 and schools that train certified nurse assistants and home
 40 health aides.

41 BE IT FURTHER RESOLVED that copies of this memorial be
 42 dispatched to the President of the United States, to the
 43 President of the United States Senate, to the Speaker of the
 44 United States House of Representatives, and to each member of
 45 the Florida delegation to the United States Congress.

Overview of Home Health Services in Florida

**Presentation
to the
House Committee on Healthy Seniors
by
Jeff Gregg, Chief
Bureau of Health Facility Regulation
Agency for Health Care Administration**

February 19, 2008



Definition of Home Health Agency

- Home health agencies are licensed to send both skilled (RNs, therapists, social workers) and unskilled (home health aides, certified nursing assistants, homemaker/companions) staff into a patient's home.
- They may also provide staffing to health care facilities on a temporary basis.
- Home health agencies are licensed for one of 11 AHCA service districts.
 - They may have branch offices within the service district.
 - They need another license to operate in a different service district.



Regulated Providers That Offer Similar Services

- **Nurse Registries**

- Licensed to secure temporary employment for nurses, home health aides, certified nursing assistants, homemakers, and companions) in a patient's home, or in health care facilities or other locations.

- **Health Care Services Pools**

- Staffing agencies that provide temporary employment in health care facilities, residential facilities and agencies for licensed, certified or trained health care personnel.

- **Homemaker-Companion Agencies**

- Agencies that employ individuals to do housekeeping, cook, run errands and provide companionship.

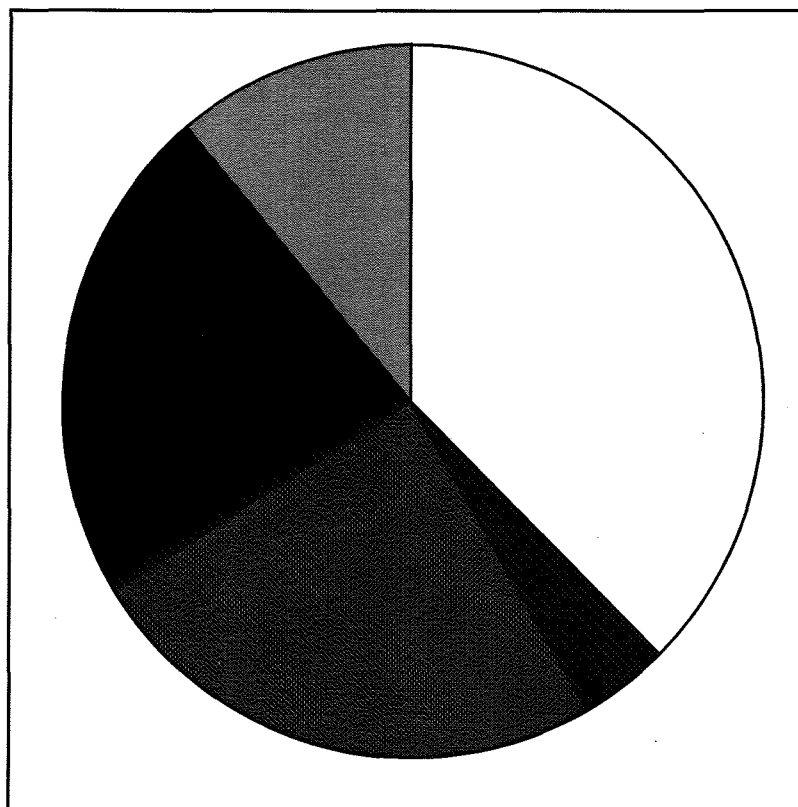


Home Health Agencies

- Licensed home health agencies have the greatest flexibility to offer the widest variety of services.
 - If they choose to, they can offer all of the services that the similar regulated providers offer.
 - They can also be very specialized.
- Home health agencies can be state licensed and federally certified to participate in the Medicare and Medicaid programs.
- The Agency for Health Care Administration acts as the agent of the federal Centers for Medicare and Medicaid Services as regulators of federally certified home health agencies.
- The majority of Florida's licensed home health agencies are also federally certified.

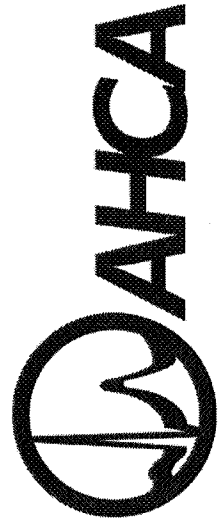
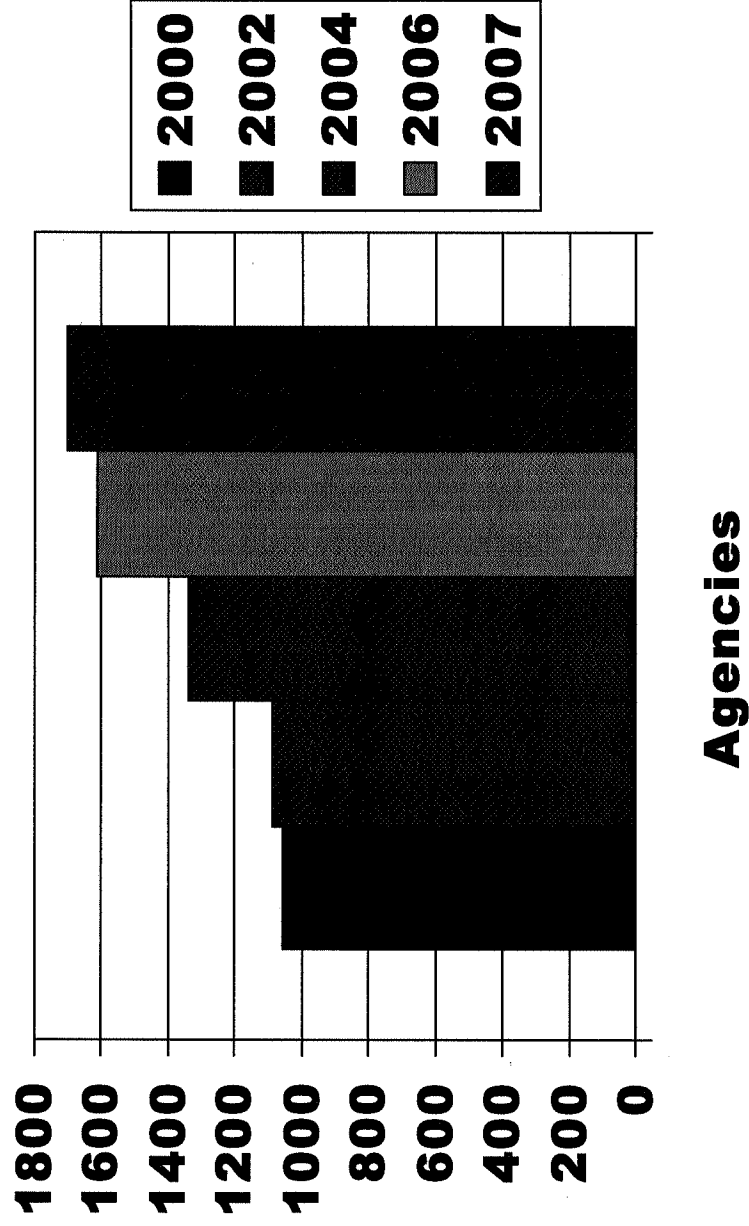


Home Health Agencies in Florida



- Private
- Medicaid only
- Medicare only
- Medicare & Medicaid
- Seeking Medicare & Medicaid

Increasing Number of Licensed Home Health Agencies



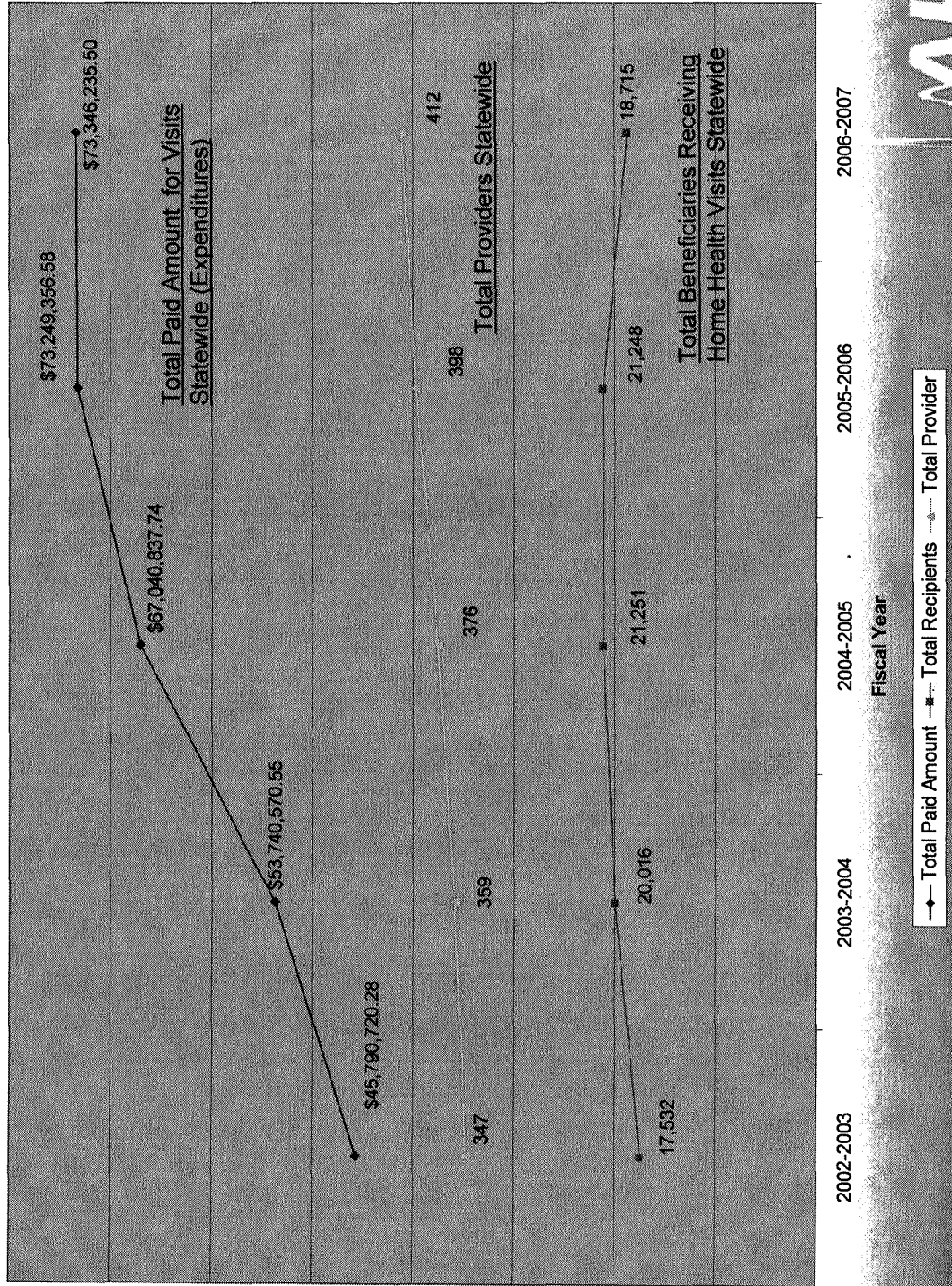
Unusual Growth Trend

- Certificate of Need for Medicare-certified agencies eliminated July 1, 2000
- Extraordinary growth in the number of home health agencies in Miami-Dade County cannot be explained based on market analysis.

	Aug 99	Apr 07	Aug 07	Nov 07
Miami-Dade	216	578	651	718
All Other Counties	970	1,199	1,212	1,247

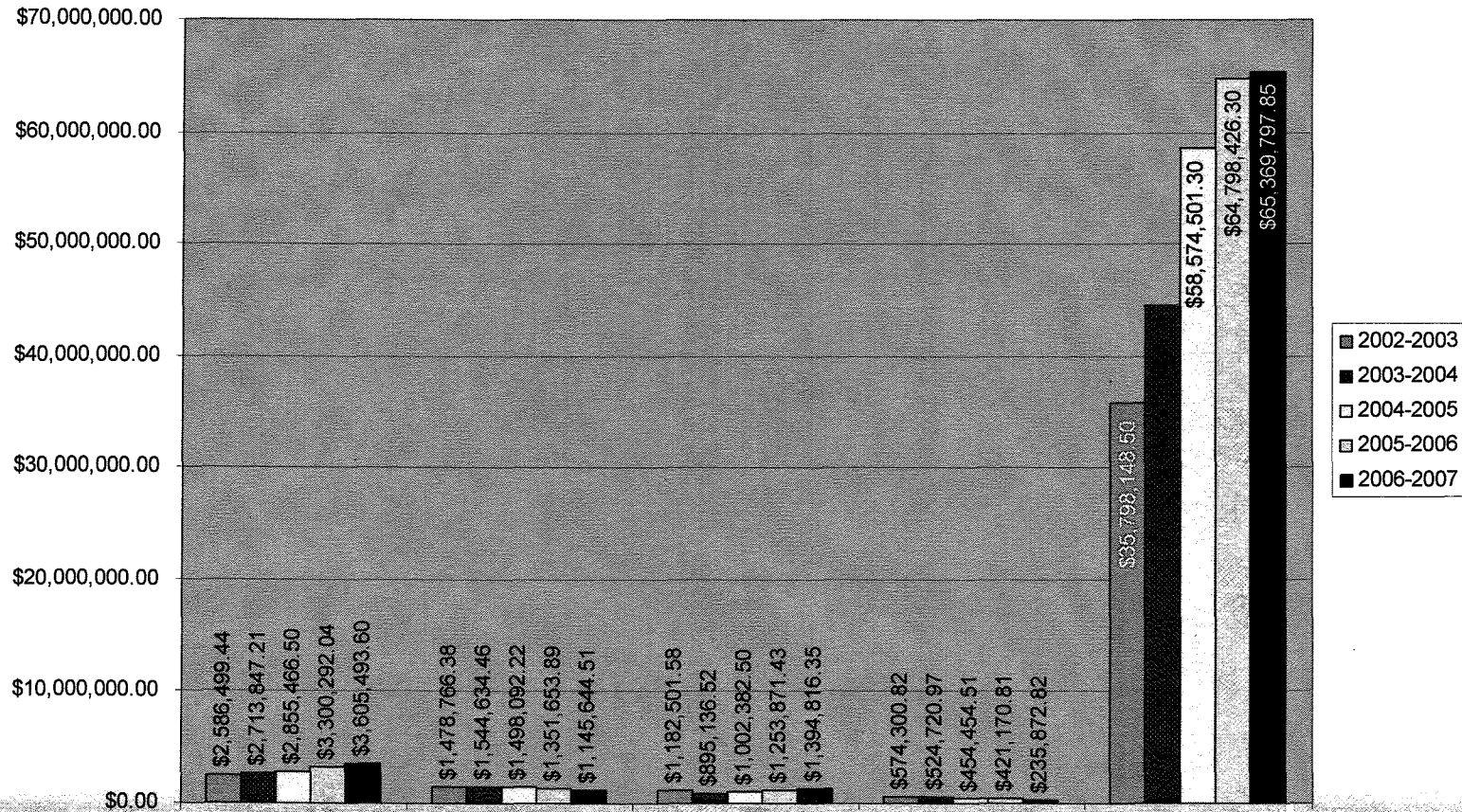
- 232% increase in Miami-Dade compared to 28.5% increase for the other 66 counties between August 1999 and November 2007

Florida Medicaid Home Health Trends



Medicaid Expenditures for Counties with Highest Beneficiary Enrollment

Counties with Highest Expenditures for FY 2002-2003 through 2006-2007

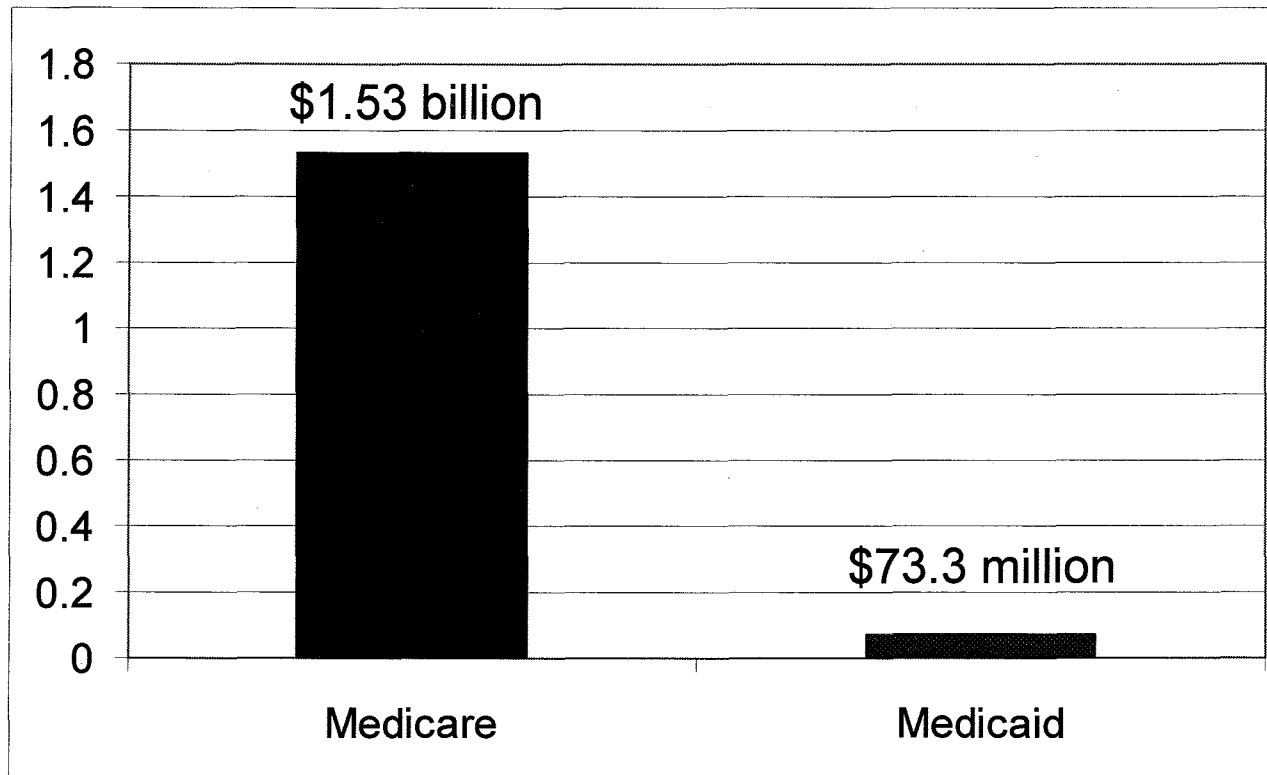


Beneficiary Enrollment: Broward 170,200 Escambia 152,737 Palm Beach 121,761 Leon 111,136 Dade 433,048



Note: Data for Fiscal Year 2006-2007 reflects data as of 11/30/2007 for data received during Fiscal Year 2006-2007.

2006* Federal Home Health Spending in Florida



- Figures are approximate due to differences between federal and state fiscal years. Medicaid spending is slightly understated because it is limited to fee-for-service (does not include managed care.) Medicaid spending also includes a percentage of state funds.

Regulatory Overview

- Existing home health agencies are surveyed by AHCA field offices for state licensure and federal re-certification.
 - **Unannounced**
 - Surveyed periodically – at least every 3 years
 - Prior to federal cutbacks agencies were surveyed at least every 15 months.
- Privately accredited home health agencies may request a survey exemption.
 - Over 100 agencies are currently exempt from the licensure survey.
- Agencies are never exempt from complaint investigations.

Regulatory Issues

- Quality-of-care concerns
 - In recent years, cutbacks in funding for federal surveys led to a longer period of time between the initial survey, which is scheduled, and the second survey, which is unannounced.
 - Complaints, serious deficiencies (federal conditions not met) and general deficiencies have increased.
 - Complaints and deficiencies are most likely for patients who have very difficult medical conditions.
 - Concerns that lower-quality or fraudulent providers are getting in and out of the market before the first unannounced survey.

Most Frequent Complaints

1. Administrative (no administrator, no director of nursing, office not open)
2. Patient care problems
3. Plan of care not followed
4. Inappropriate discharge
5. Medicare or Medicaid fraud
6. Patient rights
7. Patient abuse or neglect
8. Untrained or unqualified staff
9. Unlicensed activity
10. Medical records/charting

No AHCA Field Surveys for New Agencies Seeking Federal Certification

- **As of October 2007, no AHCA field surveys for new Medicare/Medicaid certified agencies.**
 - **Not limited to Florida**
 - **Not limited to home health agencies**
 - **Effective at least for federal fiscal year 2008 (through September 30)**
- **Home health agencies can seek private accreditation in lieu of an initial AHCA field survey.**
 - **There is a fee for private accreditation (no fee for an initial AHCA survey.)**
 - **There are three approved private accrediting organizations.**
- **Exceptions can only be made if the applicant demonstrates serious health care access consequences if the provider is not enrolled to participate in Medicare.**
 - **Exceptions very unlikely in Florida due to the large number of certified agencies**

For More Detailed Information

- Visit the website of the AHCA Home Care Unit:
 - www.fdhc.state.fl.us/MCHQ/Health_Facility_Regulation/index.shtml
 - Click on “Home Care Unit”
 - Then click on “Home Health Agency”
- Visit the home health agency website of the federal Centers for Medicare and Medicaid Services:
 - www.cms.hhs.gov/center/hha.asp

