

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill reduces the role of government in determining the long-term care options available to recipients

Promote Personal Responsibility—The bill will allow Medicaid recipients greater choice of health and long-term care services delivery plans.

B. EFFECT OF PROPOSED CHANGES:

Proposed Council Bill HCC-07-11 authorizes the Agency for Healthcare Administration (AHCA) to implement an integrated, fixed-payment service delivery program called Florida Senior Care, which was created in response to 2005 Legislation.¹ The following provides background on the original authorizing legislation, details of the Florida Senior Care program created in response to the legislation, and the effects of this bill, which gives the Agency for Healthcare Administration authority to implement the pilot program.

Background

The 2005 Legislature amended chapter 409.912(5) as part of Medicaid reform legislation to direct the Agency for Health Care in partnership with the Department of Elderly Affairs (DOEA) to create an integrated fixed-payment service delivery system for Medicaid recipients age 60 years of age or older. The program must combine all Medicaid funds for participating recipients (health and long-term care services). This includes Medicaid home and community based waiver services and all mandatory and optional Medicaid service funding authorized in chapters 409.905 and 409.906. Some individuals were excluded from the program including individuals enrolled in the developmental disabilities waiver program, family and supported living waiver program, project AIDS care waiver program, traumatic brain injury and spinal cord injury waiver program, consumer directed care waiver program, program for all inclusive care for the elderly waiver program and residents of institutional care facilities for the developmentally disabled. Medicaid nursing home funds were to be excluded from the program unless AHCA can demonstrate how integration of these funds improves care and is cost effective. The program was to be implemented on a pilot basis in two areas of the state and in one pilot area enrollment the program would be voluntary. The legislation also directed AHCA to competitively procure eligible entities to operate the program and required the credentialing of subcontract service providers. In addition, AHCA was directed to use a capitated rate methodology for the program and to ensure that rates are actuarially sound for providing quality care. The legislation also allowed program participants who enrolled at the implementation of the program to remain in their current licensed residence if they desire. AHCA was given permission by the legislation to seek federal waivers and to adopt rules to administer the program. OPPAGA is required to conduct an evaluation of the pilot program within 24 months of program implementation.

Florida Senior Care Approved Medicaid Waiver²

In response to the Legislative directives in chapter 409.912(5), AHCA in partnership with DOEA requested and received approval in September 2006, from federal Centers for Medicaid and Medicare services of 1915(b) and 1915(c) Medicaid waivers to implement the Legislative directive. Called Florida Senior Care, the integrated service delivery program will provide health and long-term care services to Medicaid recipients in two pilot areas of the state. The agency has included nursing home funding in the integrated program and has provided analysis that this will potentially improve coordination of care, reduce cost and increase budget predictability.³ The pilots are planned for demonstration in rural and

¹ Senate Bill 838,

² Florida Senior Care Summary of Approved Waiver Documents, November 2006, Agency for Health Care Administration.

³ Florida Senior Care: Inclusion of Funds for Medicaid Nursing Home Services, February 16, 2006, Mercer Government Human Services Consulting.

urban areas. The rural pilot is in Area One (Escambia, Santa Rosa, Okaloosa and Walton counties). The urban pilot is in Area Seven (Seminole, Orange, Osceola and Brevard counties). Individuals participating will have a choice of at least two plans from managed care organizations that will coordinate service delivery. A capitated payment structure is planned to give managed care organizations the flexibility to expend resources on the care needed most and in settings desired most by elder participants.

Florida Senior Care is intended to address fragmentation of service coordination for Medicaid participants by having one managed care organization provide all Medicaid services for a participant age 60 or older, including long term care. This plan includes physician services, hospitalization, prescription drugs, durable medical equipment, transportation, mental health services, and more. Home and Community Based waiver services will be limited as they are now, but the managed care organization can choose to provide additional services as a substitute for other, generally more expensive services such as nursing home care. This flexibility in the service menu is one of the key features of the Florida Senior Care plan.

Florida has operated a voluntary managed long-term care program for dually eligible participants age 65 and older for the last six years. The long-term care community diversion pilot project, also known as the Nursing Home Diversion waiver, currently serves more than 8,500 frail elders with plans to expand to 10,000 participants during Fiscal Year 2006-2007⁴. The Nursing Home Diversion program is fully capitated for almost all Medicaid services for the population served, including Medicare co-pays and deductibles, home and community based services and, if needed, nursing home care. The program is considered successful in providing integrated care with a focus on community based long term care. Limitations to this diversion model include the requirement that participants meet high frailty criteria to enter the program. This ensures that the program serves only individuals that are most needy, but it also increases the financial risk to the managed care plan and denies the plan the opportunity to provide preventative services before frailty advances and caregivers burn out from their care duties. Under Florida Senior Care, the inclusion of all elders, rather than just those who are frail and in need of formal long term care services will allow managed care organizations to spread their risk by incorporating more healthy individuals into their plan.

The Agency for Health Care Administration reports that Florida Senior Care will provide the following:

- *Coordinate all health care services*—Florida Senior Care will coordinate care across all health care settings including primary care doctors, specialists, hospital care, and when needed, long-term care in the home or in a nursing home.
- *Allow seniors to maintain their independence longer*—This system will provide flexibility to deliver care in the home or in the community as an alternative to nursing home care when appropriate based on an individual's needs. As a result, Florida Senior Care will allow Medicaid to provide a greater percentage of home and community based services to Florida's seniors.
- *Allow enrollees to choose the plan that's best for them*—Enrollment counseling will be available to help seniors make an informed choice. Once seniors have selected a plan, enrollees are free to change their primary care provider anytime under Florida Senior Care.
- *Provide a care coordinator to help arrange for needed services while encouraging individuals to participate in developing their plan of care*—Florida Senior Care will help seniors navigate a complicated health care system. Seniors will have one place to contact to arrange for health care services. The provision of a care coordinator will be especially beneficial for seniors who receive services through both the Medicare and Medicaid programs (dual eligible).

Major Program Components

Program Objectives—The Florida Senior Care program is intended to achieve the following outcomes: coordinate care, manage all health costs, and establish accountability for eligible Medicaid participants.

⁴ Long-Term Care Community Diversion Pilot Project - Legislative Report, January 2007, Department of Elder Affairs.

In addition, the project strives to promote home and community based services; streamline long term care eligibility determinations; develop new quality management systems; create integrated networks of care at the local level; and develop an appropriate risk adjusted reimbursement method that will include incentives for community living arrangements.

Pilot Areas—As directed by the legislature, two pilot areas were chosen to test the program concept. The Panhandle and Central Florida pilot areas were chosen to represent both rural and urban areas, and will encompass two of the eleven AHCA and Department of Elder Affairs (DOEA) service areas. In selecting the Panhandle area as a pilot, priority was given to an area of the state that has fewer Home and Community Based Service waiver programs to simplify implementation and to promote increased access to services in a predominately rural area of the state.

Eligibility and Enrollment—Most individuals age 60 or older enrolled in Medicaid in the pilot areas will be able to choose a Florida Senior Care provider. Individuals enrolled in certain programs are excluded from Florida Senior Care. Eligible individuals in the pilot areas may opt to continue receiving Medicaid services outside of Florida Senior Care.⁵ If the individual does not opt out or select a Florida Senior Care provider within 30 days, they will be automatically enrolled into one of the Florida Senior Care Plans. All individuals may elect to change their plan within 90 days. However, after this time period they must remain in the plan for one year. These individuals will be provided choice counseling to assist them in making an informed choice. An emphasis on face to face counseling will be made for the seniors. The auto-enrollment provision is intended to require individuals to make a conscious choice about Florida Senior Care and to respond to the enrollment offer for the program.

There are approximately 26,000 Medicaid participants age 60 or older who would be eligible for enrollment in a Florida Senior Care plan in the selected pilot areas. Participants will continue to enter the Medicaid program through financial eligibility determination by DCF Offices of Economic Self-Sufficiency or the Social Security Administration. Medical eligibility for long term care services will continue to be determined by the Department of Elder Affairs' CARES (Comprehensive Assessment Review and Evaluation of LTC Services) unit.

Service Provision—All Medicaid services will be available to Florida Senior Care enrollees including primary, acute, and long term care, and prescription medications. Each enrollee will have a care coordinator to assist in planning and coordinating the enrollee's care and in navigating the program. The majority of enrollees in the selected pilot areas, 86 percent, are also eligible for Medicare. These "dual eligibles" will continue to receive Medicare services as they do now, but the Florida Senior Care Coordinator will also assist with coordinating, as much as possible, Medicare and Medicaid services.

Delivery Systems—Managed care organizations will be selected through competitive procurement for each pilot area. A variety of types of entities are eligible to submit bids. Each managed care organization must be able to demonstrate that it has a comprehensive network of qualified providers for each service that must be provided under the plan.

Program Administration—The state will competitively procure the managed care organizations and administer their contracts. All program decisions will be made by AHCA in partnership with DOEA, who will share operational responsibilities for the Florida Senior Care program. The Department of Children and Family Services its local offices will continue to establish financial eligibility of Medicaid participants under agreement with AHCA. The agency will determine whether managed care organizations seeking to be Florida Senior Care providers meet financial solvency standards and will review quarterly reports from the managed care organizations to ensure that solvency standards are maintained.

Accountability, Monitoring, and Evaluation—An independent evaluation of the pilots will be conducted. If the program meets the goal of creating seamless, integrated care for elders with an

⁵ Note: The panhandle/ Area One pilot site is approved for mandatory enrollment in the federal waiver. However, this bill makes both pilot sites voluntary enrollment. Therefore, individuals at both sites will have to make a choice of whether to participate in the pilot program. In addition, the federal waiver will need to be amended to comport with statute.

emphasis on community based care options and is able to demonstrate that it is not more costly than traditional service models, AHCA and DOEA will re/commend statewide expansion. The Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Auditor General, will comprehensively evaluate the pilot within 24 months of implementation.

Financing—Funding for the Florida Senior Care program will come from individual Medicaid services line items in the budget, as appropriated by the Florida Legislature. These funds will be taken in proportion to the population age 60 and older served in the pilot areas. Service funds will be pooled in order to make fixed monthly payments to FSC plans for each enrolled individual. Capitated payments will be developed based on the current cost to Medicaid to provide services for this population.

Effect of Legislation:

The bill amends section 409.912(5), Florida Statutes, to make changes to the integrated fixed-payment delivery system for the implementation of the pilot programs. The following changes or additions are reflected in this bill:

System to Program word change: The name of the integrated fixed payment delivery *system* is changed to integrated fixed-payment delivery *program*. This technical change to using the word program instead of system provides a more accurate description of the project since the project is voluntary at pilot sites and does not comprise the total system of services offered to individuals.

Voluntary Enrollment: The bill changes enrollment to voluntary for both pilot sites. Individuals will have a choice of enrolling in the Florida Senior Care Pilot, remaining in their current service arrangement (e.g. Medipass, Medicaid managed care, Medicaid fee for service or Home and Community Based Medicaid waiver). The change to voluntary will require federal approval of an amendment to the Medicaid waiver for Florida Senior Care. The current pilot sites are AHCA Area One, (Okaloosa, Walton, Escambia and Santa Rosa counties) and Area Seven (Orange, Seminole, Brevard and Osceola counties). The bill also requires the enrollment of participants to conform to the approved federal Medicaid waivers and 409.912(5).

Designates plan operators (entities) as prepaid health plans: This bill designates the plan provider or entity as a prepaid health plan as referenced in section 408.7056(1) (e), Florida Statutes. This designation provides Florida Senior Care enrollees access to the Subscriber Assistance Panel grievance process. All enrollees will have access to internal grievance processes in their health plan and the Medicaid Fair Hearing Process. In addition, Florida Senior Care enrollees will have access to the Subscriber Assistance Panel to hear external grievances from Medicaid recipients in managed care plans.

Provider grievance system: This bill requires the agency to develop and maintain an informal and formal grievance system for providers of service. This provision also directs that the formal system will address grievances which have not been handled informally. This grievance system would give providers a forum for resolving disputes between the managed care entity and subcontract providers as well as the managed care entity and the state. This provision would make Florida Senior Care more consistent with the Medicaid reform pilot requirements for a provider grievance system (409.91211(3) (r).

Allow participants to remain in current residence: The bill amends the current statute to allow individuals who participate in Florida Senior Care to choose to remain in their current residence regardless of when they enter the program. This provision would be contingent on the individual's current residential facility accepting the Medicaid rate or the contracted rate from the managed care organization. The residential settings are limited to those facilities licensed under chapters 400 and 429, Florida Statutes (e.g., nursing homes, assisted living facilities, adult family care homes, transitional living facilities, and homes for special services).

Prompt Payment for Nursing Homes: The bill requires managed care entities to pay nursing home providers within 10 business days when they submit electronic claims that have sufficient information to process the claim. The nursing home industry has expressed concern about prompt payment under Florida Senior care pilots and warned that cash flow problems could develop if a prompt payment provision was not implemented. The bill also provides an alternate method for managed care entities to make payments to nursing homes on a prospective capitated payment basis. This would provide payment for nursing homes in advance of delivery of services and alleviate cash flow concerns from late payment.

Evaluation by the OPPAGA: This bill amends the existing requirements for an evaluation by OPPAGA as follows:

- Requires OPPAGA to begin the evaluation as soon as Medicaid recipients are enrolled in the plan. This would allow OPPAGA to advise on progress from the beginning of the pilots.
- Sets 24 month duration of the evaluation once Medicaid recipients are enrolled.
- Clarifies the intent of the evaluation which is to assess each of the managed care plans in the program.
- Changes the deadline for a report to the Governor, Speaker of the House, and President of the Senate to December 31, 2009.

State Plan Option: The bill also adds language that allows the agency to seek Medicaid state plan amendments in addition to the existing Medicaid waiver authority in the statute. This addition contemplates changes in federal law under the Deficit Reduction Act which the agency may choose to consider if additional federal approvals are necessary.

Implementation Authority: This bill gives AHCA the authority to implement the Florida Senior Care waivers approved by the federal Centers for Medicaid and Medicare Services. Implementation must be in accordance with section 409.912(5), Florida Statutes.

Additional Analysis for Future waivers: The bill directs AHCA to provide an analysis to the Legislature regarding the merits and challenge of seeking a federal waiver that combines Medicare and Medicaid funding in a program for dually enrolled individuals age 65 and older. Some states (e.g., Wisconsin, Massachusetts and Minnesota) have received federal waivers to operate these type programs.

C. SECTION DIRECTORY:

Section 1: Amends s.409.912(5), F.S., specifying provisions of the integrated fixed-payment delivery program.

Section 2: Amends s. 408.40, F.S., making technical wording changes

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	<u>FY 2007-08</u>	<u>FY 2008-09</u>
Title XIX Medicaid Match	\$649,384	\$649,384

2. Expenditures:

	<u>FY 2007-08</u>	<u>FY 2008-09</u>
Choice Counseling Services	\$900,797	\$900,797
Choice Counseling Materials/Training	\$124,971	\$124,971

Project Manager Contractual Services	<u>\$273,000</u>	<u>\$273,000</u>
Total	\$1,298,768	\$1,298,768
General Revenue Fund	\$649,384	\$649,384
Administrative Trust Fund	\$649,384	\$649,384

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Existing section 409.915, Florida Statutes, relates to county contributions to Medicaid. Existing subsection (a) specifically states that counties shall provide certain payments for Medicaid services "for both health maintenance members and fee-for-service beneficiaries." Existing subsection (b) simply states that counties shall make certain other payments for Medicaid services without reference to beneficiary coverage type, and applies only to fee-for-service enrollees. By application of the doctrine of *expressio unius est exclusio alterius* (the express mention of one thing is the exclusion of the other), the absence of reference to health maintenance members suggests that counties are not be required to make payment for nursing home care provided through FSC. As beneficiaries in the eight counties comprising the pilot sites enroll in managed care programs (and fee-for service arrangements), the state could potentially lose \$4,948,641 because of reductions in counties' contributions to nursing home care.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities providing choice counseling services will be able to contract with AHCA.

D. FISCAL COMMENTS:

AHCA reports that an appropriation of \$1,298,768 is necessary to fund the choice counseling and enrollment broker services necessary to implement Florida Senior Care in the two pilot sites selected. This figure includes \$900,797 for choice counseling (\$37.82 per recipient for 23,818 anticipated enrollees), \$124,971 for the development of choice counseling materials and training for choice counselors, and \$273,000 for a contract project manager for the reform projects.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

C. DRAFTING ISSUES OR OTHER COMMENTS:

D. STATEMENT OF THE SPONSOR

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES