

STORAGE NAME: s1348b.hcr

DATE: April 15, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE STANDARDS AND REGULATORY REFORM
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: SB 1348

RELATING TO: Rulemaking Authority/ AHCA/Workers Compensation Managed Care

SPONSOR(S): Senator Brown-Waite

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE STANDARDS AND REGULATORY REFORM YEAS 7 NAYS 0
 - (2)
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

SB 1348 grants explicit rulemaking authority, as required by chapter 120, F.S., to the Agency for Health Care Administration (AHCA) for the purpose of regulation of the workers' compensation managed care program under s. 440.134, F.S.

This bill will not have a fiscal impact on the State, local government, or the private sector in general.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

The Workers' Compensation Reform Act, Public Law 93-415, creating 440.134, F.S., became effective January 1, 1994. This law requires as of January 1, 1997, Florida employers must provide medical services to injured employees exclusively through an Agency for Health Care Administration (AHCA) authorized workers' compensation managed care arrangement.

In order to administer the workers' compensation managed care arrangement program; the AHCA developed and adopted an emergency rule, followed by a permanent rule, 59A-23, F.A.C., which became effective September 12, 1994. At the time of the workers' compensation managed care arrangement rule adoption; the Joint Administrative Procedures Committee raised questions about AHCA's authority to promulgate rules for this portion of the statute. The objection by the committee was due to the lack of explicit statutory language granting AHCA rulemaking authority. AHCA, with the assistance of the Florida Department of Labor and Employment Security, was successful in addressing the committee's concerns and the workers' compensation managed care arrangement rule was allowed to be adopted. Based on the standards contained in this rule, AHCA has reviewed and authorized over 650 workers' compensation managed care arrangements.

Subsequent changes to s. 120.536(1), F.S., which became effective October, 1997, now require that all existing and future rules adopted by governmental agencies must be based on explicit rulemaking language contained in the statute. Section 440.134, F.S., currently lacks explicit rulemaking authority.

B. EFFECT OF PROPOSED CHANGES:

Grants explicit rulemaking authority, as required by chapter 120, F.S., to AHCA for the purpose of regulation of the workers' compensation managed care program under s. 440.134, F.S. It directs AHCA to adopt rules that specify certain procedures and requirements for workers' compensation managed care.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. Provides rulemaking authority to AHCA for workers' compensation managed care program.

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- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

- (3) any entitlement to a government service or benefit?

N/A

- b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Adds subsection (25) to s. 440.134, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1. Adds subsection (25) to s. 440.134, F.S., directing AHCA to adopt rules relating to the workers' compensation managed care arrangements. It directs AHCA to adopt rules that specify certain procedures and requirements for workers' compensation managed care.

Section 2. Provides an effective date of upon becoming law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

According to AHCA, the bill will have no fiscal impact.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

According to AHCA, failure of AHCA to obtain the required explicit statutory authority for the workers' compensation managed care arrangement program by July 1, 1999, will make the existing rule subject to challenge by the Joint Administrative Procedures Committee. This would ultimately require repeal of rule 59A-23, F.A.C. Repeal of the existing rule would require AHCA to administer the program based on non-rule policy.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE STANDARDS AND REGULATORY REFORM:

Prepared by:

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