

By the Committee on Health Care Services and
Representatives Arnall and Fasano

1 A bill to be entitled
2 An act relating to Medicaid; amending s.
3 409.907, F.S.; requiring state and national
4 criminal history record checks of those who
5 apply to be providers; providing exemptions;
6 allowing the Agency for Health Care
7 Administration to permit an applicant to become
8 a provider pending the results of such checks,
9 and to revoke permission in specified
10 circumstances; amending s. 409.912, F.S.;
11 modifying the licensure requirements of certain
12 entities that provide mental health services
13 under Medicaid; postponing licensing
14 requirements for certain entities contracting
15 to provide Medicaid services; amending s.
16 409.9122, F.S.; providing for chiropractic and
17 podiatric services under the MediPass program;
18 amending s. 409.920, F.S.; increasing the
19 penalty for knowingly submitting false or
20 misleading information to the Medicaid program
21 for purposes of being accepted as a Medicaid
22 provider; creating s. 636.0145, F.S.; exempting
23 prepaid limited health service organizations
24 that serve only Medicaid clients from certain
25 regulatory requirements; providing an effective
26 date.

27
28 Be It Enacted by the Legislature of the State of Florida:

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30 Section 1. Present subsection (8) of section 409.907,
31 Florida Statutes, 1996 Supplement, is amended, present

1 subsections (9) and (10) are renumbered as subsections (10)
2 and (11), respectively, and a new subsection (8) is added to
3 said section, to read:

4 409.907 Medicaid provider agreements.--The agency may
5 make payments for medical assistance and related services
6 rendered to Medicaid recipients only to an individual or
7 entity who has a provider agreement in effect with the agency,
8 who is performing services or supplying goods in accordance
9 with federal, state, and local law, and who agrees that no
10 person shall, on the grounds of handicap, race, color, or
11 national origin, or for any other reason, be subjected to
12 discrimination under any program or activity for which the
13 provider receives payment from the agency.

14 (8)(a) Each provider, or each principal of the
15 provider if the provider is a corporation, partnership,
16 association, or other entity, seeking to participate in the
17 Medicaid program must submit a complete set of his or her
18 fingerprints to the agency for the purpose of conducting a
19 criminal history record check. Principals of the provider
20 include any officer, director, agent, managing employee, or
21 affiliated person, or any partner or shareholder who has an
22 ownership interest equal to 5 percent or more in the provider.

23 This subsection shall not apply to:

- 24 1. A hospital licensed under chapter 395;
25 2. A nursing home licensed under chapter 400;
26 3. An assisted living facility licensed to provide
27 extended congregate care services under chapter 400;
28 4. A unit of local government, except that
29 requirements of this subsection shall apply to nongovernmental
30 providers and entities when contracting with the local
31 government to provide Medicaid services. The actual cost of

1 the state and national criminal history record checks must be
2 borne by the nongovernmental provider or entity; or
3 5. A director of a not-for-profit corporation or
4 organization, if the director serves solely in a voluntary
5 capacity for the corporation or organization, does not
6 regularly take part in the day-to-day operational decisions of
7 the corporation or organization, receives no remuneration for
8 his or her services on the corporation or organization's board
9 of directors, and has no financial interest and has no family
10 members with a financial interest in the corporation or
11 organization; and provided that the director and the
12 not-for-profit corporation or organization each submit to the
13 agency as part of the corporation's or organization's Medicaid
14 provider application an affidavit, under penalty of perjury,
15 affirming that the director's relationship to the corporation
16 satisfies the requirements of this subparagraph.
17 Notwithstanding the provisions of this subparagraph, the
18 agency may require a background check for a director
19 reasonably suspected by the agency to have been convicted of a
20 crime as provided under subsection (10).
21 (b) The agency shall forward the fingerprints to the
22 Department of Law Enforcement. The department shall conduct a
23 state criminal history record check and forward the
24 fingerprints to the Federal Bureau of Investigation for a
25 national criminal record check. The cost of the state and
26 national criminal record check shall be borne by the provider.
27 The agency may permit a provider to participate in the
28 Medicaid program pending the results of the criminal record
29 check. However, such permission is fully revocable if the
30 record check reveals any crime-related history as provided in
31 subsection (10).

1 (c) Proof of compliance with the requirements of level
2 2 screening under s. 435.04 conducted within 12 months prior
3 to the date that the Medicaid provider application is
4 submitted to the agency shall fulfill the requirements of this
5 subsection. Proof of compliance with the requirements of
6 level 1 screening under s. 435.03 conducted within 12 months
7 prior to the date that the Medicaid provider application is
8 submitted to the agency shall meet the requirement that the
9 Department of Law Enforcement conduct a state criminal history
10 record check.

11 ~~(9)(8)~~ Upon receipt of a completed, signed, and dated
12 application, and completion of ~~after~~ any necessary background
13 investigation and criminal history record check by the agency,
14 ~~which may include Florida Department of Law Enforcement~~
15 ~~background checks,~~ the agency must either:

16 (a) Enroll the applicant as a Medicaid provider; or

17 (b) Deny the application if, based on the grounds
18 listed in subsection ~~(10)(9)~~ it is in the best interest of
19 the Medicaid program to do so, specifying the reasons for
20 denial.

21 Section 2. Subsection (3) of section 409.912, Florida
22 Statutes, 1996 Supplement, is amended to read:

23 409.912 Cost-effective purchasing of health care.--The
24 agency shall purchase goods and services for Medicaid
25 recipients in the most cost-effective manner consistent with
26 the delivery of quality medical care. The agency shall
27 maximize the use of prepaid per capita and prepaid aggregate
28 fixed-sum basis services when appropriate and other
29 alternative service delivery and reimbursement methodologies,
30 including competitive bidding pursuant to s. 287.057, designed
31 to facilitate the cost-effective purchase of a case-managed

1 continuum of care. The agency shall also require providers to
2 minimize the exposure of recipients to the need for acute
3 inpatient, custodial, and other institutional care and the
4 inappropriate or unnecessary use of high-cost services.

5 (3) The agency may contract with:

6 (a) An entity that provides no prepaid health care
7 services other than Medicaid services under contract with the
8 agency and which is owned and operated by a county, county
9 public health unit, or county-owned and operated hospital to
10 provide health care services on a prepaid or fixed-sum basis
11 to recipients, which entity may provide such prepaid services
12 either directly or through arrangements with other providers.
13 Such prepaid health care services entities must be licensed
14 under parts I and III by July 1, 1998 ~~1997~~, and until then are
15 exempt from the provisions of part I of chapter 641. An entity
16 recognized under this paragraph which demonstrates to the
17 satisfaction of the Department of Insurance that it is backed
18 by the full faith and credit of the county in which it is
19 located may be exempted from s. 641.225.

20 (b) An entity that is providing comprehensive
21 inpatient and outpatient mental health care services to
22 certain Medicaid recipients in Hillsborough, Highlands,
23 Hardee, Manatee, and Polk Counties, through a capitated,
24 prepaid arrangement pursuant to the federal waiver provided
25 for by s. 409.905(5). Such an entity must become licensed
26 under chapter 636 ~~chapter 624 or chapter 641~~ by ~~December 31,~~
27 ~~1998, and is exempt from the provisions of part I of chapter~~
28 ~~641 until then. However, if the entity assumes risk, the~~
29 ~~Department of Insurance shall develop appropriate regulatory~~
30 ~~requirements by rule under the insurance code before the~~
31 ~~entity becomes operational.~~

1 (c) A federally qualified health center or an entity
2 owned by one or more federally qualified health centers or an
3 entity owned by other migrant and community health centers
4 receiving non-Medicaid financial support from the Federal
5 Government to provide health care services on a prepaid or
6 fixed-sum basis to recipients. Such prepaid health care
7 services entity must be licensed under parts I and III of
8 chapter 641 by July 1, 1998 ~~1997~~. However, such an entity is
9 exempt from s. 641.225 if the entity meets the requirements
10 specified in subsections (14) and (15).

11 Section 3. Subsections (6) through (11) of section
12 409.9122, Florida Statutes, 1996 Supplement, are renumbered as
13 subsections (7) through (12), respectively, and a new
14 subsection (6) is added to said section to read:

15 409.9122 Mandatory Medicaid managed care enrollment;
16 programs and procedures.--

17 (6) MediPass enrolled recipients may receive up to 10
18 visits of reimbursable services by participating Medicaid
19 physicians licensed under chapter 460 and up to 4 visits of
20 reimbursable services by participating Medicaid physicians
21 licensed under chapter 461. Any further visits shall be by
22 prior authorization by the MediPass primary care provider.
23 However, nothing in this subsection shall be construed to
24 increase the total number of visits or the total amount of
25 dollars per year per person under current Medicaid rules,
26 unless otherwise provided for in the General Appropriations
27 Act.

28 Section 4. Paragraph (a) of subsection (1) and
29 subsection (3) of section 409.920, Florida Statutes, 1996
30 Supplement, are amended, and paragraph (f) is added to
31 subsection (2) of said section, to read:

1 409.920 Medicaid provider fraud.--
2 (1) For the purposes of this section, the term:
3 ~~(a) "Agency" means the Agency for Health Care~~
4 ~~Administration.~~
5 (2) It is unlawful to:
6 (f) Knowingly submit false or misleading information
7 or statements to the Medicaid program for the purpose of being
8 enrolled as a Medicaid provider.
9
10 A person who violates this subsection commits a felony of the
11 third degree, punishable as provided in s. 775.082, s.
12 775.083, or s. 775.084.
13 ~~(3) A person who knowingly submits false or misleading~~
14 ~~information or statements to the Medicaid program for the~~
15 ~~purpose of being accepted as a Medicaid provider commits a~~
16 ~~misdemeanor of the first degree, punishable as provided in s.~~
17 ~~775.082 or s. 775.083.~~
18 Section 5. Section 636.0145, Florida Statutes, is
19 created to read:
20 636.0145 Effect on certificated entities contracting
21 exclusively with Medicaid.--Any entity licensed under this
22 chapter which provides services solely to Medicaid recipients
23 under a contract with Medicaid shall be exempt from ss.
24 636.017, 636.018, 636.022, 636.028, and 636.034.
25 Section 6. This act shall take effect July 1, 1997.
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