

1
2 An act relating to long-term care; providing
3 legislative findings and intent; creating the
4 "Long-Term Care Community Diversion Pilot
5 Project Act"; providing definitions; providing
6 for evaluation of criteria and procedures for
7 long-term care through community diversion
8 pilot projects; providing for design and
9 implementation of pilot projects; providing for
10 funding and participant cost-sharing; providing
11 for selection of pilot project areas; providing
12 service requirements; providing for quality of
13 care standards; authorizing contracts for
14 managed care services; revising
15 certificate-of-need nursing home bed need
16 methodology to accommodate pilot project
17 development; requiring annual reports;
18 requiring independent evaluation of pilot
19 projects; specifying responsibilities of the
20 Department of Elderly Affairs and the Agency
21 for Health Care Administration; creating the
22 long-term care interagency advisory council;
23 providing for appointment of members; providing
24 council duties; amending s. 400.071, F.S.;
25 authorizing the agency to consider specified
26 certificate-of-need review criteria for nursing
27 homes; providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:
30
31

1 Section 1. Legislative findings and intent.--The
2 Legislature finds that state expenditures for long-term care
3 services continue to increase at a rapid rate and that Florida
4 faces increasing pressure in its efforts to meet the long-term
5 care needs of the public. It is the intent of the Legislature
6 that the Department of Elderly Affairs, in consultation with
7 the Agency for Health Care Administration, implement long-term
8 care community diversion pilot projects to test the
9 effectiveness of managed care and outcome-based reimbursement
10 principles when applied to long-term care.

11 Section 2. Short title.--This act may be cited as the
12 "Long-Term Care Community Diversion Pilot Project Act."

13 Section 3. Definitions.--As used in this act, the
14 term:

15 (1) "Agency" means the Agency for Health Care
16 Administration.

17 (2) "Community diversion" means a strategy that places
18 participants in the most appropriate care settings and
19 provides comprehensive home and community-based services of
20 sufficient quantity, type, and duration to prevent or delay
21 the need for long-term placement in a nursing facility.

22 (3) "Community diversion pilot project" means any
23 pilot service delivery system that places participants in the
24 most appropriate care settings and provides comprehensive home
25 and community-based services of sufficient quantity, type, and
26 duration to prevent or delay the need for long-term placement
27 in a nursing facility.

28 (4) "Community diversion pilot project area" means a
29 geographic area selected by the department where the
30 department will conduct a community diversion pilot project.

31

1 (5) "Department" means the Department of Elderly
2 Affairs.

3 (6) "Managed care organization" means an entity that
4 meets the requirements of the Department of Insurance for
5 operation as a health maintenance organization and meets the
6 qualifications for participation as a managed care
7 organization established by the agency and the department.

8 (7) "Participant" means an individual enrolled in a
9 community diversion pilot project.

10 Section 4. Evaluation of long-term care through the
11 pilot projects.--

12 (1) The department shall evaluate the Comprehensive
13 Assessment and Review for Long-Term Care (CARES) Program
14 processes, procedures, and instruments, and its ability to
15 predict nursing home placement. The department may revise
16 these processes, procedures, and instruments as necessary to
17 increase the number of persons diverted from institutional
18 placement. Nothing in this section shall be construed to
19 prevent the department from directing CARES to review and
20 evaluate nursing home residents. The department shall:

21 (a) Ensure that the CARES process is an effective
22 predictor of the need for nursing facility care; and

23 (b) Assess the use of CARES as a single entry point
24 for aging and long-term care services.

25 (2) The department shall develop a capitation
26 rate-setting method that:

27 (a) Assures sufficient savings from the state Medicaid
28 nursing home budget category to fund the community diversion
29 pilot projects; and

30
31

1 **(b) Assures that expenditures do not exceed the**
2 **average nursing home cost in the pilot project area, excluding**
3 **Medicaid acute care costs and Medicaid cost-sharing.**

4 **(3) The department shall evaluate:**

5 **(a) The standards in existing Medicaid managed care**
6 **contracts to determine if they are sufficient to assure**
7 **access, quality, and cost-effectiveness of services for frail**
8 **elders.**

9 **(b) The cost-effectiveness of the services provided by**
10 **the pilot projects.**

11 **(c) The impact of nursing home bed growth on state**
12 **expenditures.**

13 **(d) Methods to encourage competition among long-term**
14 **care service providers that will improve service quality,**
15 **price, and participant satisfaction.**

16 **(e) Criteria for selecting the managed care**
17 **organizations, including, but not limited to, quality**
18 **assurance processes, grievance procedures, service costs,**
19 **accessibility, adequacy of provider networks, and**
20 **administrative costs.**

21 **(f) Criteria for participant eligibility.**

22 **Section 5. Implementation of the long-term care**
23 **community diversion pilot projects.--**

24 **(1) In designing and implementing the community**
25 **diversion pilot projects, the department shall work in**
26 **consultation with the agency.**

27 **(2) The department shall select projects whose design**
28 **and providers demonstrate capacity to maximize the placement**
29 **of participants in the least restrictive appropriate care**
30 **setting.**

31

1 (3) The department shall provide to prospective
2 participants a choice of participating in a community
3 diversion pilot project or any other appropriate placement
4 available. To the extent possible, individuals shall be
5 allowed to choose their care providers.

6 (4) The department shall enroll participants.
7 Providers shall not directly enroll participants in community
8 diversion pilot projects.

9 (5) In selecting the pilot project area, the
10 department shall consider the following factors in the area:

11 (a) The nursing home occupancy level.

12 (b) The number of certificates of need awarded for
13 nursing home beds for which renovation, expansion, or
14 construction has not begun.

15 (c) The annual number of additional nursing home beds.

16 (d) The annual number of nursing home admissions.

17 (e) The adequacy of community-based long-term care
18 service providers.

19 (6) The department may require participants to
20 contribute to their cost of care in an amount not to exceed
21 the cost-sharing required of Medicaid-eligible nursing home
22 residents.

23 (7) Community diversion pilot projects must:

24 (a) Provide services for participants that are of
25 sufficient quality, quantity, type, and duration to prevent or
26 delay nursing facility placement.

27 (b) Integrate acute and long-term care services, and
28 the funding sources for such services, as feasible.

29 (c) Encourage individuals, families, and communities
30 to plan for their long-term care needs.

31

1 (d) Provide skilled and intermediate nursing facility
2 care for participants who cannot be adequately cared for in
3 noninstitutional settings.

4 Section 6. Quality of care.--The department, in
5 consultation with the agency, shall develop quality of care
6 standards for community diversion pilot projects. Such
7 standards shall apply to all contractors and subcontractors,
8 and must include, but are not limited to, outcome measures,
9 utilization review, grievance and conflict resolution, patient
10 satisfaction, and care and service standards.

11 Section 7. Contracts.--The department, in consultation
12 with the agency, shall select and contract with managed care
13 organizations to provide long-term care within community
14 diversion pilot project areas.

15 Section 8. Certificate of need.--To ensure that
16 Medicaid community diversion pilot projects result in a
17 reduction in the projected average monthly nursing home
18 caseload, the agency shall, in accordance with the provisions
19 of s. 408.034(4):

20 (1) Reduce the projected nursing home bed need in each
21 certificate-of-need batching cycle in the community diversion
22 pilot project areas.

23 (2) Reduce the conditions imposed on existing nursing
24 homes or those to be constructed, in accordance with the
25 number of projected community diversion slots.

26 (3) Adopt rules to reduce the number of beds in
27 Medicaid-participating nursing homes eligible for Medicaid,
28 through a Medicaid-selective contracting process or some other
29 appropriate method.

30
31

1 (4) Determine the feasibility of increasing the
2 nursing home occupancy threshold used in determining nursing
3 home bed needs under the certificate-of-need process.

4 Section 9. Reports and evaluations.--

5 (1) Beginning January 1, 1998, and continuing each
6 January 1 while the community diversion pilot projects are
7 operating, the department shall report to the Legislature
8 regarding the implementation and operation of community
9 diversion pilot projects.

10 (2) The department shall contract for an independent
11 evaluation of the community diversion pilot projects. Such
12 evaluation must include a careful review and assessment of the
13 actual cost for the provision of services to participants.

14 (3) The department, in consultation with the agency,
15 shall assess the feasibility of implementing a managed
16 long-term care system throughout the state to serve
17 appropriate Medicaid-eligible long-term care recipients age 60
18 years and older.

19 Section 10. Long-term care interagency advisory
20 council.--

21 (1) The long-term care interagency advisory council is
22 created within the Department of Elderly Affairs to advise the
23 secretary of the department on matters related to the
24 long-term care community diversion pilot projects. The
25 department and the agency shall provide staff support to the
26 council, as determined by the secretary of the department and
27 the director of the agency.

28 (a) The Secretary of the Department of Children and
29 Family Services shall appoint four members, one each to
30 represent the following:

31

1 1. Consumers, or family or guardians of consumers, of
2 optional state supplementation, adult protective services,
3 developmental services, or mental health services from the
4 department.

5 2. Providers of community-based services.

6 3. Consumer advocacy organizations.

7 4. Consumers, or representatives of consumers, who
8 have non-age related physical disabilities.

9 (b) The Secretary of the Department of Elderly Affairs
10 shall appoint five members, one each to represent the
11 following:

12 1. The nursing home industry.

13 2. The assisted living industry.

14 3. Consumers of long-term care services.

15 4. Providers of community-based services.

16 5. Area Agencies on Aging.

17 (c) The Commissioner of Insurance shall appoint one
18 member to represent the insurance industry.

19 (d) The Director of the Agency for Health Care
20 Administration shall appoint three members, one each to
21 represent the following:

22 1. The hospital industry.

23 2. The home health industry.

24 3. Health maintenance organizations.

25 (2) Council members representing industries or
26 organizations shall serve at their own expense.

27 (3) Consumer council members shall be reimbursed by
28 the appointing department for travel expenses incurred in
29 attending council meetings.

30 (4) The council shall discuss, evaluate, and develop
31 recommendations regarding the following topics:

1 (a) Implementation of community diversion pilot
2 projects and the possibility of statewide implementation.

3 (b) Budgetary constraints and other issues related to
4 providing a full continuum of long-term care services.

5 (c) The use and potential use of assistive
6 technologies and equipment in the provision of long-term care
7 services.

8 (d) Mechanisms to encourage families and other
9 potential caregivers to assist people in need of long-term
10 care.

11 (e) Related issues that the council determines are
12 necessary and appropriate.

13 Section 11. Subsection (7) of section 400.071, Florida
14 Statutes, is amended to read:

15 400.071 Application for license.--

16 (7) The agency may not issue a license to a nursing
17 home that ~~which~~ fails to receive a certificate of need under
18 the provisions of ss. 408.031-408.045. The agency may ~~shall~~
19 consider, in addition to the other criteria specified in s.
20 408.035, the statement of intent by the applicant to designate
21 a percentage of the beds of the facility for use by patients
22 eligible for care under Title XIX of the Social Security Act,
23 the percentage to be all or a portion of the need for such
24 beds as identified in the local health plan. It is the intent
25 of the Legislature that preference be given to an application
26 which most closely meets the need for such beds.

27 Section 12. This act shall take effect upon becoming a
28 law.