

1
2 An act relating to health and human services;
3 amending s. 945.602, F.S.; providing for
4 assignment of the State of Florida Correctional
5 Medical Authority to the Department of Health
6 for administrative purposes; transferring to
7 the department powers and duties of the State
8 of Florida Correctional Medical Authority;
9 transferring the Child Care Food Program from
10 the Department of Education to the Department
11 of Health and providing for hiring preferences;
12 requiring the Department of Children and Family
13 Services to develop individual transition plans
14 for clients affected by the transition from
15 Intermediate Care Facility for Developmentally
16 Disabled funding to noninstitutional funding;
17 requiring a report; requiring the Department of
18 Children and Family Services to immediately
19 notify the Legislature and develop a spending
20 plan if judicial decisions are continued or
21 rendered which the department feels will
22 require expenditures in excess of the amount
23 appropriated to Developmental Services;
24 providing for future repeal; creating s.
25 409.9127, F.S.; requiring the Agency for Health
26 Care Administration to develop and enforce
27 standards to prohibit conflicts of interest
28 among vendors selected to provide
29 preauthorization and concurrent utilization
30 review management services; authorizing the
31 Department of Children and Family Services to

1 certify local funds as state match for certain
2 children's mental health services and for
3 eligible Title IV-E services for certain
4 children; requiring pass-through of funds to
5 local jurisdictions; prohibiting reduction of
6 certain general revenue funds; authorizing the
7 Agency for Health Care Administration to apply
8 for certain federal waivers if local funds are
9 sufficient for state match; amending s.
10 945.6037, F.S.; increasing the inmate
11 copayment; requiring the department to conduct
12 a study and develop a plan to recover costs
13 associated with over-the-counter and
14 prescription medications; requiring a report to
15 be submitted to the Legislature; requiring the
16 Agency for Health Care Administration to apply
17 for federal waivers or grants to expand
18 services provided to the Florida Healthy Kids
19 Corporation; amending s. 409.912, F.S.;
20 authorizing the Agency for Health Care
21 Administration to establish certain
22 demonstration projects to test Medicaid direct
23 contracting; amending s. 409.908, F.S.;
24 requiring the Agency for Health Care
25 Administration to implement a specified program
26 related to payments for prescribed medicines;
27 amending s. 409.906, F.S.; requiring the Agency
28 for Health Care Administration to develop an
29 enrollment process for community mental health
30 providers; creating s. 409.9118, F.S.;
31 providing a disproportionate share program for

1 specialty hospitals; requiring the Department
2 of Children and Family Services to privatize
3 South Florida State Hospital and providing for
4 hiring preferences; providing an effective
5 date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. Subsections (1) and (2) and paragraphs (b)
10 and (c) of subsection (7) of section 945.602, Florida
11 Statutes, 1996 Supplement, are amended to read:

12 945.602 State of Florida Correctional Medical
13 Authority; creation; members.--

14 (1) There is created ~~in the Department of Corrections~~
15 the State of Florida Correctional Medical Authority which for
16 administrative purposes shall be assigned to the Department of
17 Health. The governing board of the authority shall be
18 composed of nine persons appointed by the Governor subject to
19 confirmation by the Senate. One member must be a member of
20 the Florida Hospital Association; one member must be a member
21 of the Florida League of Hospitals; one member must be a
22 member of the Association of Community Hospitals and Health
23 Systems of Florida ~~Voluntary Hospitals~~; and one member must be
24 a member of the Florida Medical Association. The authority
25 shall contract with the Department of Health for the provision
26 of administrative support services, including purchasing,
27 personnel, general services, and budgetary matters ~~The~~
28 ~~Department of Corrections shall provide administrative support~~
29 ~~and service to the authority~~. The authority shall not be
30 subject to control, supervision, or direction by the
31 Department of Health or the Department of Corrections. The

1 authority shall annually elect one member to serve as
2 chairman. Members shall be appointed for terms of 4 years
3 each. Each member is authorized to continue to serve upon the
4 expiration of his term until his successor is duly appointed
5 as provided in this section. Before entering upon his duties,
6 each member of the authority shall take and subscribe to the
7 oath or affirmation required by the State Constitution.

8 (2) A member of the authority may not be a current
9 employee of the Department of Corrections. Not more than one
10 member of the authority may be a former employee of the
11 Department of Corrections and such member, if appointed, may
12 not be appointed to a term of office which begins within 5
13 years after the date of his or her last employment with ~~by~~ the
14 department.

15 (7)

16 (b) Neither the provisions of this section nor those
17 of chapter 119, or of s. 154.207(7), shall apply to any health
18 care provider under contract with the Department of
19 Corrections except to the extent such provisions would apply
20 to any similar provider ~~entity~~ not under contract with the
21 department.

22 (c) Notwithstanding any general or special law, rule,
23 regulation, or ordinance of any local agency to the contrary,
24 service as a member of an authority by a trustee, director,
25 officer, or employee of a health facility shall not in and of
26 itself constitute a conflict of interest. However, any member
27 of the authority who is employed by, or has received income
28 from, a health facility under consideration by the authority
29 or the Department of Corrections shall not vote on any matter
30 related to such facility.

31

1 Section 2. All powers, duties and functions, rules,
2 records, personnel, property, and unexpended balances of
3 appropriations, allocations, or other funds of the State of
4 Florida Correctional Medical Authority, as established in s.
5 945.602, Florida Statutes, are transferred by a type two
6 transfer, as defined in s. 20.06(2), Florida Statutes, from
7 the Department of Corrections to the Department of Health.

8 Section 3. Effective October 1, 1997, through type two
9 transfers, as defined in s. 20.06(2), Florida Statutes, the
10 administration of the Federal Child Care Food Program is
11 transferred from the Department of Education to the Department
12 of Health. The administration of the Federal Adult Care Food
13 Program is transferred from the Department of Education to the
14 Department of Elderly Affairs. Current Department of Education
15 personnel assigned to the Child Care and Adult Care Food
16 Programs shall be given preference in hiring for comparable
17 positions within the Department of Health and the Department
18 of Elderly Affairs.

19 Section 4. Report required; department to notify
20 Legislature and develop plan if judicial decisions result in
21 spending requirements in excess of appropriations.--

22 (1) The Department of Children and Family Services
23 shall develop individual support plans for the approximately
24 2,176 persons directly affected by the transition from funding
25 through the Intermediate Care Facility for Developmentally
26 Disabled Program to noninstitutional funding. The individual
27 plans shall provide for appropriate services to each affected
28 individual in the most cost-effective manner possible. The
29 department shall report the projected aggregate cost of
30 providing services by fund source through the individual plans
31 to the Office of Planning and Budgeting, the Senate Ways and

1 Means Committee, and the House Health and Human Services
2 Appropriations Committee by September 30, 1997. The aggregate
3 costs reported shall be based on typical industry rates and
4 shall not include special adjustments for property costs or
5 other additional costs unique to any individual provider or
6 type of provider. The department may, however, report any
7 such costs separately. The report must further provide
8 detailed information on department efforts to maximize
9 Medicare and other funding available outside the
10 Developmental Services Program and the use of generic
11 community resources along with a calculation of the value of
12 such resources. The report must also include a summary of the
13 department's progress in recruiting alternative providers in
14 the event that any current providers decide to discontinue
15 services to clients or cannot provide quality services within
16 the anticipated rate structure.

17 (2) If judicial decisions are continued or rendered
18 that the Department of Children and Family Services feels will
19 require spending in excess of the amounts budgeted for
20 Developmental Services, the department shall immediately
21 notify the Chairs of the Senate Ways and Means Committee, the
22 House Fiscal Responsibility Council, and the House Health and
23 Human Services Appropriations Committee. Within 1 week after
24 providing notification pursuant to this subsection, the
25 department shall submit a spending plan that addresses the
26 projected deficit.

27 (3) This section is repealed July 1, 1999.

28 Section 5. Section 409.9127, Florida Statutes, is
29 created to read:

30 409.9127 Preauthorization and concurrent utilization
31 review; conflict-of-interest standards.--

1 (1) The Agency for Health Care Administration shall be
2 solely responsible for developing and enforcing standards to
3 prohibit financial and other conflicts of interest among
4 vendors selected to provide preauthorization and concurrent
5 utilization review management with direct-service
6 organizations providing alcohol, substance abuse, mental
7 health, or related services to clients who have services
8 authorized through the preauthorization and concurrent
9 utilization review management system established to achieve
10 cost savings in the provision of alcohol, substance abuse,
11 mental health, or related services. The agency may require the
12 posting of a surety bond to guarantee that no financial or
13 other conflicts of interest exist or will exist among vendors
14 selected to provide preauthorization and concurrent
15 utilization review management services.

16 (2) Vendors selected to conduct preauthorization or
17 concurrent utilization review management, or both, may be
18 peer-review organizations, qualified licensed clinical
19 practitioners, or public or private organizations that
20 demonstrate the ability to conduct such reviews according to
21 criteria developed by the agency and that have no financial or
22 other conflict of interest with any direct-service
23 organization providing alcohol, substance abuse, mental
24 health, or related services. Selection of vendors shall be
25 accomplished through a competitive process.

26 Section 6. In order to implement Specific
27 Appropriations 330 and 334 through 352 of the 1997-1998
28 General Appropriations Act, the Department of Children and
29 Family Services is authorized to certify local funds not to
30 exceed \$5 million as state match for children's mental health
31 services funded by Medicaid in excess of the amount of state

1 general revenue matching funds appropriated for such services
2 through the 1997-1998 General Appropriations Act. The
3 department is also authorized to certify local funds not to
4 exceed \$5 million as state match for eligible Title IV-E
5 services for children under the supervision and custody of the
6 state in excess of the amount of state general revenue
7 matching funds appropriated for such services by the 1997-1998
8 General Appropriations Act in Specific Appropriations 334
9 through 352. Federal Medicaid or Title IV-E funds provided to
10 the state as federal financial participation consequent to
11 certified local matching funds shall automatically be passed
12 through to the local jurisdiction that provided the certified
13 local match. All of the provisions of this section are based
14 upon federal approval of the provisions as specifically
15 limited in this section and shall not become effective if any
16 further modifications are required of the state. The Agency
17 for Health Care Administration is authorized to apply for
18 federal waivers to modify the state Medicaid plan to include
19 optional Medicaid in-home and therapeutic services for
20 Medicaid-eligible children if the state match for such
21 services is provided by local funds certified by the
22 department as state match. Such services shall be available
23 only in communities that provide the certified match.

24 Section 7. Paragraph (a) of subsection (1) of section
25 945.6037, Florida Statutes, is amended to read:

26 945.6037 Nonemergency health care; inmate
27 copayments.--

28 (1)(a) Effective October 1, 1997 ~~1994~~, for each
29 nonemergency visit by an inmate to a health care provider
30 which visit is initiated by the inmate, the inmate must make a
31 copayment of \$4 ~~not less than \$1 or more than \$5, as set by~~

1 ~~rule by the Department of Corrections.~~ A copayment may not be
2 charged for the required initial medical history and physical
3 examination of the inmate.

4 Section 8. The Department of Corrections, in
5 conjunction with the Correctional Privatization Commission,
6 shall study and develop a plan to recover costs associated
7 with prescription and over-the-counter medications provided to
8 inmates. As part of the study, the department shall consider
9 instituting an inmate copayment for prescription medications
10 and selling over-the-counter drugs through the inmate canteen.
11 The Department of Corrections shall report its plan and
12 findings to the President of the Senate and the Speaker of the
13 House of Representatives by January 1, 1998.

14 Section 9. The Agency for Health Care Administration
15 shall apply for a federal Medicaid waiver or for other federal
16 grants to allow for the receipt of Medicaid matching funds or
17 other federal funds to be used in conjunction with state,
18 local, and private funds to expand the services provided by
19 the Florida Healthy Kids Corporation. In the event that a
20 Medicaid waiver is used, it shall be limited to 118,725
21 children and shall include a provision for a lifetime cap of
22 60 months for those children enrolled in the program after
23 July 1, 1997.

24 Section 10. Paragraph (c) is added to subsection (4)
25 of section 409.912, Florida Statutes, 1996 Supplement, to
26 read:

27 409.912 Cost-effective purchasing of health care.--The
28 agency shall purchase goods and services for Medicaid
29 recipients in the most cost-effective manner consistent with
30 the delivery of quality medical care. The agency shall
31 maximize the use of prepaid per capita and prepaid aggregate

1 fixed-sum basis services when appropriate and other
2 alternative service delivery and reimbursement methodologies,
3 including competitive bidding pursuant to s. 287.057, designed
4 to facilitate the cost-effective purchase of a case-managed
5 continuum of care. The agency shall also require providers to
6 minimize the exposure of recipients to the need for acute
7 inpatient, custodial, and other institutional care and the
8 inappropriate or unnecessary use of high-cost services.

9 (4) The agency may contract with any public or private
10 entity otherwise authorized by this section on a prepaid or
11 fixed-sum basis for the provision of health care services to
12 recipients.

13 (c) The agency is authorized to establish no more than
14 four demonstration projects with provider service networks to
15 test Medicaid direct contracting. However, no such
16 demonstration project shall be established with a Federally
17 Qualified Health Center, nor shall any provider service
18 network under contract with the agency pursuant to this
19 paragraph include a Federally Qualified Health Center in its
20 provider network. One demonstration project must be located
21 in Orange County. The demonstration projects may be
22 reimbursed on a fee-for-service or prepaid basis. A provider
23 service network that is reimbursed by the agency on a prepaid
24 basis shall be exempt from parts I and III of chapter 641, but
25 must meet appropriate financial reserve, quality assurance,
26 and patient rights requirements as established by the agency.
27 The agency shall award contracts on a competitive-bid basis
28 and shall select bidders based upon price and quality of care.
29 Medicaid recipients assigned to a demonstration project shall
30 be chosen equally from those who would otherwise have been
31 assigned to prepaid plans and MediPass. The agency is

1 authorized to seek federal Medicaid waivers as necessary to
2 implement the provisions of this section. A demonstration
3 project awarded pursuant to this paragraph shall be for 2
4 years from the date of implementation.

5 Section 11. Subsection (14) of section 409.908,
6 Florida Statutes, 1996 Supplement, is amended to read:

7 409.908 Reimbursement of Medicaid providers.--Subject
8 to specific appropriations, the agency shall reimburse
9 Medicaid providers, in accordance with state and federal law,
10 according to methodologies set forth in the rules of the
11 agency and in policy manuals and handbooks incorporated by
12 reference therein. These methodologies may include fee
13 schedules, reimbursement methods based on cost reporting,
14 negotiated fees, competitive bidding pursuant to s. 287.057,
15 and other mechanisms the agency considers efficient and
16 effective for purchasing services or goods on behalf of
17 recipients. Payment for Medicaid compensable services made on
18 behalf of Medicaid eligible persons is subject to the
19 availability of moneys and any limitations or directions
20 provided for in the General Appropriations Act or chapter 216.
21 Further, nothing in this section shall be construed to prevent
22 or limit the agency from adjusting fees, reimbursement rates,
23 lengths of stay, number of visits, or number of services, or
24 making any other adjustments necessary to comply with the
25 availability of moneys and any limitations or directions
26 provided for in the General Appropriations Act, provided the
27 adjustment is consistent with legislative intent.

28 (14) A provider of prescribed drugs shall be
29 reimbursed the least of the amount billed by the provider, the
30 provider's usual and customary charge, or the Medicaid maximum
31 allowable fee established by the agency, plus a dispensing

1 fee. The agency is directed to implement a variable dispensing
2 fee for payments for prescribed medicines while ensuring
3 continued access for Medicaid recipients. The variable
4 dispensing fee may be based upon, but not limited to, either
5 or both the volume of prescriptions dispensed by a specific
6 pharmacy provider and the volume of prescriptions dispensed to
7 an individual recipient.The agency is authorized to limit
8 reimbursement for prescribed medicine in order to comply with
9 any limitations or directions provided for in the General
10 Appropriations Act, which may include implementing a
11 prospective or concurrent utilization review program.

12 Section 12. Subsection (8) of section 409.906, Florida
13 Statutes, 1996 Supplement, is amended to read:

14 409.906 Optional Medicaid services.--Subject to
15 specific appropriations, the agency may make payments for
16 services which are optional to the state under Title XIX of
17 the Social Security Act and are furnished by Medicaid
18 providers to recipients who are determined to be eligible on
19 the dates on which the services were provided. Any optional
20 service that is provided shall be provided only when medically
21 necessary and in accordance with state and federal law.
22 Nothing in this section shall be construed to prevent or limit
23 the agency from adjusting fees, reimbursement rates, lengths
24 of stay, number of visits, or number of services, or making
25 any other adjustments necessary to comply with the
26 availability of moneys and any limitations or directions
27 provided for in the General Appropriations Act or chapter 216.
28 Optional services may include:

29 (8) COMMUNITY MENTAL HEALTH SERVICES.--The agency may
30 pay for rehabilitative services provided to a recipient by a
31 mental health or substance abuse provider licensed by the

1 agency and under contract with the agency or the Department of
2 Children and Family ~~Health and Rehabilitative~~ Services to
3 provide such services. Those services which are psychiatric
4 in nature shall be rendered or recommended by a psychiatrist,
5 and those services which are medical in nature shall be
6 rendered or recommended by a physician or psychiatrist. The
7 agency must develop a provider enrollment process for
8 community mental health providers which bases provider
9 enrollment on an assessment of service need. The provider
10 enrollment process shall be designed to control costs, prevent
11 fraud and abuse, consider provider expertise and capacity, and
12 assess provider success in managing utilization of care and
13 measuring treatment outcomes. Providers will be selected
14 through a competitive procurement or selective contracting
15 process. In addition to other community mental health
16 providers, the agency shall consider for enrollment mental
17 health programs licensed under chapter 395 and group practices
18 licensed under chapter 458, chapter 459, chapter 490, or
19 chapter 491. The agency is also authorized to continue
20 operation of its behavioral health utilization management
21 program and may develop new services if these actions are
22 necessary to ensure savings from the implementation of the
23 utilization management system. The agency shall coordinate the
24 implementation of this enrollment process with the Department
25 of Children and Family Services and the Department of Juvenile
26 Justice.The agency is authorized to utilize diagnostic
27 criteria in setting reimbursement rates, to preauthorize
28 certain high-cost or highly utilized services, to limit or
29 eliminate coverage for certain services, or to make any other
30 adjustments necessary to comply with any limitations or
31 directions provided for in the General Appropriations Act.

1 Section 13. Section 409.9118, Florida Statutes, is
2 created to read:

3 409.9118 Disproportionate share program for specialty
4 hospitals.--The Agency for Health Care Administration shall
5 design and implement a system of making disproportionate share
6 payments to those hospitals licensed in accordance with part I
7 of chapter 395 as a specialty hospital which meet all
8 requirements listed in subsection (2). Notwithstanding s.
9 409.915, counties are exempt from contributing toward the cost
10 of this special reimbursement for patients.

11 (1) The following formula shall be used by the agency
12 to calculate the total amount earned for hospitals that
13 participate under this section:

$$14 \qquad \qquad \qquad \text{TAE}=(\text{MD}/\text{TMD}) \times \text{TA}$$

15
16
17 Where:

18 TAE=total amount earned by a specialty hospital.

19 TA=total appropriation for payments to hospitals that
20 qualify under this program.

21 MD=total Medicaid days for each qualifying hospital.

22 TMD=total Medicaid days for all hospitals that qualify
23 under this program.

24
25 (2) In order to receive payments under this section, a
26 hospital must be licensed in accordance with part I of chapter
27 395, to participate in the Florida Title XIX program, and meet
28 the following requirements:

29 (a) Be certified or certifiable to be a provider of
30 Title XVIII services.

31

1 (b) Receive all of its inpatient clients through
2 referrals or admissions from county public health departments,
3 as defined in chapter 154.

4 (c) Require a diagnosis for the control of a
5 communicable disease for all admissions for inpatient
6 treatment.

7 Section 14. (1) The Department of Children and Family
8 Services shall, through a request for proposals, privatize
9 South Florida State Hospital. The department shall plan to
10 begin implementation of this privatization initiative by July
11 1, 1998.

12 (a) Notwithstanding section 287.057(12), Florida
13 Statutes, the department may enter into agreements, not to
14 exceed 20 years, with a private provider, a coalition of
15 providers, or another agency to finance, design, and construct
16 a treatment facility having up to 350 beds and to operate all
17 aspects of daily operations within the facility. The
18 department may subcontract any or all components of this
19 procurement to a statutorily established state governmental
20 entity that has successfully contracted with private companies
21 for designing, financing, acquiring, leasing, constructing,
22 and operating major privatized state facilities.

23 (b) The selected contractor is authorized to sponsor
24 the issuance of tax-exempt bonds, certificates of
25 participation, or other securities to finance the project, and
26 the state is authorized to enter into a lease-purchase
27 agreement for the treatment facility.

28 (2) The contractor shall operate South Florida State
29 Hospital as a mental health treatment facility that serves
30 voluntarily and involuntarily committed indigent adults who
31 meet the criteria of part I of chapter 394, Florida Statutes,

1 and who reside in the South Florida State Hospital service
2 area.

3 (a) South Florida State Hospital shall remain a
4 participant in the mental health disproportionate share
5 program so long as the residents receive eligible services.

6 (b) The department and the contractor shall ensure
7 that the treatment facility is operated as a part of a total
8 continuum of care for persons who are mentally ill. The
9 contractor shall have as its primary goal for the treatment
10 facility to effectively treat and assist residents to return
11 to the community as quickly as possible.

12 (3)(a) Current South Florida State Hospital employees
13 who are affected by the privatization shall be given first
14 preference for continued employment by the contractor. The
15 department shall make reasonable efforts to find suitable job
16 placements for employees who wish to remain within the state
17 Career Service System.

18 (b) Any savings that result from the privatization of
19 South Florida State Hospital shall be directed to the
20 department's service districts 9, 10, and 11 for the delivery
21 of community mental health services.

22 Section 15. This act shall take effect July 1, 1997.
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