

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1520

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Constantine

SUBJECT: Medicaid Environmental Modification Services

DATE: March 28, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Liem	Wilson	HC	Favorable/CS
2.	_____	_____	CF	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill requires Medicaid to enroll, as a provider of environmental modification services for any Medicaid waiver program, any general, building, or residential contractor who is licensed pursuant to ch. 489, F.S., after the contractor signs the required Medicaid provider agreement. The bill defines “environmental modification services” and “environmental accessibility adaptations”.

The bill creates an undesignated section of law.

**II. Present Situation:**

***Medicaid***

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The program is jointly funded by the federal government, the state, and the counties. The federal government, through law and regulations, has established extensive requirements for the Medicaid program. The Agency for Health Care Administration (AHCA) is the single state agency responsible for the Florida Medicaid Program. The statutory provisions for the Medicaid program appear in ss. 409.901 through 409.9205, F.S. Individuals who are elderly or disabled, whose incomes are under 100 percent of the Federal Poverty Level are an optional coverage group eligible for Medicaid under s. 409.904(1), F.S. Payments for services to individuals in the optional categories are subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, F.S. Federal Supplemental Security Income (SSI) pays a cash benefit to individuals who are age 65 or older, or who are blind, or who have a disability and who have limited income and assets. Persons who qualify for SSI automatically qualify for Medicaid.

On July 1, 1993, the Medicaid program was transferred to AHCA from the former Department of Health and Rehabilitative Services. While AHCA is the single state agency responsible for the Medicaid program, the Department of Children and Family Services has retained the responsibility for receiving the applications for Medicaid and determining Medicaid eligibility through an interagency agreement with AHCA.

### ***Medicaid Home and Community-based Services Waivers***

Under section 1915(c) of the Social Security Act (the Act), States may request waivers of certain Federal requirements in order to develop Medicaid-financed community-based treatment alternatives. The three requirements that may be waived are specified in section 1902 of the Act and deal with statewideness, comparability of services, and community income and resource rules. Waiver programs allow states to offer additional services outside those contained in the state Medicaid plan, to a specified subset of recipients, for the purpose of assisting those recipients in remaining in their own homes. In the aggregate, the cost of the additional waiver services may not exceed the cost of the institutional care that would otherwise be required. Although the services offered under the waiver programs may be medical services that are not covered under the state Medicaid plan, they often include services that are not medical in nature, such as case management, assistance with housekeeping, escort services, and home modifications such as construction of wheelchair ramps and door widening. Florida currently operates six Medicaid waiver programs: Developmental Services, Aging/Disabled Adult Services, Traumatic Brain Injury and Spinal Cord Injury Program, Nursing Home Diversion Project, Channeling, and Project AIDS Care.

### ***Medicaid Provider Enrollment***

Section 1902(a)(23) of the Social Security Act requires that (with the exception of programs under s. 1915 of the Act) Medicaid recipients must be allowed to receive services from any institution, agency or person qualified to perform the service who undertakes to provide the service. Implementing federal regulations at 42 CFR 431.51(b)(1)(i) and (ii) require that, absent a waiver, the state plan for Medicaid must provide that a recipient may obtain services from any provider that is qualified to furnish the services and is willing to furnish them to that recipient. 42 CFR 431.51(c) clarifies that these requirements do not prohibit the Medicaid agency from establishing fees, setting reasonable standards for providers, or restricting free choice under a waiver or, under certain conditions, for the purchase of medical devices, laboratory and x-ray services, or for the purpose of locking-in recipients who over utilize services of designated providers, or to lock-out providers who have abused the program. According to the Health Care Financing Administration, the state is allowed to determine its own provider standards, so long as such standards are reasonably related to the provider's ability to render care to recipients.

Subsection (9) of s. 409.907, F.S., requires AHCA to either enroll a qualified provider, or deny a prospective provider's application if enrollment is not in the best interests of the program. The determination that enrollment is not in the best interests of the program must be based on grounds specified in subsection (10) of s. 409.907, F.S., which include:

- making false statements on the application;

- having been involuntarily excluded or terminated from participation in a Medicaid or insurance program;
- conviction of an offense related to delivery of goods or services under Medicaid or other health care or insurance program;
- conviction of offenses related to neglect or abuse of a patient;
- drug-related convictions;
- conviction of any crime punishable by imprisonment of a year or more which involves moral turpitude;
- conviction of obstructing or interfering with the investigation of any of the offenses listed in the subsection;
- violation of laws or rules governing Medicaid or any other health care or insurance program which resulted in sanctions;
- previous violations of standards related to professional licensure; and
- failure to pay a fine or overpayment by Medicaid.

Section 409.908(8)(a), F.S., requires each provider, or each principal of the provider if the provider is a corporation, to submit a complete set of fingerprints to the agency for the purpose of a criminal history record check. The fingerprints are submitted to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a national criminal record check. The cost of this check (currently \$39) is borne by the provider.

#### ***Waiver Program Provider Enrollment Process***

An entity that wishes to be enrolled as a provider in a Medicaid waiver program must be in compliance with any federal, state or local licensing law for the services that are to be provided, meet any additional qualifications contained in the waiver document approved by the Health Care Financing Administration, meet the standard requirements for Medicaid enrollment, and complete the standard Medicaid provider enrollment process. In addition, the state agencies administering the waivers have agency-specific provider requirements such as agreement with a set of core principles (Developmental Services), agreements with Area Agencies (Elder Affairs), and provider enrollment in department-specific financial tracking systems which ensure that the waiver programs operate within appropriated amounts. . Since providers under the waiver are often not licensed medical entities, the various state agencies administering the waiver programs under inter-agency agreement with AHCA are responsible for certifying to AHCA that prospective providers meet approved waiver standards. Once the agencies have made this certification, provider enrollment materials are processed in the same manner as other Medicaid provider applications.

Each of the state agencies administering Medicaid waiver programs has local staff that assists potential waiver service providers with the provider application process. Upon completion, the prospective provider's application is mailed to AHCA's Medicaid fiscal agent for enrollment processing.

When the fiscal agent receives the application, the application is checked for completeness and processed. The criminal background screening required by s. 409.908, F. S., is the most time consuming part of the Medicaid provider enrollment process, accounting for approximately 60% of the time required for Medicaid provider enrollment. After the results of the screening process are returned to AHCA with no disqualifying entries and other elements of the enrollment process are completed, the applicant is enrolled as a Medicaid waiver service provider. If there are flaws in the application or documentation, the application is returned to the provider for correction.

### **III. Effect of Proposed Changes:**

The bill requires the Agency for Health Care Administration to enroll as a provider in any Medicaid home and community-based waiver program, any general, building or residential contractor who is licensed pursuant to ch. 489, F.S., after the contractor signs the required Medicaid provider agreement. Providers affected by the bill would be exempted from meeting additional provider standards or completing other procedures for provider enrollment required by state agencies operating the waivers. The bill defines "environmental modification services" and "environmental accessibility adaptations".

The effective date of the bill is October 1, 2001.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

#### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

#### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Expediting the approval of qualified persons as contractors for environmental accessibility modifications will not cost more. It may mean that reimbursements for environmental accessibility modifications will be made sooner than the payments are now made.

**C. Government Sector Impact:**

The bill does not increase costs to the Agency for Health Care Administration. Since providers under the bill are not subject to Medicaid provider criminal history checks, there is the potential of increased Medicaid fraud. Since providers would not be required to complete a program-specific enrollment process, state agencies administering the waivers will have increased difficulty tracking waiver expenditures, and discovering erroneous billings for services to Medicaid waiver participants.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.