

By the Committee on Health, Aging and Long-Term Care

317-415B-02

1                                   A bill to be entitled  
2           An act relating to managed care ombudsman  
3           committees; creating s. 641.64, F.S.; providing  
4           definitions; amending s. 641.65, F.S., relating  
5           to district managed care ombudsman committees;  
6           requiring the formation of a managed care  
7           ombudsman committee in each district of the  
8           Agency for Health Care Administration;  
9           modifying membership and manner of appointment  
10          of committee members; specifying that committee  
11          members serve in a voluntary capacity;  
12          specifying that committees are to assist in  
13          resolving complaints only at the request of an  
14          enrollee of a managed care program; eliminating  
15          authorization for committees to conduct site  
16          visits with the agency; authorizing committees  
17          to assist enrollees in appeals of unresolved  
18          grievances to the Subscriber Assistance Panel;  
19          specifying additional responsibilities for  
20          committees; requiring committee members to be  
21          screened; requiring training for committee  
22          members; prohibiting specified conflicts of  
23          interest; amending s. 641.70, F.S.; requiring  
24          the Agency for Health Care Administration to  
25          adopt rules relating to conflicts of interest  
26          for district managed care ombudsman committees;  
27          requiring the Agency for Health Care  
28          Administration to conduct a public awareness  
29          campaign, establish standardized training, and  
30          assist in recruiting and retaining managed care  
31          ombudsmen; amending s. 641.75, F.S., relating

1 to immunity from liability and limitation on  
2 testimony for managed care ombudsman  
3 committees; removing references to the  
4 statewide committee; conforming  
5 cross-references; repealing s. 641.60, F.S.,  
6 relating to the Statewide Managed Care  
7 Ombudsman Committee; providing an  
8 appropriation; providing an effective date.

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
12 Section 1. Section 641.64, Florida Statutes, is  
13 created to read:

14 641.64 Definitions.--As used in ss. 641.64-641.75, the  
15 term:

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

18 (2) "Covered medical service" means a service that has  
19 been contracted for under the managed care program agreement.

20 (3) "District" means one of the health service  
21 planning districts as defined in s. 408.032.

22 (4) "District committee" means a district managed care  
23 ombudsman committee.

24 (5) "Enrollee" means an individual who has contracted,  
25 or on whose behalf a contract has been entered into, with a  
26 managed care program for health care.

27 (6) "Managed care program" means a health care  
28 delivery system that emphasizes primary care and integrates  
29 the financing and delivery of services to enrolled individuals  
30 through arrangements with selected providers, formal quality  
31 assurance and utilization review, and financial incentives for

1 enrollees to use the program's providers. Such a health care  
2 delivery system may include arrangements in which providers  
3 receive prepaid set payments to coordinate and deliver all  
4 inpatient and outpatient services to enrollees or arrangements  
5 in which providers receive a case management fee to coordinate  
6 services and are reimbursed on a fee-for-service basis for the  
7 services they provide. A managed care program may include a  
8 state-licensed health maintenance organization, a Medicaid  
9 prepaid health plan, a Medicaid primary care case management  
10 program, or other similar program.

11 (7) "Physician" means a person licensed under chapter  
12 458, chapter 459, chapter 460, or chapter 461.

13 Section 2. Section 641.65, Florida Statutes, is  
14 amended to read:

15 641.65 District managed care ombudsman committees.--

16 (1) A district managed care ombudsman committee is  
17 created in each district of the agency ~~that has staff assigned~~  
18 ~~for the regulation of managed care programs. Each district~~  
19 ~~committee is subject to direction from and the supervision of~~  
20 ~~the statewide committee.~~

21 (2) Each district committee shall have no fewer than 9  
22 members and no more than 20 ~~16~~ members, including, if possible  
23 ~~at least~~: one physician licensed under chapter 458, one  
24 physician licensed under chapter 459, one physician licensed  
25 under chapter 460, and one physician licensed under chapter  
26 461, one psychologist, one registered nurse, one clinical  
27 social worker, one attorney, and at least one recipient of  
28 services from a managed care program ~~one consumer~~. For the  
29 members who are recipients of services from a managed care  
30 program ~~consumer member~~, preference shall be given to members  
31 of organized consumer or advocacy groups with national or

1 statewide membership. ~~No member may be employed by or~~  
2 ~~affiliated with a managed care program.~~

3 (3) The agency shall require a Level I background  
4 screening of committee members under the provisions of s.  
5 453.03. The agency will pay the fees associated with the  
6 required screening.

7 (4)(3)(a) The secretary of the agency director shall  
8 appoint the first three members of each district committee,  
9 and those three members shall select the remaining members  
10 subject to approval of the agency director. The agency shall  
11 review all appointments for compliance with this section, and  
12 may disqualify an appointee for failure to meet the  
13 requirements of this section.~~If any of the first three~~  
14 ~~members are not appointed within 60 days after the statewide~~  
15 ~~committee is established and after a request is submitted to~~  
16 ~~the agency director, those members shall be appointed by a~~  
17 ~~majority vote of the statewide committee without further~~  
18 ~~action by the agency director.~~

19 (b) Members shall be appointed to serve for a term of  
20 3 years, except that at the time of initial appointment, terms  
21 shall be staggered so the first 40 percent of members  
22 appointed shall serve for a term of 2 years and the remaining  
23 members shall serve for a term of 3 years. Members may serve  
24 only two consecutive terms.

25 (c) Upon the expiration of the term of a member or  
26 upon the occurrence of a vacancy, the district committee shall  
27 appoint a successor, ~~subject to the approval of the agency~~  
28 director. The agency shall review all appointments for  
29 compliance with this section, and may disqualify an appointee  
30 for failure to meet the requirements of this section.

31

1           ~~(d) If the agency director fails to approve or~~  
2 ~~disapprove a replacement member within 30 days after the~~  
3 ~~district committee provides the agency director with a~~  
4 ~~nomination, the nomination is automatically approved.~~

5           (5)~~(4)~~ Each district committee shall elect a  
6 chairperson for a term of 1 year. A person may not serve as  
7 chairperson for more than two consecutive terms.

8           (6)~~(5)~~ If a district committee member misses, without  
9 cause, two-thirds of the regular district committee meetings  
10 in a calendar year, the member is automatically removed, and  
11 the district committee shall select a replacement.

12           (7)~~(6)~~ Each district committee or member of the  
13 committee:

14           (a) Shall serve in a voluntary capacity to protect the  
15 health, safety, and rights of ~~all~~ enrollees participating in  
16 managed care programs in this state.

17           (b) Shall receive enrollee complaints regarding  
18 quality of care from the agency when the ombudsman's  
19 assistance is requested by the enrollee, and may assist the  
20 agency and enrollees with the resolution of complaints. At the  
21 complainant's request,

22           ~~(c) May conduct site visits with the agency, as the~~  
23 ~~agency determines is appropriate.~~ a complaint must ~~may~~ be  
24 referred by the agency to the committee if the complaint  
25 relates, ~~as~~ to whether an enrollee's managed care program may  
26 have inappropriately denied the enrollee a covered medical  
27 service, may be inappropriately delaying the provision of a  
28 covered medical service to the enrollee, or is providing  
29 substandard covered medical services. The committee shall  
30 establish and follow uniform criteria in reviewing information  
31 and receiving complaints. If a district managed care ombudsman

1 committee or committee member receives such a complaint  
2 directly from an enrollee, the committee shall assist the  
3 enrollee with resolution of the complaint and report the  
4 complaint to the agency.

5 (c) At the request of an enrollee, a district managed  
6 care ombudsman committee shall assist the enrollee in any  
7 appeal of an unresolved grievance to the Subscriber Assistance  
8 Panel under s. 408.7056.

9 (d) Shall educate enrollees about their rights and  
10 responsibilities in managed care programs.

11 (e) Shall train consumers to understand and use the  
12 annual consumer guide on plan performance and the marketing  
13 information prepared by managed care programs and may assist  
14 consumers in selecting health care plans appropriate for their  
15 needs.

16 (f) Shall assist enrollees with filing formal appeals  
17 of managed care program determinations, including preservice  
18 denials and the termination of services.

19 (g)~~(d)~~ Shall submit an annual report to the agency  
20 ~~statewide committee~~ concerning activities, recommendations,  
21 and complaints reviewed ~~or developed~~ by the district committee  
22 during the year.

23 (h)~~(e)~~ Shall conduct meetings as required at the call  
24 of its chairperson, ~~the call of the agency director, the call~~  
25 ~~of the statewide committee,~~ or by written request of a  
26 majority of the district committee members.

27 (8) A member or employee of a district committee may  
28 not:

29 (a) Have a direct involvement in the licensing,  
30 certification, or accreditation of, or an ownership or  
31 investment interest in, a managed care program.

1           (b) Be employed by or participate in the management of  
2 a managed care program.

3           (c) Receive, or have a right to receive, directly or  
4 indirectly, remuneration, in cash or in kind, under a  
5 compensation agreement with a managed care program.

6           (d) Gain, or stand to gain, financially through an  
7 action or potential action brought on behalf of individuals  
8 the ombudsman serves.

9           Section 3. Section 641.70, Florida Statutes, is  
10 amended to read:

11           641.70 Agency duties relating to the ~~Statewide-Managed~~  
12 ~~Care Ombudsman Committee~~ and the district managed care  
13 ombudsman committees.--

14           (1) The agency shall adopt rules that specify:

15           (a) Procedures by which the ~~statewide committee~~ and  
16 district committees receive reports of enrollee complaints  
17 from the agency.

18           (b) Procedures by which enrollee information shall be  
19 made available to members of the ~~statewide committee~~ and to  
20 the district committees by managed care programs.

21           (c) Procedures by which recommendations made by the  
22 committees may ~~shall~~ be considered for incorporation into  
23 policies and procedures of the agency.

24           (d) In consultation with the district committees,  
25 procedures to identify and eliminate conflicts of interest as  
26 described in s. 641.65.

27           (e)~~(d)~~ Procedures by which ~~statewide~~ committee members  
28 shall be reimbursed for authorized expenditures.

29           (f)~~(e)~~ Any other procedures that are necessary to  
30 administer ss. 641.64-641.75 ~~this section and ss. 641.60 and~~  
31 ~~641.65.~~

1           (2) The agency ~~for Health Care Administration~~ shall  
2 provide a meeting place for district committees in agency  
3 offices and shall provide the necessary administrative support  
4 to assist the ~~statewide committee~~ and district committees,  
5 within available resources.

6           (3) The agency shall, in cooperation with the district  
7 committees, conduct a public awareness campaign to increase  
8 the public's knowledge of the services provided by the  
9 district committees.

10           (4) The agency, in cooperation with the district  
11 committees, shall establish standardized training of committee  
12 members.

13           (5) All volunteers serving on district committees must  
14 be given a minimum of 8 hours of training upon appointment and  
15 8 hours of continuing education annually thereafter. The  
16 agency must provide standardized training for all committee  
17 members.

18           (6) The agency may assist the district committees in  
19 recruiting and retaining managed care ombudsmen.

20           (7)~~(3)~~ The secretary of the agency shall ensure the  
21 full cooperation and assistance of agency employees with  
22 members of the ~~statewide committee~~ and district committees.

23           Section 4. Section 641.75, Florida Statutes, is  
24 amended to read:

25           641.75 Immunity from liability; limitation on  
26 testimony.--

27           (1) Any member of ~~the statewide committee~~ or a  
28 district committee who receives or investigates a complaint of  
29 an enrollee of a managed care program in accordance with the  
30 procedures and guidelines of the agency shall be immune from  
31 liability for good faith action on behalf of such an enrollee.



1           (2) Except as otherwise provided by law, all other  
2 matters before the ~~statewide committee~~ or district committees  
3 shall be open to the public and subject to chapter 119 and s.  
4 286.011.

5           (3) Members of any ~~state~~ or district ombudsman  
6 committee shall not be required to testify in any court with  
7 respect to matters held to be confidential except as may be  
8 necessary to enforce ss. 641.64-641.75 ~~ss. 641.60-641.75~~.

9           Section 5. Section 641.60, Florida Statutes, is  
10 repealed.

11           Section 6. The sum of \$300,000 is appropriated from  
12 the General Revenue Fund to the Agency for Health Care  
13 Administration and one position is authorized for the purposes  
14 of implementing this act during the 2002-2003 fiscal year.

15           Section 7. This act shall take effect July 1, 2002.

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18           SENATE SUMMARY

19           Requires the creation of a managed care ombudsman  
20 committee in each district of the Agency for Health Care  
21 Administration. Modifies the membership and manner of  
22 appointment of committee members. Eliminates  
23 authorization for committees to conduct site visits with  
24 the agency. Authorizes committees to assist enrollees in  
25 appeals of unresolved grievances. Prohibits specified  
26 conflicts of interest of members or employees of a  
27 district committee. Provides for rulemaking authority.  
28 Requires the agency to conduct a public information  
29 campaign, establish standardized training, and assist in  
30 recruiting and retaining managed care ombudsmen.  
31 Abolishes the Statewide Managed Care Ombudsman Committee.  
Provides an appropriation.