

**STORAGE NAME:** h0703a.hhsa.doc  
**DATE:** February 11, 2002

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
HEALTH & HUMAN SERVICES APPROPRIATIONS  
ANALYSIS**

**BILL #:** HB 703  
**RELATING TO:** Medicaid Home and Community-Based Services  
**SPONSOR(S):** Representative(s) Green & Others  
**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) ELDER & LONG TERM CARE YEAS 10 NAYS 0
  - (2) HEALTH & HUMAN SERVICES APPROPRIATIONS YEAS 13 NAYS 0
  - (3) COUNCIL FOR HEALTHY COMMUNITIES
  - (4)
  - (5)
- 

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

House Bill 703 creates "The Consumer-Directed Care Act." Persons who qualify to participate in one of the current Medicaid home and community-based waiver programs and who are able to direct their own care or to appoint a representative to act on their behalf are eligible to choose to participate in this program.

All persons who render care under this program are required to complete background screening. Persons who are disqualified after the screening may request an exemption from the disqualification from the Agency for Health Care Administration (AHCA).

Consumers are permitted to hire family members, friends, or relatives as providers in this program. The agency may apply for federal Medicaid waivers. The agency and the collaborating departments of Elderly Affairs, Health, and Children and Family Services will evaluate the program and report annually to the Legislature.

This act shall take effect July 1, 2002. This program is a complement to existing waiver programs, and therefore, is funded in those other waiver categories.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |    |                                |   |                             |   |
|----|--------------------------------|---|-----------------------------|---|
| 1. | <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. | <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. | <u>Individual Freedom</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. | <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. | <u>Family Empowerment</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Background: Consumer-Directed Care

According to the Robert Wood Johnson Foundation, "consumer-directed care is based on the principle that individuals who are disabled or their chosen advocates, not funders or providers of services, should have the primary responsibility for making decisions regarding the assistance they receive."

Many of the long-term care services persons with disabilities need help with performing the "activities of daily living" include personal care (assistance with activities such as bathing, toileting, eating, dressing, and moving about), homemaker and chore services.

While younger people with disabilities have been most vocal in advocating for consumer-directed services, older individuals, parents of disabled children, and families of persons with cognitive impairments and developmental disabilities also have expressed a growing interest in this approach. Some advocates argue that this model of service delivery can increase consumer satisfaction, improve quality of care, and lower costs.

Home and Community-Based Services in Florida

Currently the state operates four Medicaid home and community-based waiver programs designed to delay or prevent institutional placement of frail elders, physically disabled adults, and persons with developmental disabilities. In each of those waiver programs, the consumers select a case manager to assist in developing a plan of care, identifying providers, selecting services, and arranging for care to be delivered.

Federal Research and Demonstration Project

The Florida Consumer-Directed Care Project (CDC) is one of three national demonstration projects initiated to research issues and questions about Medicaid recipients managing their own care. This is a "Cash and Counseling" grant program implemented under an 1115 Medicaid waiver granted by the Centers for Medicare and Medicaid Services (formerly the Health Care Financing Administration) and funded by the Robert Wood Johnson Foundation and the Assistant Secretary

for Planning and Evaluation, U.S. Department of Health and Human Services. Arkansas and New Jersey also participate in the Cash and Counseling grant program.

Consumer-Directed Care for elders and physically disabled adults is available in Brevard, Broward, Charlotte, Collier, Dade, Hillsborough, Lee, Manatee, Martin, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Sarasota, Seminole and St. Lucie counties. The CDC is available statewide for developmentally disabled adults and children.

Because this is a research program, the consumers are randomly assigned either to a "control" or an "experimental" group. In the control group, the consumers receive services under the existing Medicaid waiver program. In the experimental group, the consumer or a representative develops a purchasing plan and manages the funds; a "Fiscal Intermediary" (FI) provides bookkeeping assistance/oversight; a consultant provides training, technical assistance and support; the consumer decides which allowable services best meet their needs; the consumer may hire and direct employees and independent contractors (who may be family members or friends) and/or agency providers; and, the consumer assesses the quality of services received.

Allowable purchases include: personal care; homemaking; consumable medical and personal care supplies; adaptive devices; wheelchair ramps; grab bars; home repairs and maintenance; errands/shopping services; and pest control/yard work.

DOEA wrote in a recent briefing paper:

The purpose of CDC is to demonstrate the value of consumers being in charge of directing their own care. Consumers in the existing service delivery system have very little control over their own care. This can lead to mental, emotional and physical deterioration and the loss of dignity, confidence and self-respect. The CDC is designed to provide consumers more independence, flexibility and choice in determining and arranging their care. Consumer Directed Care can restore self-reliance, self-direction and dignity. It challenges the notion that all Medicaid waiver service recipients are incapable of managing their own care effectively and responsibly.

Consumer Directed Care empowers consumers to determine by whom and which, when and how their supplies and services are provided. For example, in the existing service delivery system, personal care services may be scheduled when convenient for the agency, even if inconvenient for the consumer. Consumer Directed Care consumers set their own personal care schedule. This self-direction approach is in keeping with the governor's commitment to make Florida, "A Community for Life: Elder Ready, Child Friendly, Family Focused."

#### C. EFFECT OF PROPOSED CHANGES:

Consumers will receive a monthly budget allowance and be expected to manage their long-term care needs within that budget. Consumers or their representatives will plan their own care, arrange for its delivery, and negotiate the costs. This will make the consumer more responsible for choosing essential and cost-effective services. Consumers should be able to arrange the type, duration, frequency, and timing of services to best meet their needs.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 creates a new section 409.221, the "Consumer-Directed Care Act" including legislative findings and intent.

Section 2 provides that this act shall take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No revenue sources are created in this bill.

2. Expenditures:

Expenditures for this program are budgeted from existing Medicaid waiver categories and appropriations. In its analysis of the bill, however, the Department of Elderly Affairs stated that additional contracts with "fiscal intermediaries" and providers will have a fiscal impact, but the amounts are indeterminate at this time.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None are projected.

2. Expenditures:

None are projected.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent that paid caregivers for consumers participating in this program have not traditionally been Medicaid providers, there will be some economic benefit to those individuals.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None are identified at this time.

B. RULE-MAKING AUTHORITY:

The Agency for Health Care Administration and the Departments of Health, Children and Family Services, and Elderly Affairs are granted authority to adopt and enforce rules.

C. OTHER COMMENTS:

This program is to take effect July 1, 2002; however, the program may have to await federal waiver approval before it can be fully implemented.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Committee on Elder and Long Term Care adopted one amendment at the January 24 meeting. The amendment allows consumers to use their monthly budget allowance to purchase personal care and support services in an assisted living facility.

On February 8, the Health and Human Services Appropriations Committee adopted three clarifying amendments that specify that the fiscal intermediaries can process employment information on behalf of the consumer, that the program requires federal approval before implementation, and that the Agency for Health Care Administration can apply for either a federal waiver or waiver amendment, whichever is more appropriate.

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VII. SIGNATURES:

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