

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 2664

SPONSOR: Children and Families Committee and Senator Constantine

SUBJECT: Relative Caregiver Act

DATE: April 14, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dowds	Whiddon	CF	Fav/CS
2.			HC	
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

Committee Substitute for SB 2664 creates the Florida Lifespan Respite Care Program for the purpose of developing and supporting respite care networks and respite care services. The Department of Children and Families is directed to contract with a statewide respite care coalition and the requirements of the coalition in establishing the Florida Lifespan Respite Care Program are stipulated. The bill creates the Relative Caregiver program which permits the Agency for Health Care Administration in cooperation with the Department of Children and Families to develop a plan to reimburse relative caregivers of children in the developmental services Medicaid waiver, subject to meeting the federal Medicaid waiver requirements. Training and education of relative caregivers are required by the bill and home visits are provided to ensure that individuals on the Medicaid waiver are receiving adequate care. Rules for certification are to be developed, as is a schedule for compensating the relative caregivers. The Department of Children and Families is authorized to revoke the certification of a relative caregiver if the care provided is determined to jeopardize the health or safety of the child in care.

This bill creates section 393.0662 of the Florida Statutes.

II. Present Situation:

Respite Care

“Respite care” is generally considered care for a child or adult who, due to some disability, health condition, aging, or other reason, require on-going care that provides the family member or caregiver with relief from the responsibility of caregiving. Usually, respite care provides family members or caregivers with an opportunity to attend to some family business or to rejuvenate so they are able to continue with the continuous responsibility of caring for the child

or adult. In Florida, the Florida Respite Coalition has been working to build a network of respite care providers that will serve the full range of individuals who require respite care. In June, 2001, the Florida Respite Care Coalition entered into contract with the Department of Children and Families to develop an infrastructure for a statewide lifespan community-based respite care system. The coalition has been working across the state to develop respite care providers and the structure that will facilitate the availability of the services.

Medicaid Waivers and Relative Caregiver

Under section 1915(c) of the Social Security Act, states may request waivers of certain federal requirements in order to develop Medicaid-financed community based treatment alternatives. 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 for 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. In addition, the following Medicaid waivers have been approved but have not yet been implemented: Adult Cystic Fibrosis, Adult Day Health Care, Assisted Living for the Elderly, and Model Waiver. Section 409.906(13), F.S., authorizes the Agency for Health Care Administration to pay for home-based and community-based services that are rendered to a recipient in accordance with a federally approved waiver program.

The developmental services home and community based waiver is operated by the Department of Children and Families. Its purpose is to promote and maintain the health of individuals with developmental disabilities through the provision of medically necessary supports and services that will help the individual live in the community and avoid the necessity of institutional placement. These waiver services may only be provided when the service or item is medically necessary. Most community based services for the developmental disabilities program are delivered by the private sector, both non-profit and for-profit organizations, and include services such as support coordination, personal attendant services, respite, supported employment, adult day training, companion, and dental services.

A 1915(c) Medicaid waiver does not permit legally responsible persons to be paid for providing care to a Medicaid waiver recipient (such as parents being paid to care for their children). However, a section 1115 Medicaid waiver permits legally responsible persons and other relatives to be paid for providing care to a Medicaid waiver recipient. Thus, a section 1115 Medicaid waiver “waives” certain Medicaid requirements including some 1915(c) Medicaid waiver requirements.

The interagency Consumer-Directed Care Project (CDC) is a demonstration project operating under a section 1115 Medicaid waiver. CDC consumers from the Department of Children and Families’ Developmental Disabilities Program and Adult Services Program, the Department of

Elder Affairs, and the Department of Health's Brain and Spinal Cord Injury Program have relative caregivers who are paid for providing care through the CDC. The CDC is funded from dollars associated with the 1915(c) Medicaid waiver.

III. Effect of Proposed Changes:

CS/SB 2664 creates the Florida Lifespan Respite Care Program for the purpose of developing and supporting respite care networks and respite care services. The Department of Children and Families is directed to contract with a statewide respite care coalition and the requirements of the coalition in establishing the Florida Lifespan Respite Care Program are stipulated. The bill creates the Relative Caregiver program which permits the Agency for Health Care Administration in cooperation with the Department of Children and Families to develop a plan to reimburse relative caregivers of children in the developmental services Medicaid waiver, subject to meeting the federal Medicaid waiver requirements. Training and education of relative caregivers are required by the bill and home visits are provided to ensure that individuals on the Medicaid waiver are receiving adequate care. Rules for certification are to be developed, as is a schedule for compensating the relative caregivers. The Department of Children and Families is authorized to revoke the certification of a relative caregiver if the care provided is determined to jeopardize the health or safety of the child in care.

Respite Care

CS/SB 2664 creates the Florida Lifespan Respite Care Program for the purpose of developing respite care advocacy and service delivery networks across the state, improving the availability of respite care, promoting innovative and comprehensive approaches to delivery of respite care, and recruiting and training individuals to work in respite care programs. The Department of Children and Families is directed to contract with an established statewide respite coalition (which is the Florida Respite Coalition) to develop this program. Through this contract, the coalition will be required to develop five lifespan respite care networks with funding for respite care services, provide policy and program development supports, assist with the resolution of respite care policy concerns across the lifespan at the state and local level, provide training and technical assistance to the networks, and promote the exchange of information between governmental entities and respite care providers. The department is authorized to expend up to \$300,000 in general revenue funds, subject to a specific appropriation and any limitations provided for in the General Appropriations Act or ch. 216, F.S.

Medicaid Waivers and Relative Caregiver

CS/SB 2664 creates the Relative Caregiver Program in the newly created s. 393.0662, F.S. With this bill, the Agency for Health Care Administration is authorized to develop a plan to reimburse relative caregivers of children between the ages of 5 and 21 years in the developmental services home and community-based waiver. This plan is subject to the requirements of the federally approved Medicaid waivers, a specific appropriations, and any limitations set forth in the General Appropriations Act or ch. 216, F.S. "Relative caregiver" is defined for the purpose of the section and includes immediate family members, grandparents and great grandparents, aunts and uncles, cousins, persons related by marriage, step relations, and half siblings who live with

the child with a disability on a permanent and continuous basis. "Certification" is also defined and requires that a relative meet all of the requirements of a Medicaid waiver provider.

The Department of Children and Families is required by the bill to provide training and education to the relative caregivers on the following topics: state laws and rules governing relative caregivers, identifying and meeting the special needs of children and adults with disabilities, and monitoring the health of children and adults with disabilities. Relatives who do not complete the training within a reasonable time as established by the department are in violation of the provisions of this bill and may have their certification revoked. Additional training and education may be required by the support coordinator or the department. Specific rules are required relative to the training and education program and training requirements for relative caregivers.

The support coordinator is required to make home visits to ensure the recipient is receiving adequate care, the frequency of which is to be determined by the support coordinator or the department. The Agency for Health Care Administration may also require periodic monitoring by appropriate professionals.

The department is directed to develop rules for the certification of relative caregivers. These rules are to include the following conditions which an applicant must meet in order to be certified: the relative has the time and willingness to provide the services, has a relative in need of and willing to receive the services of the relative caregiver, has the skills necessary to provide the services or has agreed to the training to obtain the skills, and has complied with the Medicaid provider agreement requirements, pursuant to s. 409.907, F.S.

The Agency for Health Care Administration is directed to establish a schedule of compensation for services delivered by a relative caregiver, the compensation for which is not to exceed the amounts paid to Medicaid providers who are licensed, certified or registered to provide this care.

If the department determines that the care provided by the relative caregiver threatens directly the health, safety, or security of the individual with a disability or creates the possibility that serious harm or death could occur as a result of the care, the department is to revoke the certification of the relative caregiver. The Agency for Health Care Administration is directed to adopt rules to implement this section.

The bill provides that this act takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The provisions of the relative caregiver program cannot be implemented until the federal requirements are met allowing for reimbursement of relative caregivers which will likely entail federal approval of such reimbursement. If and when such reimbursement is approved, relatives caregivers participating in the program will be required to receive training and education. The Department of Children and Families estimated with an earlier version of the bill that the cost to develop the curriculum would be \$12,000, The cost for delivering the training is unknown since the number of children age 5 through 21 years on the developmental services waiver is not currently known and of these children, the number of families who would want to participate is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.