

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 433 Behavioral Health

SPONSOR(S): Murman

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) ELDER & LONG TERM CARE (SUB)	9 Y, 0 N	Meyer	Liem
2) FUTURE OF FLORIDA'S FAMILIES			
3) STATE ADMINISTRATION			
4) HUMAN SERVICES APPROP. (SUB)			
5) APPROPRIATIONS			

SUMMARY ANALYSIS

The bill creates the Agency for Mental Health and Substance Abuse within the Department of Children and Family Services (DCFS). The bill appoints a transition team to plan for a Type II transfer, and provides for an agency head and other managers.

The bill revises the provisions related to Medicaid's contracting for pre-paid behavioral health services and allows Medicaid to contract with a single provider to serve a region or combination of regions.

The bill delegates responsibility and authority for managing Medicaid behavioral health services to the Agency for Mental Health and Substance Abuse Services (AMHSAS). The bill provides that the Governor appoint a statewide policy board to make recommendations to the Director of the AMHSA regarding organization, policy, budget, and other matters related to managing the behavioral health care system.

The bill provides for the transfer of programs, powers, duties, records, personnel, property, and money from DCFS to the Agency for Mental Health and Substance Abuse Services within DCFS by type II transfer, effective October 1, 2004. It directs that positions be transferred from DCFS and from AHCA to the AMHSAS. It directs that DCFS and AHCA provide administrative staff and support for the new agency until December 31, 2005.

The bill revises and limits the monitoring authority of DCFS and of AHCA. DCFS is authorized to seek federal approval to contract with a single behavioral health pre-paid plan to provide services to all Medicaid recipients in a region or combination of regions. This section deletes the requirement that health maintenance organizations also spend eighty per cent of the capitation on services or return the difference to the agency. The agency must submit its plan for implementing this by March 1, 2004. Implementation is targeted for years 2003-2004 and 2004-2005 in each region or combination of regions where: "communities are prepared" and the expenditure history would support an adequate capitation rate.

Provides effective dates.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0433c.fff.doc

DATE: March 17, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

The bill creates a new Agency for Mental Health and Substance Abuse Services (AMHSAS). It provides for Division Directors for Mental Health and for Substance Abuse. It provides additional accreditation requirements for providers of behavioral health services.

B. EFFECT OF PROPOSED CHANGES:

The bill creates a new agency for mental health and substance abuse services. The mission of the new agency will be to:

- Provide leadership for all mental health and substance abuse services funded by or through the state;
- Make partnerships with local communities to prevent and ameliorate mental illness and substance abuse; and
- Provide a comprehensive and coordinated continuum of effective services.

The bill describes the agency's responsibilities including establishing statewide policy, managing appropriations, ensuring that the Agency for Health Care Administration receives all required information to account for Medicaid expenditures, creating and contracting with comprehensive provider networks; using single, uniform contracts, standards, and data requirements as much as possible; working with local providers to establish priorities and strategies; developing and implementing a uniform contracting and payment system. The agency is directed to measure contractor's performance, delegate monitoring to community providers, be knowledgeable about new research; work with other state agencies; collect data; anticipate manpower needs for the mental health and substance abuse and work with the education system to make sure that the state has sufficient proficient personnel; make services available to dependent children; operate a consumer advocacy function; comply with federal and state laws; maximize funding from non-general revenue sources.

The bill requires the Governor to appoint the Director of Mental Health and Substance Abuse Services with the concurrence of the Secretary of the Department of Children and Family Services (DCFS). The Director shall manage the program, negotiate an agreement with AHCA that delegates management of Medicaid behavioral health services to the new agency; the Director is to have formal relationships with the state universities and to use their expertise as much as possible.

The Director is to appoint division directors for mental health and for substance abuse. These division directors serve at the pleasure of the Director. The Director shall appoint administrative staff, a Director of Consumer Affairs, a Director of Service Integration, and other managers and administrators as needed.

The agency is permitted to establish regional offices that are aligned with one or more AHCA regions. The agency is authorized to contract for services, and is directed to use contracts as much as possible. The Governor is to appoint a statewide policy board to make recommendations to the Director

regarding organization, policy, budget, and other matters related to managing the behavioral health care system.

The bill establishes a transition team to plan the transition from DCFS to the new Agency for Mental Health and Substance Abuse Services. The transition plan is to plan to use resources currently “directly or indirectly” involved in managing and accounting for DCFS and Medicaid mental health and substance abuse services. The final plan is to project a ten per cent reduction in total administrative costs. The plan must address the transfer of responsibility for Medicaid mental health and substance abuse services; information systems; transfer of rules, policies, standards, licensing requirements, budget authority and positions; inventory of equipment; building leases, contracts, and applicable federal requirements. The transition plan is to be submitted to the Governor, the Senate President, the Speaker of the House, the chairs of the appropriations committees in each chamber, and the chairs of the substantive committees in each chamber by November 1, 2003. Transition team members may be reimbursed for travel and per diem expenses.

The bill provides for the transfer of programs, powers, duties, records, personnel, property, and money from DCFS to the Agency for Mental Health and Substance Abuse Services within DCFS by type II transfer. It directs that positions be transferred from DCFS and from AHCA to the AMHSAS. The bill directs that DCFS and AHCA provide administrative staff and support for the new agency until December 31, 2005.

The bill amends subsection (6) and creates two new subsections (7) and (8) of s. 394.741, F.S. The changes to subsection (6) provide that the department (DCFS) or AHCA may perform inspections to ensure that services that have been “billed” rather than “deliverables” have been provided in accordance with the contract. The new subsection (7) limits DCFS and AHCA’s to monitoring and citing non-compliance only with requirements which are contained in specific federal or state regulations. Subsection (8) requires DCFS to file a “State Projects Compliance Supplement” for auditing. These changes limit the department to an off-site review of the contractor’s most recent independent CPA audit, and limits on-site monitoring to problems identified in the audit.

The bill amends paragraph (b) of subsection (3) of 409.912 related to Medicaid’s cost-effective purchasing of health care. This section requires the department to seek federal approval to contract with a single behavioral health pre-paid plan to provide services to all Medicaid recipients in a region or combination of regions. These entities are required to provide “sufficient choice of providers to ensure recipient access and satisfaction.” The bill also deletes the requirement that health maintenance organizations providing prepaid behavioral health services spend eighty per cent of the capitation on services or return the difference to the agency.

The bill requires that by July 1, 2007, the agency contract with a single managed care entity in each region or combination of regions. That entity is expected to provide comprehensive inpatient and outpatient mental health and substance abuse services through pre-paid capitated arrangements to all Medicaid recipients as allowable under federal law and regulation. The agency must submit its plan for implementing this by March 1, 2004. The bill directs that implementation of this provision is targeted for years 2003-2004 and 2004-2005 in each region or combination of regions where: “communities are prepared” and the expenditure history would support an adequate capitation rate. The agency is directed to set an actuarially sound capitation rate. Further, the agency is to consider the impact of an inadequate service system and lack of access to care in creating that capitation rate. In other words, in some counties Medicaid’s fee-for-service claims data is not adequate to set a rate that would ensure access to care.

C. SECTION DIRECTORY:

Section 1 provides that the Legislature intends to provide mental health and substance abuse services.

Section 2 creates Part VI of chapter 394, F.S., to read: Agency for Mental Health and Substance Abuse Services.

Section 3 establishes a transition team to plan the transition from DCFS to the new Agency for Mental Health and Substance Abuse Services (AMHSAS).

Section 4 provides for the transfer of programs, powers, duties, records, personnel, property, and money from DCFS to the Agency for Mental Health and Substance Abuse Services within DCFS.

Section 5 amends subsection (6) of s. 394.741, F.S., and creates two new subsections (7) and (8) to allow DCFS or AHCA to perform inspections to ensure that "services that have been billed" rather than "deliverables" have been provided in accordance with the contract. Subsection (7) limits DCFS and AHCA's to monitoring and citing non-compliance only with requirements which are contained in specific federal or state regulations. Subsection (8) requires DCFS to file a "State Projects Compliance Supplement" for auditing. It limits the department to an off-site review of the contractor's most recent "independent CPA audit" and can only conduct on-site monitoring of problems identified in the audit.

Section 6 amends paragraph (b) of subsection (3) of 409.912, F.S., to allow a single, rather than multiple contractors to ensure recipient access and satisfaction is providers; deletes a requirement that health maintenance organizations providing prepaid behavioral health services spend at least eighty per cent of the capitation on services or return the difference to the agency; and, adjusts the capitation rate in certain circumstances.

Section 7 of the bill reenacts section 394.9082, F.S., related to behavioral health and contracts for services to incorporate the amendments to chapter 409, F.S.

Section 8 reenacts section 641.225(3)(b), F.S.

Section 9 reenacts section 636.0145, F.S., to incorporate the amendments to 409.912, F.S.

Section 10 provides effective dates.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

If Medicaid is able to certify local money as "match" for federal financial participation, Medicaid would be able to reimburse additional behavioral health services without additional general revenue being required.

2. Expenditures:

Travel and per diem expenses are authorized for members of the transition team.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None are anticipated.

2. Expenditures:

None are anticipated.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None is anticipated.

D. FISCAL COMMENTS:

The bill obliquely raises the issue of which agency of state government is responsible for the development, implementation, and overall management of mental health and substance abuse services. Current statute provides that DCFS has responsibility and authority for these programs. In practice, however, the effective control of these programs has shifted to Medicaid as more and more of the mental health and substance abuse program's budgets have been transferred to Medicaid to earn federal "matching dollars." For example, the decision to move all recipients of behavioral health services to pre-paid, capitated, managed care plans was apparently made by AHCA without the input of DCF. If the Legislature wants DCF to maintain responsibility for mental health and substance abuse, it may want to consider administrative arrangements that would ensure that DCF is operationally the manager. If the Legislature prefers that responsibility and control for behavioral health services rest with AHCA, it may be beneficial to ensure that the statutes reflect that policy decision and that the shift in responsibility not continue simply as unarticulated consequence of budgetary decisions.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

B. RULE-MAKING AUTHORITY:

No new rule making authority is granted.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The sponsor has prepared a substantially revised amendment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

The Subcommittee on Elder Affairs and Long Term Care recommended a "strike all" amendment. That amendment, in summary, did the following:

Related to the Agency for Human Services, the amendment

Creates section 20.1915, F.S., to establish the Agency for Human Services within the Department of Children and Family Services; which would include mental health, substance abuse, developmental and aging services; and,

Delineates the management and service structures, provides duties of the new agency; and, creates a transition team to plan for a Type II transfer to take effect October 1, 2004, upon the approval of the Governor, and the Legislative Budget Commission.

Related to the pre-paid behavioral health plan, the amendment provides that:

The agency seek federal approval to contract with a single entity to provide comprehensive behavioral health care services to all Medicaid recipients in a group of districts or counties;

AHCA contract by July 1, 2004, with a single managed care entity to provide comprehensive inpatient and outpatient mental health and substance abuse services through capitated prepaid arrangements to all Medicaid recipients for whom such plans are allowable under federal law and regulations and who live in the geographic area designated by the agency to be served by the single managed care entity;

By October 1, 2003, the agency is to submit a plan to the Governor, the President of the Senate, the Speaker of the House and the chairmen of the substantive committee for review and approval that describes how the capitated prepaid behavioral health care will be implemented in all regions of the state. Implementation begins in 2003 in those areas where an actuarially sound rate can be developed; and,

Payments made to a prepaid limited health services organization by AHCA for pre-paid behavioral health care services are not premiums, contributions, or assessments; and, therefore those payments are not subject to the premium tax levied under section 626.509, F.S. AHCA is to provide prepaid limited health services organization with a certification letter stating this fact.

Related to management of the of the Mental Health program, the amendment:

Provides standards which allow local tax dollars to be "certified" for purposes of matching federal Medicaid dollars;

Limits DCF is to a an off-site desk review of its contractors' most recent financial audit and is permitted to conduct on-site monitoring only of problems identified by such audit; and,

Deletes the requirement for health maintenance organizations that provide pre-paid behavioral health services spend eighty per cent of the capitation payment on services for recipients or return the difference to AHCA.