

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

317-1679-04

1 A bill to be entitled
2 An act relating to the long-term-care service
3 delivery system; amending s. 20.41, F.S.;
4 requiring the area agency on aging board under
5 the Department of Elderly Affairs to annually
6 appoint an executive director; requiring the
7 secretary of the department to annually
8 evaluate the performance of the executive
9 director; amending s. 409.912, F.S.; requiring
10 the Department of Elderly Affairs to assess
11 certain nursing home residents to facilitate
12 their transition to a community-based setting;
13 amending s. 430.04, F.S.; providing that the
14 department may take intermediate measures
15 against an area agency on aging if it exceeds
16 its authority or fails to adhere to the terms
17 of its contract with the department, adhere to
18 the statutory provisions or departmental rules,
19 properly determine client eligibility, or
20 manage program budgets; amending s. 430.041,
21 F.S.; locating the Office of Long-Term-Care
22 Policy within the Department of Elderly Affairs
23 for administrative purposes only; providing
24 that the office and its director shall not be
25 subject to control, supervision, or direction
26 by the department; revising the purpose of the
27 office; replacing the advisory council with an
28 interagency coordinating team; specifying the
29 composition of the interagency coordinating
30 team; revising reporting requirements; amending
31 s. 430.203, F.S.; redefining the terms

1 "community care service system" and "lead
2 agency"; amending s. 430.205, F.S.; requiring
3 the Department of Elderly Affairs and the
4 Agency for Health Care Administration to
5 develop an integrated long-term-care
6 service-delivery system; requiring the
7 Department of Elderly Affairs and the agency to
8 phase in implementation of the integrated
9 long-term-care system; specifying timeframes
10 and activities for each implementation phase;
11 authorizing the agency to seek federal waivers
12 to implement the changes; requiring the
13 department to integrate certain database
14 systems; requiring development of pilot
15 projects; requiring the agency and the
16 department to develop capitation rates for
17 certain services; providing rulemaking
18 authority to the agency and the department;
19 requiring reports to the Governor and the
20 Legislature; amending s. 430.7031, F.S.;
21 requiring the department and the agency to
22 review the case files of a specified percentage
23 of Medicaid nursing home residents annually for
24 the purpose of determining whether the
25 residents are able to move to community
26 placements; amending s. 430.705, F.S.;
27 providing additional eligibility requirements
28 for entities that provide services under the
29 long-term-care community diversion pilot
30 projects; requiring the annual evaluation and
31 certification of capitation rates; providing

1 additional requirements to be used in
2 developing capitation rates for the pilot
3 projects; amending s. 430.709, F.S.; providing
4 additional requirements for evaluating the
5 long-term-care diversion pilot projects;
6 requiring a report to the Governor and the
7 Legislature; providing an effective date.
8

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

10
11 Section 1. Subsection (8) of section 20.41, Florida
12 Statutes, is amended to read:

13 20.41 Department of Elderly Affairs.--There is created
14 a Department of Elderly Affairs.

15 (8) The area agency on aging board shall, in
16 consultation with the secretary, annually appoint a chief
17 executive officer, hereafter referred to as the "executive
18 director," to whom shall be delegated responsibility for
19 agency management and for implementation of board policy, and
20 who shall be accountable for the agency's performance. In
21 addition to the personnel requirements of the area agency on
22 aging board, the performance of the executive director shall
23 be annually evaluated by the Secretary, and the board shall
24 consider the evaluation and recommendation when it considers
25 reappointments.

26 Section 2. Subsection (15) of section 409.912, Florida
27 Statutes, is amended to read:

28 409.912 Cost-effective purchasing of health care.--The
29 agency shall purchase goods and services for Medicaid
30 recipients in the most cost-effective manner consistent with
31 the delivery of quality medical care. The agency shall

1 maximize the use of prepaid per capita and prepaid aggregate
2 fixed-sum basis services when appropriate and other
3 alternative service delivery and reimbursement methodologies,
4 including competitive bidding pursuant to s. 287.057, designed
5 to facilitate the cost-effective purchase of a case-managed
6 continuum of care. The agency shall also require providers to
7 minimize the exposure of recipients to the need for acute
8 inpatient, custodial, and other institutional care and the
9 inappropriate or unnecessary use of high-cost services. The
10 agency may establish prior authorization requirements for
11 certain populations of Medicaid beneficiaries, certain drug
12 classes, or particular drugs to prevent fraud, abuse, overuse,
13 and possible dangerous drug interactions. The Pharmaceutical
14 and Therapeutics Committee shall make recommendations to the
15 agency on drugs for which prior authorization is required. The
16 agency shall inform the Pharmaceutical and Therapeutics
17 Committee of its decisions regarding drugs subject to prior
18 authorization.

19 (15)(a) The agency shall operate the Comprehensive
20 Assessment and Review of Long-Term Care (CARES) nursing
21 facility preadmission screening program to ensure that
22 Medicaid payment for nursing facility care is made only for
23 individuals whose conditions require such care and to ensure
24 that long-term care services are provided in the setting most
25 appropriate to the needs of the person and in the most
26 economical manner possible. The CARES program shall also
27 ensure that individuals participating in Medicaid home and
28 community-based waiver programs meet criteria for those
29 programs, consistent with approved federal waivers.

30 (b) The agency shall operate the CARES program through
31 an interagency agreement with the Department of Elderly

1 Affairs. The agency, in consultation with the Department of
2 Elderly Affairs, may contract for any function or activity of
3 the CARES program, including any function or activity required
4 by 42 C.F.R. part 483.20, relating to preadmission screening
5 and resident review.

6 (c) Prior to making payment for nursing facility
7 services for a Medicaid recipient, the agency must verify that
8 the nursing facility preadmission screening program has
9 determined that the individual requires nursing facility care
10 and that the individual cannot be safely served in
11 community-based programs. The nursing facility preadmission
12 screening program shall refer a Medicaid recipient to a
13 community-based program if the individual could be safely
14 served at a lower cost and the recipient chooses to
15 participate in such program.

16 (d) For the purpose of initiating immediate
17 prescreening and diversion assistance for individuals residing
18 in nursing homes and in order to make families aware of
19 alternative long-term care resources so that they may choose a
20 more cost-effective setting for long-term placement, CARES
21 staff shall conduct an assessment and review of all
22 individuals whose nursing home stay is expected to exceed 20
23 days, regardless of the initial funding source for the nursing
24 home placement. CARES staff shall provide counseling and
25 referral services to these individuals regarding choosing a
26 facility. This paragraph does not apply to continuing care
27 facilities licensed under chapter 651 or to retirement
28 communities that provide a combination of nursing home,
29 independent living, and other long-term care services.

30 ~~(e)~~ By January 15 ~~±~~ of each year, the agency shall
31 submit a report to the Legislature and the Office of

1 Long-Term-Care Policy describing the operations of the CARES
2 program. The report must describe:

- 3 1. Rate of diversion to community alternative
4 programs;
- 5 2. CARES program staffing needs to achieve additional
6 diversions;
- 7 3. Reasons the program is unable to place individuals
8 in less restrictive settings when such individuals desired
9 such services and could have been served in such settings;
- 10 4. Barriers to appropriate placement, including
11 barriers due to policies or operations of other agencies or
12 state-funded programs; and
- 13 5. Statutory changes necessary to ensure that
14 individuals in need of long-term care services receive care in
15 the least restrictive environment.

16 (f) The Department of Elderly Affairs shall develop a
17 database to track individuals over time who are assessed under
18 the CARES program and who are diverted from nursing home
19 placement. By January 15 of each year, the department shall
20 submit to the Legislature and the Office of Long-Term-Care
21 Policy, a longitudinal study of the individuals who are
22 diverted from nursing home placement. The study must include:

- 23 1. The demographic characteristics of the individuals
24 assessed and diverted from nursing home placement, including,
25 but not limited to, age, race, gender, frailty, caregiver
26 status, living arrangements, and geographic location;
- 27 2. A summary of community services provided to
28 individuals for 1 year after assessment and diversion;
- 29 3. A summary of inpatient hospital admissions for
30 individuals who have been diverted; and

31

1 4. A summary of the length of time between diversion
2 and subsequent entry into a nursing home or death.

3 Section 3. Subsection (2) of section 430.04, Florida
4 Statutes, is amended to read:

5 430.04 Duties and responsibilities of the Department
6 of Elderly Affairs.--The Department of Elderly Affairs shall:

7 (2) Be responsible for ensuring that each area agency
8 on aging operates in a manner to ensure that the elderly of
9 this state receive the best services possible. The department
10 shall rescind designation of an area agency on aging or take
11 intermediate measures against the agency, including corrective
12 action, unannounced special monitoring, temporary assumption
13 of operation of one or more programs by the department,
14 placement on probationary status, imposing a moratorium on
15 agency action, imposing financial penalties for
16 nonperformance, or other administrative action pursuant to
17 chapter 120, if the department finds that:

18 (a) An intentional or negligent act of the agency has
19 materially affected the health, welfare, or safety of clients,
20 or substantially and negatively affected the operation of an
21 aging services program.

22 (b) The agency lacks financial stability sufficient to
23 meet contractual obligations or that contractual funds have
24 been misappropriated.

25 (c) The agency has committed multiple or repeated
26 violations of legal and regulatory requirements or department
27 standards.

28 (d) The agency has failed to continue the provision or
29 expansion of services after the declaration of a state of
30 emergency.

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1 (e) The agency has exceeded its authority or otherwise
2 failed to adhere to the terms of its contract with the
3 department or has exceeded its authority or otherwise failed
4 to adhere to the provisions specifically provided by statute
5 or rule adopted by the department.

6 (f) The agency has failed to properly determine client
7 eligibility as defined by the department or efficiently manage
8 program budgets.

9 Section 4. Section 430.041, Florida Statutes, is
10 amended to read:

11 430.041 Office of Long-Term-Care Policy.--

12 (1) There is established ~~in the Department of Elderly~~
13 ~~Affairs~~ the Office of Long-Term-Care Policy to evaluate the
14 state's long-term-care service delivery system, ~~and~~ make
15 recommendations to increase the efficiency and effectiveness
16 of government-funded long-term-care programs for availability
17 ~~and the use of noninstitutional settings to provide care to~~
18 ~~the elderly, and to~~ ensure coordination among the agencies
19 responsible for setting policies for funding and for
20 administering long-term-care programs for the elderly. The
21 office shall be located in the Department of Elderly Affairs
22 for administrative purposes only and shall not be subject to
23 control, supervision, or direction by the department ~~the~~
24 ~~long-term-care continuum.~~

25 (2) The purpose of the Office of Long-Term-Care Policy
26 is to:

27 (a) Ensure close communication and coordination among
28 state agencies involved in developing and administering a more
29 efficient and coordinated long-term-care service delivery
30 system in this state;

31

1 ~~(b) Identify duplication and unnecessary service~~
2 ~~provision in the long-term-care system and make~~
3 ~~recommendations to decrease inappropriate service provision;~~

4 **(b)(c)** Review current programs providing
5 long-term-care services to the elderly, including those in
6 home, community-based, and institutional settings, and review
7 program evaluations to determine whether the programs are cost
8 effective, of high quality, and operating efficiently and make
9 recommendations to increase consistency and effectiveness in
10 the state's long-term-care programs;

11 **(c)(d)** Develop specific implementation strategies and
12 funding recommendations for promoting and implementing
13 cost-effective home and community-based services as an
14 alternative to institutional care, when appropriate, which
15 coordinate and integrate the continuum of care needs of the
16 elderly; and

17 **(d)** Recommend roles for state agencies that are
18 responsible for administering long-term-care programs for the
19 elderly and an organization framework for the planning,
20 coordination, implementation, and evaluation of long-term-care
21 programs for the elderly.

22 ~~(e) Assist the Office of Long-Term-Care Policy~~
23 ~~Advisory Council as necessary to help implement this section.~~

24 (3) The Director of the Office of Long-Term-Care
25 Policy shall be appointed by, and serve at the pleasure of,
26 the Governor. ~~The director shall report to, and be under the~~
27 ~~general supervision of, the Secretary of Elderly Affairs and~~
28 ~~shall not be subject to supervision by any other employee of~~
29 ~~the department.~~

30 ~~(4) The Office of Long-Term-Care Policy shall have an~~
31 ~~advisory council. The purposes of the advisory council are to~~

1 ~~provide assistance and direction to the office and to ensure~~
2 ~~that the appropriate state agencies are properly implementing~~
3 ~~recommendations from the office.~~

4 ~~(a) The advisory council shall consist of:~~

5 ~~1. A member of the Senate, appointed by the President~~
6 ~~of the Senate;~~

7 ~~2. A member of the House of Representatives, appointed~~
8 ~~by the Speaker of the House of Representatives;~~

9 ~~3. The Secretary of Health Care Administration;~~

10 ~~4. The Secretary of Elderly Affairs;~~

11 ~~5. The Secretary of Children and Family Services;~~

12 ~~6. The Secretary of Health;~~

13 ~~7. The Executive Director of the Department of~~
14 ~~Veterans' Affairs;~~

15 ~~8. Three people with broad knowledge and experience in~~
16 ~~the delivery of long-term-care services, appointed by the~~
17 ~~Governor from groups representing elderly persons; and~~

18 ~~9. Two representatives of people using long-term-care~~
19 ~~services, appointed by the Governor from groups representing~~
20 ~~elderly persons.~~

21 ~~(b) The council shall elect a chair from among its~~
22 ~~membership to serve for a 1-year term. A chair may not serve~~
23 ~~more than two consecutive terms.~~

24 ~~(c) Members shall serve without compensation, but are~~
25 ~~entitled to receive reimbursement for travel and per diem as~~
26 ~~provided in s. 112.061.~~

27 ~~(d) The advisory council shall meet at the call of its~~
28 ~~chair or at the request of a majority of its members. During~~
29 ~~its first year of existence, the advisory council shall meet~~
30 ~~at least monthly.~~

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1 ~~(e) Members of the advisory council appointed by the~~
2 ~~Governor shall serve at the pleasure of the Governor and shall~~
3 ~~be appointed to 4-year staggered terms in accordance with s.~~
4 ~~20.052.~~

5 (4)(5)(a) The Department of Elderly Affairs shall
6 provide administrative support and services to the Office of
7 Long-Term-Care Policy.

8 (b) The office shall call upon appropriate agencies of
9 state government, including the centers on aging in the State
10 University System, for assistance needed in discharging its
11 duties.

12 ~~(c) Each state agency represented on the Office of~~
13 ~~Long-Term-Care Policy Advisory Council shall make at least one~~
14 ~~employee available to work with the Office of Long-Term-Care~~
15 ~~Policy. All state agencies and universities shall assist the~~
16 office in carrying out its responsibilities prescribed by this
17 section.

18 (d) The Secretary of Health Care Administration, the
19 Secretary of Elderly Affairs, the Secretary of Children and
20 Family Services, the Secretary of Health, and the Executive
21 Director of the Department of Veterans' Affairs shall each
22 appoint at least one high-level employee with the authority to
23 recommend and implement agency policy and with experience in
24 the area of long-term-care service delivery and financing to
25 work with the Office of Long-Term-Care Policy, as part of an
26 interagency coordinating team. The interagency coordinating
27 team shall meet monthly with the director of the Office of
28 Long-Term-Care Policy to implement the purposes of the office.

29 ~~(e)(d)~~ Each state agency shall pay from its own funds
30 any expenses related to its support of the Office of
31 Long-Term-Care Policy ~~and its participation on the advisory~~

1 ~~council. The Department of Elderly Affairs shall be~~
2 ~~responsible for expenses related to participation on the~~
3 ~~advisory council by members appointed by the Governor.~~

4 (6)(a) By December 31 of each year 1, 2002, the office
5 shall submit to the Governor, the President of the Senate, and
6 the Speaker of the House of Representatives a advisory council
7 a preliminary report of its activities, progress made in
8 findings and recommendations on improving the long-term-care
9 continuum in this state and make recommendations. The report
10 shall contain the activities completed by the office during
11 the calendar year, a plan of activities for the following
12 year, recommendations and implementation proposals for policy
13 changes, and as well as legislative and funding
14 recommendations that will make the system more effective and
15 efficient. The report shall contain a specific implementation
16 strategies, with timelines, plan for accomplishing the
17 recommendations and proposals set out in the report.
18 ~~Thereafter, the office shall revise and update the report~~
19 ~~annually and resubmit it to the advisory council for review~~
20 ~~and comments by November 1 of each year.~~

21 (b) ~~The advisory council shall review and recommend~~
22 ~~any suggested changes to the preliminary report, and each~~
23 ~~subsequent annual update of the report, within 30 days after~~
24 ~~the receipt of the preliminary report. Suggested revisions,~~
25 ~~additions, or deletions shall be made to the Director of the~~
26 ~~Office of Long-Term Care Policy.~~

27 (c) ~~The office shall submit its final report, and each~~
28 ~~subsequent annual update of the report, to the Governor and~~
29 ~~the Legislature within 30 days after the receipt of any~~
30 ~~revisions, additions, or deletions suggested by the advisory~~
31

1 ~~council, or after the time such comments are due to the~~
2 ~~office.~~

3 Section 5. Subsection (3) and paragraphs (b) and (c)
4 of subsection (9) of section 430.203, Florida Statutes, are
5 amended to read:

6 430.203 Community care for the elderly;
7 definitions.--As used in ss. 430.201-430.207, the term:

8 (3) "Community care service system" means a service
9 network comprising a variety of home-delivered services, day
10 care services, and other basic services, hereinafter referred
11 to as "core services," for functionally impaired elderly
12 persons which are provided by or through ~~several agencies~~
13 ~~under the direction of~~ a single lead agency. Its purpose is
14 to provide a continuum of care encompassing a full range of
15 preventive, maintenance, and restorative services for
16 functionally impaired elderly persons.

17 (9) "Lead agency" means an agency designated at least
18 once every 3 years by an area agency on aging as the result of
19 a request for proposal process to be in place no later than
20 the state fiscal year 1996-1997.

21 (b) The area agency on aging, in consultation with the
22 department, shall ~~may~~ exempt from the competitive bid process
23 any contract with a provider who meets or exceeds established
24 minimum standards, as determined by the department.

25 (c) In each community care service system the lead
26 agency must be given the authority and responsibility to
27 coordinate some or all of the services, either directly or
28 through subcontracts, for functionally impaired elderly
29 persons. These services must include case management, and ~~may~~
30 ~~include~~ homemaker and chore services, respite care, adult day
31 care, personal care services, home-delivered meals,

1 counseling, information and referral, and emergency home
2 repair services. The lead agency must compile community care
3 statistics and monitor, when applicable, subcontracts with
4 agencies providing core services.

5 Section 6. Subsection (6) of section 430.205, Florida
6 Statutes, is amended to read:

7 430.205 Community care service system.--

8 (6) Notwithstanding other requirements of this
9 chapter, the Department of Elderly Affairs and the Agency for
10 Health Care Administration shall develop an ~~a model system to~~
11 ~~transition all state-funded services for elderly individuals~~
12 ~~in one of the department's planning and service areas to a~~
13 ~~managed, integrated long-term-care delivery system under the~~
14 ~~direction of a single entity.~~

15 (a) The duties of the integrated ~~model~~ system shall
16 include organizing and administering service delivery for the
17 elderly, obtaining contracts for services with providers in
18 each service ~~the~~ area, monitoring the quality of services
19 provided, determining levels of need and disability for
20 payment purposes, and other activities determined by the
21 department and the agency in order to operate an integrated
22 ~~the model~~ system.

23 (b) During the 2004-2005 state fiscal year:

24 1. The agency, in consultation with the department,
25 shall integrate the Frail Elder Option and the Nursing Home
26 Diversion pilot project consisting of capitated long-term-care
27 programs and each program's funds into one capitated program
28 serving the aged.

29 a. The agency shall seek federal waivers necessary to
30 integrate these programs.

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1 b. The agency and the department shall develop uniform
2 standards for case management in this newly integrated
3 capitated system.

4 c. The agency and the department shall adopt any rules
5 necessary to comply with or administer these requirements,
6 effect and implement interagency agreements between the
7 department and the agency, and comply with federal
8 requirements.

9 2. The agency, in consultation with the department,
10 shall integrate the Aged and Disabled Adult Medicaid waiver
11 program and the Assisted Living for the Elderly Medicaid
12 waiver program and each program's funds into one
13 fee-for-service Medicaid waiver program serving the aged and
14 disabled. Once the programs are integrated, funding to provide
15 care in assisted-living facilities under the new waiver may
16 not be less than the amount appropriated in the 2003-2004
17 fiscal year for the Assisted Living for the Elderly Medicaid
18 waiver.

19 a. The agency shall seek federal waivers necessary to
20 integrate these waiver programs.

21 b. The agency and the department shall reimburse
22 providers for case management services on a capitated basis
23 and develop uniform standards for case management in this
24 fee-for-service Medicaid waiver program. The coordination of
25 acute care services for individuals shall be included in the
26 capitated rate for case management services.

27 c. The agency and the department shall adopt any rules
28 necessary to comply with or administer these requirements,
29 effect and implement interagency agreements between the
30 department and the agency, and comply with federal
31 requirements.

1 3. The department shall reimburse providers for case
2 management services on a capitated basis and develop uniform
3 standards for case management in the Community Care for the
4 Elderly program.

5 4. The department, in consultation with the agency,
6 shall study the integration of the database systems for the
7 Comprehensive Assessment and Review of Long-Term Care (CARES)
8 program and the Client Information and Referral Tracking
9 System (CIRTS) and develop a plan for database integration.
10 The department shall submit the plan to the Governor, the
11 President of the Senate, and the Speaker of the House of
12 Representatives by December 31, 2004.

13 5. The department, in consultation with the agency and
14 the Department of Children and Family Services, shall develop
15 two pilot projects for resource centers on aging. By December
16 31, 2004, the department, in consultation with the agency and
17 the Department of Children and Family Services, shall develop
18 an implementation plan for the resource centers on aging and
19 submit the plan to the Governor, the President of the Senate,
20 and the Speaker of the House of Representatives. The plan must
21 include qualifications for designation as a center and the
22 functions to be performed by each center. The department shall
23 determine the entities to be designated as resource centers on
24 aging by means of competitive procurement. The department
25 shall select the entities based on each entity's demonstration
26 of:

27 a. Expertise in the needs of each target population
28 the center proposes to serve and a thorough knowledge of the
29 providers that serve these populations;

30 b. Strong connections to service providers, volunteer
31 agencies, and community institutions;

- 1 c. Expertise in information and referral activities;
2 d. Knowledge of long-term-care resources, including
3 resources designed to provide services in the least
4 restrictive setting;
5 e. Financial solvency and stability;
6 f. The ability to collect, monitor, and analyze data
7 in a timely and accurate manner, along with systems that meet
8 the department's standards;
9 g. A commitment to adequate staffing by qualified
10 personnel to effectively perform all functions; and
11 h. The ability to meet all performance standards
12 established by the department.

13
14 The department shall select two sites for the pilot projects
15 for resource centers on aging by June 30, 2005.

16 6. The department, in consultation with the agency,
17 shall develop a plan to evaluate the newly integrated
18 capitated and fee-for-service programs over time, from the
19 beginning of the implementation process forward. The
20 department shall contract with a research entity through
21 competitive procurement to help develop the evaluation plan
22 and conduct the evaluation. The evaluation shall be ongoing
23 and shall determine whether the newly integrated programs are
24 achieving the goals of the programs and evaluate the effects
25 the changes in the system have had on consumers. The
26 evaluation plan must include baseline measures for evaluating
27 the capitated and fee-for-service programs, with a focus on
28 cost effectiveness, the quality of care, and consumer
29 satisfaction. The department shall submit the plan to the
30 Governor, the President of the Senate, and the Speaker of the
31 House of Representatives by December 31, 2004.

1 7. The agency, in consultation with the department,
2 shall work with the fiscal agent for the Medicaid program to
3 develop a service utilization reporting system that operates
4 through the fiscal agent for the capitated plans.

5 (c) During the 2005-2006 state fiscal year:

6 1. The agency, in consultation with the department,
7 shall monitor the newly integrated capitated and
8 fee-for-service programs and report on the progress of those
9 programs to the Governor, the President of the Senate, and the
10 Speaker of the House of Representatives by June 30, 2006. The
11 report must include an initial evaluation of the newly
12 integrated programs in their early stages following the
13 evaluation plan developed by the department, in consultation
14 with the agency and the selected contractor.

15 2. The department shall monitor the pilot projects for
16 resource centers on aging and report on the progress of those
17 projects to the Governor, the President of the Senate, and the
18 Speaker of the House of Representatives by June 30, 2006. The
19 report must include an evaluation of the implementation
20 process in its early stages.

21 3. The department, in consultation with the agency,
22 shall integrate the database systems for the Comprehensive
23 Assessment and Review of Long-Term Care (CARES) program and
24 the Client Information and Referral Tracking System (CIRTS)
25 into a single operating assessment information system by June
26 30, 2006.

27 4. The department, in consultation with the agency and
28 the Department of Children and Family Services, shall develop
29 a plan to improve the interface between the department's newly
30 integrated assessment database, the Florida Medicaid
31 Management Information System, and the FLORIDA system in order

1 to facilitate enrollment of individuals in the capitated and
2 fee-for-service programs, as well as monitor eligibility
3 requirements.

4 (d) During the 2006-2007 state fiscal year:

5 1. The agency, in consultation with the department,
6 shall initiate a competitive procurement to develop a pilot
7 project under which an entity or entities shall be placed at
8 risk for the fee-for-service Medicaid waiver program serving
9 the aged and disabled and the state-funded programs serving
10 the aged, including Community Care for the Elderly, Home Care
11 for the Elderly, and the Alzheimer's Disease Initiative.
12 Qualified Community Care for the Elderly lead agencies shall
13 be given priority in the selection of pilot projects if they
14 meet the minimum requirements specified in the competitive
15 procurement.

16 a. The programs provided under the Older Americans Act
17 and those funds shall remain separate.

18 b. By June 30, 2007, the entity or entities chosen
19 shall operate under a risk-based system.

20 c. The agency and the department shall develop
21 capitation rates based on the historical cost experience of
22 the state in providing services under the Medicaid waiver
23 program and providing state-funded long-term-care services to
24 the population older than 60 years of age in the area served
25 by the pilot project.

26 d. The agency, in consultation with the department,
27 shall ensure that the entity or entities placed at risk for
28 providing these services have the tools necessary to manage
29 the risk associated with providing services under a capitated
30 program.

31

1 e. The agency shall share the risk with the entity or
2 entities. Payment rates during the first 2 years of operation
3 shall be set at not more than 100 percent of the costs to the
4 agency of providing equivalent services to the population
5 within the area of the pilot project for the year prior to the
6 year in which the pilot project is implemented, adjusted
7 forward to account for inflation and population growth. In
8 subsequent years, the rate shall be negotiated, based on the
9 cost experience of the entity in providing contracted
10 services, but may not exceed 95 percent of the amount that
11 would have been paid by the agency in the area of the pilot
12 project, absent the capitated service delivery system.

13 f. The department, in consultation with the agency,
14 shall work with rural areas of the state to ensure that there
15 are feasible alternatives for these areas in order to be
16 competitive in the procurement process.

17 g. An entity chosen as a risk-bearing entity may not
18 act as a resource center on aging.

19 h. The agency and the department shall adopt any rules
20 necessary to comply with or administer these requirements,
21 effect and implement interagency agreements between the agency
22 and the department, and comply with federal requirements.

23 2. The agency, in consultation with the department,
24 shall evaluate the Alzheimer's Disease waiver program and the
25 Adult Day Health Care waiver program to assess whether
26 providing limited intensive services through these waiver
27 programs produce better outcomes for individuals than
28 providing those services through the fee-for-service or
29 capitated programs that provide a larger array of services.

30 3. The agency, in consultation with the department,
31 shall begin discussions with the federal Centers for Medicare

1 and Medicaid Services regarding the inclusion of Medicare in
2 an integrated long-term-care system. By December 31, 2006, the
3 agency shall provide to the Governor, the President of the
4 Senate, and the Speaker of the House of Representatives a plan
5 for including Medicare in an integrated long-term-care system.

6 (e) During the 2007-2008 state fiscal year:

7 1. The agency, in consultation with the department and
8 the chosen risk-bearing entities operating the pilot projects,
9 shall consider whether the entities should be placed at risk
10 for providing Medicaid-funded nursing home care and
11 Medicaid-funded prescription drug coverage. The agency and the
12 department may develop innovative risk-sharing agreements that
13 limit the level of risk for custodial nursing home care that
14 the administering entity assumes, consistent with the intent
15 of the Legislature to reduce the use and cost of nursing home
16 care. Under risk-sharing arrangements, the agency and the
17 department may reimburse the administering entity for the cost
18 of providing nursing home care for Medicaid-eligible
19 participants who have been permanently placed in a nursing
20 home and who remain in nursing home care for longer than 1
21 year.

22 2. The department, in consultation with the agency,
23 shall consider whether providers operating in the capitated
24 program should be placed at risk for the state-funded
25 Community Care for the Elderly, Home Care for the Elderly, and
26 Alzheimer's Disease Initiative Programs.

27 ~~(b) The agency and the department shall integrate all~~
28 ~~funding for services to individuals over the age of 65 in the~~
29 ~~model planning and service areas into a single per-person~~
30 ~~per-month payment rate, except that funds for Medicaid~~

31

1 ~~behavioral health care services are exempt from this section.~~
2 ~~The funds to be integrated shall include:~~
3 ~~1. Community care for the elderly funds;~~
4 ~~2. Home care for the elderly funds;~~
5 ~~3. Local services program funds;~~
6 ~~4. Contracted services funds;~~
7 ~~5. Alzheimer's disease initiative funds;~~
8 ~~6. Medicaid home and community-based waiver services~~
9 ~~funds;~~
10 ~~7. Funds for all Medicaid services authorized in ss.~~
11 ~~409.905 and 409.906, including Medicaid nursing home services;~~
12 ~~and~~
13 ~~8. Funds paid for Medicare premiums, coinsurance and~~
14 ~~deductibles for persons dually eligible for Medicaid and~~
15 ~~Medicare as prescribed in s. 409.908(13).~~
16
17 ~~The department and the agency shall not make payments for~~
18 ~~services for people age 65 and older except through the model~~
19 ~~delivery system.~~
20 ~~(c) The entity selected to administer the model system~~
21 ~~shall develop a comprehensive health and long-term care~~
22 ~~service delivery system through contracts with providers of~~
23 ~~medical, social, and long-term care services sufficient to~~
24 ~~meet the needs of the population age 65 and older. The entity~~
25 ~~selected to administer the model system shall not directly~~
26 ~~provide services other than intake, assessment, and referral~~
27 ~~services.~~
28 ~~(d) The department shall determine which of the~~
29 ~~department's planning and services areas is to be designated~~
30 ~~as a model area by means of a request for proposals. The~~
31 ~~department shall select an area to be designated as a model~~

1 ~~area and the entity to administer the model system based on~~
2 ~~demonstration of capacity of the entity to:~~
3 1. ~~Develop contracts with providers currently under~~
4 ~~contract with the department, area agencies on aging, or~~
5 ~~community care for the elderly lead agencies;~~
6 2. ~~Provide a comprehensive system of appropriate~~
7 ~~medical and long-term-care services that provides high-quality~~
8 ~~medical and social services to assist older individuals in~~
9 ~~remaining in the least restrictive setting;~~
10 3. ~~Demonstrate a quality assurance and quality~~
11 ~~improvement system satisfactory to the department and the~~
12 ~~agency;~~
13 4. ~~Develop a system to identify participants who have~~
14 ~~special health care needs such as polypharmacy, mental health~~
15 ~~and substance abuse problems, falls, chronic pain, nutritional~~
16 ~~deficits, and cognitive deficits, in order to respond to and~~
17 ~~meet these needs;~~
18 5. ~~Use a multidisciplinary team approach to~~
19 ~~participant management which ensures that information is~~
20 ~~shared among providers responsible for delivering care to a~~
21 ~~participant;~~
22 6. ~~Ensure medical oversight of care plans and service~~
23 ~~delivery, regular medical evaluation of care plans, and the~~
24 ~~availability of medical consultation for case managers and~~
25 ~~service coordinators;~~
26 7. ~~Develop, monitor, and enforce quality of care~~
27 ~~requirements;~~
28 8. ~~Secure subcontracts with providers of medical,~~
29 ~~nursing home, and community-based long-term-care services~~
30 ~~sufficient to assure access to and choice of providers;~~
31

1 ~~9. Ensure a system of case management and service~~
2 ~~coordination which includes educational and training standards~~
3 ~~for case managers and service coordinators;~~

4 ~~10. Develop a business plan that considers the ability~~
5 ~~of the applicant to organize and operate a risk-bearing~~
6 ~~entity;~~

7 ~~11. Furnish evidence of adequate liability insurance~~
8 ~~coverage or an adequate plan of self-insurance to respond to~~
9 ~~claims for injuries arising out of the furnishing of health~~
10 ~~care; and~~

11 ~~12. Provide, through contract or otherwise, for~~
12 ~~periodic review of its medical facilities as required by the~~
13 ~~department and the agency.~~

14
15 ~~The department shall give preference in selecting an area to~~
16 ~~be designated as a model area to that in which the~~
17 ~~administering entity is an existing area agency on aging or~~
18 ~~community-care-for-the-elderly lead agency demonstrating the~~
19 ~~ability to perform the functions described in this paragraph.~~

20 ~~(e) The department in consultation with the selected~~
21 ~~entity shall develop a statewide proposal regarding the~~
22 ~~long-term use and structure of a program that addresses a risk~~
23 ~~pool to reduce financial risk.~~

24 ~~(f) The department and the agency shall develop~~
25 ~~capitation rates based on the historical cost experience of~~
26 ~~the state in providing acute and long-term care services to~~
27 ~~the population over 65 years of age in the area served.~~

28 ~~1. Payment rates in the first 2 years of operation~~
29 ~~shall be set at no more than 100 percent of the costs to the~~
30 ~~state of providing equivalent services to the population of~~
31 ~~the model area for the year prior to the year in which the~~

1 ~~model system is implemented, adjusted forward to account for~~
2 ~~inflation and population growth. In subsequent years, the rate~~
3 ~~shall be negotiated based on the cost experience of the model~~
4 ~~system in providing contracted services, but may not exceed 95~~
5 ~~percent of the amount that would have been paid by the state~~
6 ~~in the model planning and service area absent the model~~
7 ~~integrated service delivery system.~~

8 ~~2. The agency and the department may develop~~
9 ~~innovative risk-sharing agreements that limit the level of~~
10 ~~custodial nursing home risk that the administering entity~~
11 ~~assumes, consistent with the intent of the Legislature to~~
12 ~~reduce the use and cost of nursing home care. Under~~
13 ~~risk-sharing arrangements, the agency and the department may~~
14 ~~reimburse the administering entity for the cost of providing~~
15 ~~nursing home care for Medicaid-eligible participants who have~~
16 ~~been permanently placed and remain in nursing home care for~~
17 ~~more than 1 year.~~

18 ~~(g) The department and the Agency for Health Care~~
19 ~~Administration shall seek federal waivers necessary to~~
20 ~~implement the requirements of this section.~~

21 ~~(h) The Department of Children and Family Services~~
22 ~~shall develop a streamlined and simplified eligibility system~~
23 ~~and shall outstation a sufficient number and quality of~~
24 ~~eligibility determination staff with the administering entity~~
25 ~~to assure determination of Medicaid eligibility for the~~
26 ~~integrated service delivery system in the model planning and~~
27 ~~service area within 10 days after receipt of a complete~~
28 ~~application.~~

29 ~~(i) The Department of Elderly Affairs shall make~~
30 ~~arrangements to outstation a sufficient number of nursing home~~
31 ~~preadmission screening staff with the administering entity to~~

1 ~~assure timely assessment of level of need for long-term care~~
2 ~~services in the model area.~~

3 ~~(j) The Department of Elderly Affairs shall conduct or~~
4 ~~contract for an evaluation of the pilot project. The~~
5 ~~department shall submit the evaluation to the Governor and the~~
6 ~~Legislature by January 1, 2005. The evaluation must address~~
7 ~~the effects of the pilot project on the effectiveness of the~~
8 ~~entity providing a comprehensive system of appropriate and~~
9 ~~high-quality medical and long-term-care services to elders in~~
10 ~~the least restrictive setting and make recommendations on a~~
11 ~~phased-in implementation expansion for the rest of the state.~~

12 Section 7. Subsection (2) of section 430.7031, Florida
13 Statutes, is amended to read:

14 430.7031 Nursing home transition program.--The
15 department and the Agency for Health Care Administration:

16 (2) Shall collaboratively work to identify ~~long-stay~~
17 nursing home residents who are able to move to community
18 placements, and to provide case management and supportive
19 services to such individuals while they are in nursing homes
20 to assist such individuals in moving to less expensive and
21 less restrictive settings. CARES program staff shall annually
22 review at least 20 percent of the case files for nursing home
23 residents who are Medicaid recipients to determine which
24 nursing home residents are able to move to community
25 placements.

26 Section 8. Section 430.705, Florida Statutes, is
27 amended to read:

28 430.705 Implementation of the long-term care community
29 diversion pilot projects.--

30
31

1 (1) In designing and implementing the community
2 diversion pilot projects, the department shall work in
3 consultation with the agency.

4 (2) The department shall select projects whose design
5 and providers demonstrate capacity to maximize the placement
6 of participants in the least restrictive appropriate care
7 setting. The department shall select providers that have a
8 plan administrator who is dedicated to the diversion pilot
9 project and project staff who perform the necessary project
10 administrative functions, including data collection,
11 reporting, and analysis. The department shall select providers
12 that demonstrate the ability to:

13 (a) Meet surplus requirements that are comparable to
14 those specified in s. 641.225;

15 (b) Comply with the standards for financial solvency
16 comparable to those provided in s. 641.285;

17 (c) Provide for the prompt payment of claims in a
18 manner comparable to the requirements of s. 641.3155;

19 (d) Provide technology with the capability for data
20 collection which meets the security requirements of the
21 federal Health Insurance Portability and Accountability Act of
22 1996, 42 C.F.R. ss. 160 and 164;

23 (e) Contract with multiple providers that provide the
24 same type of service.

25 (3) Pursuant to 42 C.F.R. s. 438.6(c), the agency, in
26 consultation with the department, shall annually reevaluate
27 and recertify the capitation rates for the diversion pilot
28 projects. The agency, in consultation with the department,
29 shall secure the claims data for Medicare beneficiaries which
30 shall be used in developing rates for the diversion pilot
31 projects.

1 (4)~~(3)~~ The department shall provide to prospective
2 participants a choice of participating in a community
3 diversion pilot project or any other appropriate placement
4 available. To the extent possible, individuals shall be
5 allowed to choose their care providers, including long-term
6 care service providers affiliated with an individual's
7 religious faith or denomination.

8 (5)~~(4)~~ The department shall enroll participants.
9 Providers shall not directly enroll participants in community
10 diversion pilot projects.

11 (6)~~(5)~~ In selecting the pilot project area, the
12 department shall consider the following factors in the area:

13 (a) The nursing home occupancy level.

14 (b) The number of certificates of need awarded for
15 nursing home beds for which renovation, expansion, or
16 construction has not begun.

17 (c) The annual number of additional nursing home beds.

18 (d) The annual number of nursing home admissions.

19 (e) The adequacy of community-based long-term care
20 service providers.

21 (7)~~(6)~~ The department may require participants to
22 contribute to their cost of care in an amount not to exceed
23 the cost-sharing required of Medicaid-eligible nursing home
24 residents.

25 (8)~~(7)~~ Community diversion pilot projects must:

26 (a) Provide services for participants that are of
27 sufficient quality, quantity, type, and duration to prevent or
28 delay nursing facility placement.

29 (b) Integrate acute and long-term care services, and
30 the funding sources for such services, as feasible.

31

1 (c) Encourage individuals, families, and communities
2 to plan for their long-term care needs.

3 (d) Provide skilled and intermediate nursing facility
4 care for participants who cannot be adequately cared for in
5 noninstitutional settings.

6 Section 9. Subsection (2) of section 430.709, Florida
7 Statutes, is amended to read:

8 430.709 Reports and evaluations.--

9 (2) The agency, in consultation with the department,
10 shall contract for an independent, comprehensive evaluation of
11 the community diversion pilot projects operating prior to the
12 2003-2004 fiscal year which includes a comparison to the
13 Assisted Living for the Elderly Medicaid waiver program and
14 the Aged and Disabled Adult Medicaid waiver program. Such
15 evaluation must include a careful review and assessment of the
16 actual cost for the provision of services to participants. The
17 agency shall select a contractor with experience and expertise
18 in evaluating capitation rates for managed care organizations
19 that serve persons who are disabled or frail and elderly in
20 order to evaluate the community diversion pilot projects
21 operated under s. 430.705. The contractor shall analyze and
22 report on the individual services and the array of services
23 most associated with effective diversion of frail and elderly
24 enrollees from placement in a nursing home, consumer and
25 family satisfaction with the projects, the quality of care for
26 participants, the length of time diverted from nursing home
27 placement, the number of hospital admissions, the
28 cost-effectiveness of the projects, and the demonstrated
29 savings to the agency, as compared to the fee-for-service
30 Medicaid program. The evaluation must also include an
31 organizational analysis of each project site. By June 30,

1 2005, the agency shall submit to the Governor, the President
2 of the Senate, and the Speaker of the House of Representatives
3 a report of the findings from the evaluation. The report must
4 contain recommendations and proposals for changes to the
5 community diversion pilot projects.

6 Section 10. This act shall take effect upon becoming a
7 law.

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1226

4 The committee substitute makes the following changes to SB
5 1226:

6 Requires each Area Agency on Aging (AAA) board, in
7 consultation with the Secretary of Elder Affairs, to annually
8 appoint a chief executive officer of the AAA, requires the
9 performance of the executive director of each AAA to be
10 annually evaluated by the Secretary, and requires the board to
11 consider this evaluation and recommendation when it considers
12 reappointments.

13 Gives AHCA the authority, in consultation with DOEA, to
14 contract for any function or activity of the Comprehensive
15 Assessment and Review of Long-Term Care Services (CARES)
16 program including any function or activity required by 42 CFR
17 483.20 relating to Preadmission Screening and Resident Review
18 (PASARR);

19 Requires CARES staff to assess all individuals whose nursing
20 home stay is expected to exceed 20 days regardless of the
21 initial funding source for nursing home placement, and
22 provides that this requirement does not apply to continuing
23 care facilities licensed under chapter 651, and retirement
24 communities that provide a combination of nursing home,
25 independent living, and other long-term care services;

26 Requires DOEA to develop a database to track individuals over
27 time, who are assessed under the CARES program and who are
28 diverted from nursing home placement, and requires DOEA to
29 submit to the Legislature and the Office of Long-Term Care
30 Policy each year, a longitudinal study of the individuals who
31 are diverted from nursing home placement.

Deletes the provision that authorization through the waiver
program shall be provided by an entity that does not provide
case management.

Requires DOEA to reimburse providers on a capitated basis for
case management services in the Community Care for the Elderly
program.

Revises the requirements by which DOEA can take action against
a AAA to include: if the agency exceeds its authority related
to its contract with the department or has exceeded its
authority or otherwise failed to adhere to the provisions
specifically provided by statute or rule adopted by the
department, and if the agency has failed to properly determine
client eligibility as defined by the department or efficiently
manage program budgets.

Makes changes to the Office of Long-Term Care Policy including
locating the office in DOEA for administrative purposes only;
providing that the office and its director shall not be
subject to control, supervision, or direction by DOEA;
replacing the advisory council with an inter-agency
coordinating team and specifying the composition of the

1 inter-agency coordinating team; and revising reporting
2 requirements.
3 Requires a single lead agency to provide the array of services
4 to functionally impaired elderly persons. This agency can
5 provide any combination of those services.
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