

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: SB 260
 SPONSOR: Senator Fasano
 SUBJECT: Medicaid Copayments
 DATE: November 14, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Parham	Wilson	HC	Favorable
2.	_____	_____	TR	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill deletes transportation services from the list of additional services under the Medicaid program for which a copayment is required.

The bill amends section 409.9081, Florida Statutes.

II. Present Situation:

The Medicaid Program

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The federal government, the state, and the counties jointly fund the program. Medicaid is the largest program providing medical and health-related services to the nation's poorest citizens. The federal government, through law and regulations, has established extensive requirements for the Medicaid Program. Within broad national guidelines, which the federal government establishes, each of the states:

- Establishes its own eligibility standards;
- Determines the type, amount, duration, and scope of services;
- Sets the rate of payment for services; and
- Administers its own program.

The Agency for Health Care Administration (AHCA) is the single state agency responsible for the Florida Medicaid Program. The Department of Children and Family Services is responsible for determining Medicaid eligibility and managing Medicaid eligibility policy, with approval of any changes by AHCA.

The statutory provisions for the Medicaid Program appear in ss. 409.901 through 409.9205, F.S. Section 409.903, F.S., specifies categories of individuals who are required by federal law to be covered, if determined eligible, by the Medicaid Program (mandatory coverage groups). Section 409.904, F.S., specifies categories of individuals who the federal government gives state Medicaid programs the choice of covering (optional coverage groups). Section 409.905, F.S., specifies the medical and other services the state must provide under the state Medicaid plan (mandatory Medicaid services). Transportation services are mandatory. Section 409.406, F.S., specifies the services the state has chosen to include in the Medicaid Program (optional Medicaid services). A state may choose to include optional services in its state Medicaid plan, but such services must be offered to all individuals statewide who meet Medicaid eligibility criteria.

Medicaid is an entitlement program. Federal laws and regulations require states to make all Medicaid services available to all categorically eligible recipients regardless of diagnosis. If the Medicaid recipient is a child, however, Medicaid is required to provide additional services (which may not be available to adult Medicaid recipients) to treat an illness identified through health screening.

Section 409.908, F.S., requires AHCA, subject to federal regulations and any directions or limitations provided for in the General Appropriations Act, to require copayments for the following services: hospital outpatient, physician, hospital emergency department visits for non-emergency care, prescription drugs, hospital inpatient, laboratory and X-ray services, transportation services, home health care services, community mental health services, rural health services, federally qualified health clinic services, and nurse practitioner services. A copayment is a set fee. AHCA may only establish copayments for prescribed drugs or for any other federally authorized service if such copayment is specifically provided for in the General Appropriations Act or other law. Certain Medicaid recipients, as specified in s. 409.9081(3), F.S., are exempt from paying a copayment.

Transportation

Part I, ch. 427, F.S., specifies requirements for transportation services in Florida. The Commission for the Transportation Disadvantaged procures community transportation coordinators at the county level to arrange transportation for Medicaid recipients and recipients of other assistance programs. Subject to the provisions of s. 409.908(18), F.S., the Medicaid agency shall purchase transportation services through the community coordinated transportation system unless a more cost-effective method is determined by the agency for Medicaid clients or unless otherwise limited or directed by the General Appropriations Act.

Medicaid reimburses for transportation services provided by Medicaid-participating ground and air ambulance companies, wheelchair and stretcher van providers, taxicab companies, multi-passenger van and bus lines, and public and private organizations. To be reimbursed by Medicaid, transportation must be for the purpose of transporting the recipient to or from a Medicaid-covered service to receive medically-necessary care. When necessary, Medicaid may reimburse transportation of an escort for the recipient, such as a parent or guardian.

Under the Medicaid Transportation Coverage Limitations and Reimbursement Handbook, Medicaid recipients, unless otherwise exempt, are responsible for payment of a \$1.00 copayment for each one-way transportation trip. Round trips require two copayments. Pursuant to federal

law (42 CFR 447.53), the Medicaid recipients who are exempt from the transportation copayment include: children under 18 years of age (and, at the option of the state, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over but under 21), pregnant women, institutional care program recipients, and family planning service recipients. In Florida, the exemption applies to individuals 21 years of age or younger. Additionally, individuals who require emergency transportation services, individuals using health maintenance organization or other managed care provided transportation, and recipients of hospice services are exempt from the transportation copayment requirement.

Several landmark court decisions have consistently ruled that states must assure that recipients have access to covered Medicaid services.¹ Such access rights entitle Medicaid recipients to needed medical transportation assistance, and require states to pay for it. Recipients may not be refused services based on their inability to pay the transportation copayment. In these cases, the recipient remains liable for the copayment charge and can be billed for later payment. The Medicaid claims processing system automatically deducts the amount of the co-payment from the provider's reimbursement regardless of whether the provider bills or collects the copayment.

Currently, less than 25 percent of recipients pay the required copayment according to AHCA. Transportation providers absorb the loss of the unpaid copayment because Medicaid automatically reduces reimbursement to the provider regardless of whether or not the recipient pays the copayment.

III. Effect of Proposed Changes:

The bill deletes transportation services from the list of additional services under the Medicaid program for which a copayment is required.

The effective date of the bill is July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

¹ See *Harris v. James*, 127 F.3d 993 (11th Cir. 1997) and *Boatman v. Hammons*, 164 F.3d 286 (6th Cir. 1998). See also, 42 CFR 431.53.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Transportation providers will no longer have to collect copayments from Medicaid recipients and Medicaid recipients will no longer be responsible for payment of the transportation copayments.

C. Government Sector Impact:

According to AHCA, elimination of the copayment would increase Medicaid non-emergency transportation expenditures by an estimated \$2.8 million for FY 2004-05 with the potential for continued increases based on growth and utilization at an estimated rate of 5 percent per year. The exact fiscal impact is not known as copayments fluctuate with ridership and a recipient's ability to pay.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.