

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1465

Medicaid Reimbursement to Nursing Homes

SPONSOR(S): Grant

TIED BILLS:

IDEN./SIM. BILLS: SB 2636

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Elder & Long-Term Care Committee		Walsh	Liem
2) Health Care Appropriations Committee			
3) Health & Families Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

HB 1465 requires the Agency for Health Care Administration (AHCA) to permit licensed nursing homes to bid on per diem rates for Medicaid certified beds within a defined catchment area.

AHCA is required to adopt rules that give priority to the admission of Medicaid patients to a nursing home within the patient's locale. The rules may not prohibit a Medicaid patient from choosing among the lowest-bidding facilities in the area. In all other instances, a patient shall be placed in an available bed in the nursing home with the lowest bid price.

The fiscal impact is indeterminate because of the uncertainties associated with the requirements of this bill. See "Drafting Issues or Other Comments" for additional information.

The effective date is July 1, 2005.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government --- HB 1465 requires AHCA to adopt rules relating to the licensed nursing home beds that are bid as a result of this bill. Because the Medicaid State Plan specifies how providers will be paid, any changes in it must be approved by the federal Centers for Medicaid and Medicare Services before the changes can take effect.

B. EFFECT OF PROPOSED CHANGES:

Under s. 409.908(2)(a)1, F.S., reimbursement to nursing homes licensed under Part II of Chapter 400, F.S, and state-owned and -operated intermediate care facilities for the developmentally disabled licensed under chapter 393 must be made prospectively. Each January and July, the most recently reported Medicaid-allowable historical costs for each nursing home are inflated forward and, to the extent allowable by target and ceiling limitations, become the Medicaid per diem rate for that individual nursing home's Medicaid reimbursement of current period expenses for that rate semester. The nursing home receives the same unique per diem rate per-bed per-day that the bed is occupied during the rate semester by a Medicaid recipient.

HB 1465 requires AHCA to allow licensed nursing homes to bid on the per diem rate for Medicaid beds. The bid would be at a rate that is less than existing Medicaid rates in the catchment area.

AHCA is required to adopt rules which must provide that:

- Priority will be given to place recipients in nursing homes within the patient's locale.
- A Medicaid recipient could not be prohibited from choosing among the lowest bidding facilities in the area.
- In all other circumstances, the nursing home with the lowest bid and an available bed shall receive the recipient.

Per diem bids must be below existing Medicaid reimbursement per diem rates within the catchment area. AHCA must keep an updated list of approved bidders in each catchment area and provide the most current list to all social services providers and any other entity making referrals to nursing homes.

C. SECTION DIRECTORY:

Section 1: Amends s. 409.908(a), F.S.; requires AHCA to permit licensed nursing home to bid on rates for Medicaid certified beds; provides for rules; requires AHCA to provide list of approved bidders to certain entities.

Section 2: Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. See "Drafting Issues or Other Comments" below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA is required to adopt rules to implement the provisions specified in this bill. Because the Medicaid State Plan specifies how providers will be paid, any changes in it must be approved by the federal Centers for Medicaid and Medicare Services before the changes can take effect.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Line 75: The intent of the bill is unclear as to whether AHCA is to allow all licensed nursing homes, regardless of whether licensed for Medicaid or not, to bid on Medicaid beds for Medicaid recipients. It is similarly unclear whether the provisions of the bill are to apply to those recipients that are dually-eligible.

Line 76: It is unclear whether participation in the bidding process is mandatory or voluntary for a licensed nursing home.

It is unclear when the normally calculated nursing home per diems will be applicable if the competitive bid process is to be used for admissions to nursing homes. If the intent of this new requirement is to supplant the current nursing home rate setting methodology based upon prospective rates as required in statute, this should be made explicit.

There are roughly 28,900 admissions of Medicaid recipients into nursing homes each year.

- The process of collecting the bids and making the determination of which nursing home has the low bid for each catchment area is unclear.
- The issue of how often bidding is to be undertaken is also unspecified. The bill could be interpreted to mean bidding is done each time a Medicaid recipient must go into a nursing home. Alternatively, it could be intended that all nursing homes bid their beds out by the month, quarter, semester, or year.

The bill may be inconsistent with federal law regarding choice of provider in the Medicaid program. The bill provides that rules for the competitive bidding for nursing home rates may not prohibit a Medicaid recipient from choosing among the lowest-bidding facilities in an area, and that in all other circumstances a patient shall be placed in a facility with the lowest bid price. Generally, the Medicaid program does not place individuals in nursing homes, but rather pays its portion of the bill a provider submits after a service is rendered. Federal law (Social Security Act s. 1902(a)(32)) provides that a Medicaid recipient may choose to receive services from any qualified, enrolled provider. States may seek a waiver of this section of the act; however, the bill does not provide the agency with authority to seek such a waiver.

Line 77: The definition of a “defined catchment area” is unclear.

- The term could be defined as a city, county, or some other geographic region, or it could be based upon population densities.
- The bill specifically mentions “patient locale” or “area” in other sections of the bill. Is it intended that catchment area be defined in those terms?

Lines 80-81: The bill requires that the rules may not prohibit a Medicaid patient from choosing the lowest-bidding facility in the area in which to reside, but does not address what happens if the patient’s choice is not the low bid nursing home.

- The bill does not specify which per diem rate the nursing home receives in this situation. The per diem could be either the normally calculated per diem rate or the competitive bid.
- Which competitive bid the nursing home should receive in this circumstance should also be addressed. The bill could be interpreted to be the nursing home chosen by the recipient will be paid the actual low bid of another nursing home. It could also be interpreted that the receiving nursing home will be paid its actual bid, which may not be the lowest bid.

If a recipient enters a nursing home on a low bid, it is unclear how long the nursing home is locked into receiving the low bid for that recipient.

- If a recipient becomes a permanent resident of the facility, the bill does not specify how long the nursing home will receive the low bid.
- Once a new bid is solicited, the bill does not specify when, or if, the old bid will be updated for those low bid recipients already in the nursing home.

The bill does not specify what per diem the nursing home would receive if the nursing home did **not** participate in the bidding process, yet the recipient chooses that facility. This could be interpreted to mean that the nursing facility will receive the low bid rate even though they did not participate in the bidding process, or it could mean that the nursing facility is to receive their normally calculated per diem.

Lines 83-85: It is unclear what is meant by requiring that opening bids be at a rate below existing Medicaid reimbursement rates within the catchment area.

- This could be interpreted to mean that a nursing home’s bid must be lower than the lowest normally calculated per diem in the catchment area.
- Or it could be interpreted to mean that a nursing home must bid lower than that nursing home’s current normally calculated per diem.

Lines 85-86: "Approved bidder" is undefined. Its definition should include direction to AHCA about the qualifications required to meet approval.

The Medicaid claims payment system will require modification based on the requirements of this bill.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES