

CHAMBER ACTION

1 The Health Care Appropriations Committee recommends the  
2 following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to elderly affairs; amending s. 430.205,  
8 F.S.; deleting provisions relating to implementation plans  
9 to integrate certain functions of the Agency for Health  
10 Care Administration; providing for development of uniform  
11 case management standards within the Aged and Disabled  
12 Adult Medicaid waiver program; authorizing, rather than  
13 requiring, coordination of acute and chronic medical  
14 service between the agency and the Department of Elderly  
15 Affairs to be included in the capitated rate for case  
16 management services; requiring the agency to consult with  
17 the department before adopting rules relating to  
18 reimbursement of providers and case management standards;  
19 revising provisions relating to certain reimbursement  
20 rates; deleting obsolete provisions; providing that  
21 evaluation of a specified pilot project relating to elder  
22 care is subject to an appropriation; amending s. 430.7031,  
23 F.S.; deleting provision that requires the department and

24 agency to review the case files of a specified percentage  
 25 of Medicaid nursing home residents annually for the  
 26 purpose of determining whether the residents are able to  
 27 move to community placements; amending s. 430.705, F.S.;  
 28 revising eligibility requirements relating to financial  
 29 solvency for entities that provide services under the  
 30 long-term care community diversion pilot projects;  
 31 providing definitions; authorizing the department to make  
 32 rules; amending s. 430.707, F.S.; requiring project  
 33 providers to report quarterly to the department regarding  
 34 compliance with financial requirements; providing an  
 35 effective date.

36  
 37 Be It Enacted by the Legislature of the State of Florida:

38  
 39 Section 1. Paragraphs (b) and (c) of subsection (6) of  
 40 section 430.205, Florida Statutes, are amended to read:

41 430.205 Community care service system.--

42 (6) Notwithstanding other requirements of this chapter,  
 43 the Department of Elderly Affairs and the Agency for Health Care  
 44 Administration shall develop an integrated long-term-care  
 45 delivery system.

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

47 1. ~~The agency, in consultation with the department, shall~~  
 48 ~~develop an implementation plan to integrate the Frail Elder~~  
 49 ~~Option into the Nursing Home Diversion pilot project and each~~  
 50 ~~program's funds into one capitated program serving the aged.~~

51 ~~Beginning July 1, 2004, the agency may not enroll additional~~  
 52 ~~individuals in the Frail Elder Option.~~

53 ~~2. The agency, in consultation with the department, shall~~  
 54 ~~integrate the Aged and Disabled Adult Medicaid waiver program~~  
 55 ~~and the Assisted Living for the Elderly Medicaid waiver program~~  
 56 ~~and each program's funds into one fee-for-service Medicaid~~  
 57 ~~waiver program serving the aged and disabled. Once the programs~~  
 58 ~~are integrated, funding to provide care in assisted-living~~  
 59 ~~facilities under the new waiver may not be less than the amount~~  
 60 ~~appropriated in the 2003-2004 fiscal year for the Assisted~~  
 61 ~~Living for the Elderly Medicaid waiver.~~

62 ~~a. The agency shall seek federal waivers necessary to~~  
 63 ~~integrate these waiver programs.~~

64 ~~b.~~ The agency and the department shall reimburse providers  
 65 for case management services on a capitated basis and develop  
 66 uniform standards for case management within the Aged and  
 67 Disabled Adult ~~in this fee-for-service~~ Medicaid waiver program.  
 68 The coordination of acute and chronic medical services for  
 69 individuals may ~~shall~~ be included in the capitated rate for case  
 70 management services.

71 ~~e.~~ The agency, in consultation with ~~and~~ the department,  
 72 shall adopt any rules necessary to comply with or administer  
 73 these requirements, ~~effect and implement interagency agreements~~  
 74 ~~between the department and the agency, and comply with federal~~  
 75 ~~requirements.~~

76 2.3. The Legislature finds that preservation of the  
 77 historic aging network of lead agencies is essential to the  
 78 well-being of Florida's elderly population. The Legislature

79 | finds that the Florida aging network constitutes a system of  
 80 | essential community providers which should be nurtured and  
 81 | assisted to develop systems of operations which allow the  
 82 | gradual assumption of responsibility and financial risk for  
 83 | managing a client through the entire continuum of long-term care  
 84 | services within the area the lead agency is currently serving,  
 85 | and which allow lead agency providers to develop managed systems  
 86 | of service delivery. The department, in consultation with the  
 87 | agency, shall therefore:

88 |       a. Develop a demonstration project in which existing  
 89 | community care for the elderly lead agencies are assisted in  
 90 | transferring their business model and the service delivery  
 91 | system within their current community care service area to  
 92 | enable assumption, over a period of time, of full risk as a  
 93 | community diversion pilot project contractor providing long-term  
 94 | care services in the areas of operation. The department, in  
 95 | consultation with the agency and the Department of Children and  
 96 | Family Services, shall develop an implementation plan for no  
 97 | more than three lead agencies by October 31, 2004.

98 |       b. In the demonstration area, a community care for the  
 99 | elderly lead agency shall be initially reimbursed on a prepaid  
 100 | or fixed-sum basis for all home and community-based services  
 101 | provided under the long-term care community diversion pilot  
 102 | project ~~newly integrated fee-for-service Medicaid waiver~~. By the  
 103 | end of the third year of operation, the lead agency shall be  
 104 | reimbursed on a prepaid or fixed-sum basis for demonstration  
 105 | ~~project shall include~~ all services under the long-term care  
 106 | community diversion pilot project.

107 c. During the first year of operation, the department, in  
 108 consultation with the agency, may place providers at risk to  
 109 provide nursing home services for the enrolled individuals who  
 110 are participating in the demonstration project. During the 3-  
 111 year development period, the agency and the department may limit  
 112 the level of custodial nursing home risk that the administering  
 113 entities assume. Under risk-sharing arrangements, during the  
 114 first 3 years of operation, the department, in consultation with  
 115 the agency, may reimburse the administering entity for the cost  
 116 of providing nursing home care for Medicaid-eligible  
 117 participants who have been permanently placed and remain in a  
 118 nursing home for more than 1 year, or may disenroll such  
 119 participants from the demonstration project.

120 d. The agency, in consultation with the department, shall  
 121 develop reimbursement rates based on the federally approved,  
 122 actuarially certified rate methodology for the long-term care  
 123 community diversion pilot project ~~historical cost experience of~~  
 124 ~~the state in providing long-term care and nursing home services~~  
 125 ~~under Medicaid waiver programs to the population 65 years of age~~  
 126 ~~and older in the area served by the pilot project.~~

127 e. The department, in consultation with the agency, shall  
 128 ensure that the entity or entities receiving prepaid or fixed-  
 129 sum reimbursement are assisted in developing internal management  
 130 and financial control systems necessary to manage the risk  
 131 associated with providing services under a prepaid or fixed-sum  
 132 rate system.

133 f. If the department and the agency share risk of  
 134 custodial nursing home placement, payment rates during the first

135 3 years of operation shall be set at not more than 100 percent  
 136 of the costs to the agency and the department of providing  
 137 equivalent services to the population within the area of the  
 138 pilot project for the year prior to the year in which the pilot  
 139 project is implemented, adjusted forward to account for  
 140 inflation and policy changes in the Medicaid program. ~~In~~  
 141 ~~subsequent years, the rate shall be negotiated, based on the~~  
 142 ~~cost experience of the entity in providing contracted services,~~  
 143 ~~but may not exceed 95 percent of the amount that would have been~~  
 144 ~~paid in the pilot project area absent the prepaid or fixed sum~~  
 145 ~~reimbursement methodology.~~

146 g. Community care for the elderly lead agencies that have  
 147 operated for a period of at least 20 years, which provide  
 148 Medicare-certified services to elders, and which have developed  
 149 a system of service provision by health care volunteers shall be  
 150 given priority in the selection of the pilot project if they  
 151 meet the minimum requirements specified in the competitive  
 152 procurement.

153 h. The agency and the department shall adopt rules  
 154 necessary to comply with or administer these requirements,  
 155 effect and implement interagency agreements between the agency  
 156 and the department, and comply with federal requirements.

157 i. The department and the agency shall seek federal  
 158 waivers necessary to implement the requirements of this section.

159 j. The Department of Elderly Affairs shall conduct or  
 160 contract for an evaluation of the demonstration project. The  
 161 department shall submit the evaluation to the Governor and the  
 162 Legislature by January 1, 2007. The evaluation must address the

163 effectiveness of the pilot project in providing a comprehensive  
 164 system of appropriate and high-quality, long-term care services  
 165 to elders in the least restrictive setting and make  
 166 recommendations on expanding the project to other parts of the  
 167 state. This subparagraph is subject to an appropriation by the  
 168 Legislature.

169 ~~4. The department, in consultation with the agency, shall~~  
 170 ~~study the integration of the database systems for the~~  
 171 ~~Comprehensive Assessment and Review of Long-Term Care (CARES)~~  
 172 ~~program and the Client Information and Referral Tracking System~~  
 173 ~~(CIRTS) and develop a plan for database integration. The~~  
 174 ~~department shall submit the plan to the Governor, the President~~  
 175 ~~of the Senate, and the Speaker of the House of Representatives~~  
 176 ~~by December 31, 2004.~~

177 ~~3.5.~~ The agency, in consultation with the department,  
 178 shall work with the fiscal agent for the Medicaid program to  
 179 develop a service utilization reporting system that operates  
 180 through the fiscal agent for the capitated plans.

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

182 1. The agency, in consultation with the department, shall  
 183 monitor the newly integrated programs and report on the progress  
 184 of those programs to the Governor, the President of the Senate,  
 185 and the Speaker of the House of Representatives by June 30,  
 186 2006. The report must include an initial evaluation of the  
 187 programs in their early stages following the evaluation plan  
 188 developed by the department, in consultation with the agency and  
 189 the selected contractor.

190           2. The department shall monitor the pilot projects for  
 191 resource centers on aging and report on the progress of those  
 192 projects to the Governor, the President of the Senate, and the  
 193 Speaker of the House of Representatives by June 30, 2006. The  
 194 report must include an evaluation of the implementation process  
 195 in its early stages.

196           3. The department, in consultation with the agency, shall  
 197 integrate the database systems for the Comprehensive Assessment  
 198 and Review for ~~of~~ Long-Term Care Services (CARES) program and  
 199 the Client Information and Referral Tracking System (CIRTS) into  
 200 a single operating assessment information system by June 30,  
 201 2006.

202           ~~4. The agency, in consultation with the department, shall~~  
 203 ~~integrate the Frail Elder Option into the Nursing Home Diversion~~  
 204 ~~pilot project and each program's funds into one capitated~~  
 205 ~~program serving the aged.~~

206           ~~a. The department, in consultation with the agency, shall~~  
 207 ~~develop uniform standards for case management in this newly~~  
 208 ~~integrated capitated system.~~

209           ~~b. The agency shall seek federal waivers necessary to~~  
 210 ~~integrate these programs.~~

211           ~~c. The department, in consultation with the agency, shall~~  
 212 ~~adopt any rules necessary to comply with or administer these~~  
 213 ~~requirements, effect and implement interagency agreements~~  
 214 ~~between the department and the agency, and comply with federal~~  
 215 ~~requirements.~~

216           Section 2. Subsection (2) of section 430.7031, Florida  
 217 Statutes, is amended to read:



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218 430.7031 Nursing home transition program.--The department  
219 and the Agency for Health Care Administration:

220 (2) Shall collaboratively work to identify nursing home  
221 residents who are able to move to community placements, and to  
222 provide case management and supportive services to such  
223 individuals while they are in nursing homes to assist such  
224 individuals to move ~~in moving~~ to less expensive and less  
225 restrictive settings. ~~CARES program staff shall annually review~~  
226 ~~at least 20 percent of the case files for nursing home residents~~  
227 ~~who are Medicaid recipients to determine which nursing home~~  
228 ~~residents are able to move to community placements.~~

229 Section 3. Subsection (2) of section 430.705, Florida  
230 Statutes, is amended, and subsection (10) is added to said  
231 section, to read:

232 430.705 Implementation of the long-term care community  
233 diversion pilot projects.--

234 (2)(a) The department shall select projects whose design  
235 and providers demonstrate capacity to maximize the placement of  
236 participants in the least restrictive appropriate care setting.

237 (b) The department shall select providers that meet all of  
238 the following criteria. Providers shall:

239 1. Have a plan administrator who is dedicated to the  
240 diversion pilot project and project staff who perform the  
241 necessary project administrative functions, including data  
242 collection, reporting, and analysis. ~~The department shall select~~  
243 ~~providers that:~~

244        2. Demonstrate the ability to provide program enrollees  
 245 with a choice of care provider by contracting with multiple  
 246 providers that provide the same type of service.

247        3. Demonstrate through performance or other documented  
 248 means the capacity for prompt payment of claims as specified  
 249 under s. 641.3155.

250        4. Maintain an insolvency protection account in a bank or  
 251 savings and loan association located in the state with a balance  
 252 of at least \$100,000 into which monthly deposits equal to at  
 253 least 5 percent of premiums received under the project are made  
 254 until the balance equals 2 percent of the total contract amount.  
 255 The account shall be established with such terms as to ensure  
 256 that funds may only be withdrawn with the signature approval of  
 257 designated department representatives.

258        5. Maintain a surplus of at least \$1.5 million as  
 259 determined by the department. Each applicant and each provider  
 260 shall furnish to the department initial and annual unqualified  
 261 audited financial statements prepared by a certified public  
 262 accountant that expressly confirm that the applicant or provider  
 263 satisfies this surplus requirement. The department may approve a  
 264 waiver of compliance with the surplus requirement for an  
 265 existing diversion provider. The department's approval of this  
 266 waiver must be contingent on the provider demonstrating proof to  
 267 the department that the entity has posted and maintains a \$1.5  
 268 million performance bond, which is written by an insurer  
 269 licensed to transact insurance in this state, in lieu of meeting  
 270 the surplus requirement. The department may not approve a waiver

271 of compliance with the surplus requirement that extends beyond  
 272 June 30, 2006. As used in this subparagraph, the term:

273 a. "Existing diversion provider" means an entity that is  
 274 approved by the department on or before June 30, 2005, to  
 275 provide services to consumers through any long-term care  
 276 community diversion pilot project authorized under ss. 430.701-  
 277 430.709.

278 b. "Surplus" has the same meaning as in s. 641.19(19).

279 (c) The requirements of paragraph (b) do not apply to  
 280 entities selected to provide services to the pilot projects  
 281 authorized under s. 430.205(6)(b)2. The department, in  
 282 consultation with the agency, shall develop by rule minimum  
 283 financial solvency and reporting standards for these providers  
 284 that are reflective of the amount of risk the provider will  
 285 assume under the pilot project. The standards adopted by rule  
 286 shall ensure safety for the pilot project enrollees and  
 287 financial protection for the state in the event of a provider's  
 288 inability to continue providing services to the project.

289 ~~(a) Are determined by the Department of Financial Services~~  
 290 ~~to:~~

291 ~~1. Meet surplus requirements specified in s. 641.225;~~

292 ~~2. Demonstrate the ability to comply with the standards~~  
 293 ~~for financial solvency specified in s. 641.285;~~

294 ~~3. Demonstrate the ability to provide for the prompt~~  
 295 ~~payment of claims as specified in s. 641.3155; and~~

296 ~~4. Demonstrate the ability to provide technology with the~~  
 297 ~~capability for data collection that meets the security~~

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298 ~~requirements of the federal Health Insurance Portability and~~  
 299 ~~Accountability Act of 1996, 42 C.F.R. ss. 160 and 164.~~

300 ~~(b) Demonstrate the ability to contract with multiple~~  
 301 ~~providers that provide the same type of service.~~

302 (10) The department, in consultation with the agency, is  
 303 authorized to adopt any rules necessary to implement and  
 304 administer the long-term care community diversion pilot projects  
 305 authorized under ss. 430.701-430.709.

306 Section 4. Subsection (1) of section 430.707, Florida  
 307 Statutes, is amended to read:

308 430.707 Contracts.--

309 (1) The department, in consultation with the agency, shall  
 310 select and contract with managed care organizations and, on a  
 311 prepaid basis, with other qualified providers as defined in s.  
 312 430.703(7) to provide long-term care within community diversion  
 313 pilot project areas. All providers ~~The agency~~ shall ~~evaluate and~~  
 314 report quarterly to the department regarding the entity's  
 315 compliance ~~by other qualified providers~~ with all the financial  
 316 and quality assurance requirements of the contract.

317 Section 5. This act shall take effect upon becoming a law.