

1 A bill to be entitled

2 An act relating to elderly affairs; amending s. 430.205,  
3 F.S.; deleting provisions relating to implementation plans  
4 to integrate certain functions of the Agency for Health  
5 Care Administration; providing for development of uniform  
6 case management standards within the Aged and Disabled  
7 Adult Medicaid waiver program; authorizing, rather than  
8 requiring, coordination of acute and chronic medical  
9 service between the agency and the Department of Elderly  
10 Affairs to be included in the capitated rate for case  
11 management services; requiring the agency to consult with  
12 the department before adopting rules relating to  
13 reimbursement of providers and case management standards;  
14 revising provisions relating to certain reimbursement  
15 rates; deleting obsolete provisions; providing that  
16 evaluation of a specified pilot project relating to elder  
17 care is subject to an appropriation; amending s. 430.7031,  
18 F.S.; deleting provision that requires the department and  
19 agency to review the case files of a specified percentage  
20 of Medicaid nursing home residents annually for the  
21 purpose of determining whether the residents are able to  
22 move to community placements; amending s. 430.705, F.S.;  
23 revising eligibility requirements relating to financial  
24 solvency for entities that provide services under the  
25 long-term care community diversion pilot projects;  
26 providing definitions; authorizing the department to make  
27 rules; amending s. 430.707, F.S.; requiring project  
28 providers to report quarterly to the department regarding

29 compliance with financial requirements; providing an  
 30 effective date.

31

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

33

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

36 430.205 Community care service system.--

37 (6) Notwithstanding other requirements of this chapter,  
 38 the Department of Elderly Affairs and the Agency for Health Care  
 39 Administration shall develop an integrated long-term-care  
 40 delivery system.

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

42 1. ~~The agency, in consultation with the department, shall~~  
 43 ~~develop an implementation plan to integrate the Frail Elder~~  
 44 ~~Option into the Nursing Home Diversion pilot project and each~~  
 45 ~~program's funds into one capitated program serving the aged.~~  
 46 ~~Beginning July 1, 2004, the agency may not enroll additional~~  
 47 ~~individuals in the Frail Elder Option.~~

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

57 ~~a. The agency shall seek federal waivers necessary to~~  
58 ~~integrate these waiver programs.~~

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

66 ~~e.~~ The agency, in consultation with ~~and~~ the department,  
67 shall adopt any rules necessary to comply with or administer  
68 these requirements, ~~effect and implement interagency agreements~~  
69 ~~between the department and the agency, and comply with federal~~  
70 ~~requirements.~~

71 ~~2.3.~~ The Legislature finds that preservation of the  
72 historic aging network of lead agencies is essential to the  
73 well-being of Florida's elderly population. The Legislature  
74 finds that the Florida aging network constitutes a system of  
75 essential community providers which should be nurtured and  
76 assisted to develop systems of operations which allow the  
77 gradual assumption of responsibility and financial risk for  
78 managing a client through the entire continuum of long-term care  
79 services within the area the lead agency is currently serving,  
80 and which allow lead agency providers to develop managed systems  
81 of service delivery. The department, in consultation with the  
82 agency, shall therefore:

83 a. Develop a demonstration project in which existing  
84 community care for the elderly lead agencies are assisted in

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

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

102 c. During the first year of operation, the department, in  
103 consultation with the agency, may place providers at risk to  
104 provide nursing home services for the enrolled individuals who  
105 are participating in the demonstration project. During the 3-  
106 year development period, the agency and the department may limit  
107 the level of custodial nursing home risk that the administering  
108 entities assume. Under risk-sharing arrangements, during the  
109 first 3 years of operation, the department, in consultation with  
110 the agency, may reimburse the administering entity for the cost  
111 of providing nursing home care for Medicaid-eligible  
112 participants who have been permanently placed and remain in a

113 nursing home for more than 1 year, or may disenroll such  
114 participants from the demonstration project.

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

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

128 f. If the department and the agency share risk of  
129 custodial nursing home placement, payment rates during the first  
130 3 years of operation shall be set at not more than 100 percent  
131 of the costs to the agency and the department of providing  
132 equivalent services to the population within the area of the  
133 pilot project for the year prior to the year in which the pilot  
134 project is implemented, adjusted forward to account for  
135 inflation and policy changes in the Medicaid program. ~~In~~  
136 ~~subsequent years, the rate shall be negotiated, based on the~~  
137 ~~cost experience of the entity in providing contracted services,~~  
138 ~~but may not exceed 95 percent of the amount that would have been~~  
139 ~~paid in the pilot project area absent the prepaid or fixed sum~~  
140 ~~reimbursement methodology.~~

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

148 h. The agency and the department shall adopt rules  
149 necessary to comply with or administer these requirements,  
150 effect and implement interagency agreements between the agency  
151 and the department, and comply with federal requirements.

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

154 j. The Department of Elderly Affairs shall conduct or  
155 contract for an evaluation of the demonstration project. The  
156 department shall submit the evaluation to the Governor and the  
157 Legislature by January 1, 2007. The evaluation must address the  
158 effectiveness of the pilot project in providing a comprehensive  
159 system of appropriate and high-quality, long-term care services  
160 to elders in the least restrictive setting and make  
161 recommendations on expanding the project to other parts of the  
162 state. This subparagraph is subject to an appropriation by the  
163 Legislature.

164 ~~4. The department, in consultation with the agency, shall~~  
165 ~~study the integration of the database systems for the~~  
166 ~~Comprehensive Assessment and Review of Long Term Care (CARES)~~  
167 ~~program and the Client Information and Referral Tracking System~~  
168 ~~(CIRTS) and develop a plan for database integration. The~~

169 ~~department shall submit the plan to the Governor, the President~~  
 170 ~~of the Senate, and the Speaker of the House of Representatives~~  
 171 ~~by December 31, 2004.~~

172 3.5. The agency, in consultation with the department,  
 173 shall work with the fiscal agent for the Medicaid program to  
 174 develop a service utilization reporting system that operates  
 175 through the fiscal agent for the capitated plans.

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

177 1. The agency, in consultation with the department, shall  
 178 monitor the newly integrated programs and report on the progress  
 179 of those programs to the Governor, the President of the Senate,  
 180 and the Speaker of the House of Representatives by June 30,  
 181 2006. The report must include an initial evaluation of the  
 182 programs in their early stages following the evaluation plan  
 183 developed by the department, in consultation with the agency and  
 184 the selected contractor.

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

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

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

201           a. ~~The department, in consultation with the agency, shall~~  
 202 ~~develop uniform standards for case management in this newly~~  
 203 ~~integrated capitated system.~~

204           b. ~~The agency shall seek federal waivers necessary to~~  
 205 ~~integrate these programs.~~

206           c. ~~The department, in consultation with the agency, shall~~  
 207 ~~adopt any rules necessary to comply with or administer these~~  
 208 ~~requirements, effect and implement interagency agreements~~  
 209 ~~between the department and the agency, and comply with federal~~  
 210 ~~requirements.~~

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

213           430.7031 Nursing home transition program.--The department  
 214 and the Agency for Health Care Administration:

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



224 Section 3. Subsection (2) of section 430.705, Florida  
 225 Statutes, is amended, and subsection (10) is added to said  
 226 section, to read:

227 430.705 Implementation of the long-term care community  
 228 diversion pilot projects.--

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

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

234 1. Have a plan administrator who is dedicated to the  
 235 diversion pilot project and project staff who perform the  
 236 necessary project administrative functions, including data  
 237 collection, reporting, and analysis. ~~The department shall select~~  
 238 ~~providers that:~~

239 2. Demonstrate the ability to provide program enrollees  
 240 with a choice of care provider by contracting with multiple  
 241 providers that provide the same type of service.

242 3. Demonstrate through performance or other documented  
 243 means the capacity for prompt payment of claims as specified  
 244 under s. 641.3155.

245 4. Maintain an insolvency protection account in a bank or  
 246 savings and loan association located in the state with a balance  
 247 of at least \$100,000 into which monthly deposits equal to at  
 248 least 5 percent of premiums received under the project are made  
 249 until the balance equals 2 percent of the total contract amount.  
 250 The account shall be established with such terms as to ensure

251 that funds may only be withdrawn with the signature approval of  
252 designated department representatives.

253 5. Maintain a surplus of at least \$1.5 million as  
254 determined by the department. Each applicant and each provider  
255 shall furnish to the department initial and annual unqualified  
256 audited financial statements prepared by a certified public  
257 accountant that expressly confirm that the applicant or provider  
258 satisfies this surplus requirement. The department may approve a  
259 waiver of compliance with the surplus requirement for an  
260 existing diversion provider. The department's approval of this  
261 waiver must be contingent on the provider demonstrating proof to  
262 the department that the entity has posted and maintains a \$1.5  
263 million performance bond, which is written by an insurer  
264 licensed to transact insurance in this state, in lieu of meeting  
265 the surplus requirement. The department may not approve a waiver  
266 of compliance with the surplus requirement that extends beyond  
267 June 30, 2006. As used in this subparagraph, the term:

268 a. "Existing diversion provider" means an entity that is  
269 approved by the department on or before June 30, 2005, to  
270 provide services to consumers through any long-term care  
271 community diversion pilot project authorized under ss. 430.701-  
272 430.709.

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

274 (c) The requirements of paragraph (b) do not apply to  
275 entities selected to provide services to the pilot projects  
276 authorized under s. 430.205(6)(b)2. The department, in  
277 consultation with the agency, shall develop by rule minimum  
278 financial solvency and reporting standards for these providers

279 that are reflective of the amount of risk the provider will  
 280 assume under the pilot project. The standards adopted by rule  
 281 shall ensure safety for the pilot project enrollees and  
 282 financial protection for the state in the event of a provider's  
 283 inability to continue providing services to the project.

284 ~~(a) Are determined by the Department of Financial Services~~  
 285 ~~to:~~

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

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

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

291 ~~4. Demonstrate the ability to provide technology with the~~  
 292 ~~capability for data collection that meets the security~~  
 293 ~~requirements of the federal Health Insurance Portability and~~  
 294 ~~Accountability Act of 1996, 42 C.F.R. ss. 160 and 164.~~

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

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

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

303 430.707 Contracts.--

304 (1) The department, in consultation with the agency, shall  
 305 select and contract with managed care organizations and, on a  
 306 prepaid basis, with other qualified providers as defined in s.

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307 | 430.703(7) to provide long-term care within community diversion  
308 | pilot project areas. All providers ~~The agency~~ shall ~~evaluate and~~  
309 | report quarterly to the department regarding the entity's  
310 | compliance ~~by other qualified providers~~ with all the financial  
311 | and quality assurance requirements of the contract.

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