

By the Committee on Health Care; and Senator Wise

587-2171-05

1 A bill to be entitled

2 An act relating to mental health services

3 providers; amending s. 409.912, F.S.; providing

4 requirements for the provision of mental health

5 services to residents of an assisted living

6 facility having a limited mental health

7 license; requiring the Agency for Health Care

8 Administration to establish a workgroup to

9 examine strategies and make recommendations

10 prior to implementation of any managed care

11 plan that would include behavioral health care

12 services in specified counties; providing for

13 membership; creating the Best Practices and

14 Limited Mental Health Assisted Living

15 Facilities workgroup; providing duties and

16 responsibilities; providing for membership;

17 authorizing the workgroup to request assistance

18 from the Florida Mental Health Institute;

19 requiring the workgroup to prepare and file a

20 report with the Governor and the Legislature by

21 a specified date; providing an effective date.

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

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25 Section 1. Subsection (6) of section 409.912, Florida

26 Statutes, is amended to read:

27 409.912 Cost-effective purchasing of health care.--The

28 agency shall purchase goods and services for Medicaid

29 recipients in the most cost-effective manner consistent with

30 the delivery of quality medical care. To ensure that medical

31 services are effectively utilized, the agency may, in any

1 case, require a confirmation or second physician's opinion of
2 the correct diagnosis for purposes of authorizing future
3 services under the Medicaid program. This section does not
4 restrict access to emergency services or poststabilization
5 care services as defined in 42 C.F.R. part 438.114. Such
6 confirmation or second opinion shall be rendered in a manner
7 approved by the agency. The agency shall maximize the use of
8 prepaid per capita and prepaid aggregate fixed-sum basis
9 services when appropriate and other alternative service
10 delivery and reimbursement methodologies, including
11 competitive bidding pursuant to s. 287.057, designed to
12 facilitate the cost-effective purchase of a case-managed
13 continuum of care. The agency shall also require providers to
14 minimize the exposure of recipients to the need for acute
15 inpatient, custodial, and other institutional care and the
16 inappropriate or unnecessary use of high-cost services. The
17 agency may mandate prior authorization, drug therapy
18 management, or disease management participation for certain
19 populations of Medicaid beneficiaries, certain drug classes,
20 or particular drugs to prevent fraud, abuse, overuse, and
21 possible dangerous drug interactions. The Pharmaceutical and
22 Therapeutics Committee shall make recommendations to the
23 agency on drugs for which prior authorization is required. The
24 agency shall inform the Pharmaceutical and Therapeutics
25 Committee of its decisions regarding drugs subject to prior
26 authorization. The agency is authorized to limit the entities
27 it contracts with or enrolls as Medicaid providers by
28 developing a provider network through provider credentialing.
29 The agency may limit its network based on the assessment of
30 beneficiary access to care, provider availability, provider
31 quality standards, time and distance standards for access to

1 care, the cultural competence of the provider network,
2 demographic characteristics of Medicaid beneficiaries,
3 practice and provider-to-beneficiary standards, appointment
4 wait times, beneficiary use of services, provider turnover,
5 provider profiling, provider licensure history, previous
6 program integrity investigations and findings, peer review,
7 provider Medicaid policy and billing compliance records,
8 clinical and medical record audits, and other factors.
9 Providers shall not be entitled to enrollment in the Medicaid
10 provider network. The agency is authorized to seek federal
11 waivers necessary to implement this policy.

12 (6) The agency may contract with any public or private
13 entity otherwise authorized by this section on a prepaid or
14 fixed-sum basis for the provision of health care services to
15 recipients. An entity may provide prepaid services to
16 recipients, either directly or through arrangements with other
17 entities, if each entity involved in providing services:

18 (a) Is organized primarily for the purpose of
19 providing health care or other services of the type regularly
20 offered to Medicaid recipients;

21 (b) Ensures that services meet the standards set by
22 the agency for quality, appropriateness, and timeliness;

23 (c) Ensures that each resident who lives in a licensed
24 assisted living facility that holds a limited mental health
25 license receives access to an adequate and appropriate array
26 of state-funded mental health services within funds available;

27 (d) Ensures that state-funded mental health services
28 promote recovery by implementing best practices through
29 cooperative agreements between mental health providers and
30 assisted living facilities that hold a limited mental health
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1 license, by implementing the community living support plans,
2 and by complying with s. 394.4574;

3 (e) Ensures that a resident of an assisted living
4 facility may not be displaced as a result of the
5 implementation of any behavioral health care managed care
6 plan;

7 (f) In order to provide state-funded mental health
8 services to a resident of an assisted living facility that
9 holds a limited mental health license:

10 1. Develops and implements a plan that complies with
11 s. 394.4574 for providing state-funded mental health services;

12 2. Ensures that each resident of an assisted living
13 facility that holds a limited mental health license has access
14 to therapeutic medications, including atypical psychotropic
15 medications, as directed by the resident's doctor, within
16 available resources; and

17 3. Ensures that each resident of an assisted living
18 facility that holds a limited mental health license has access
19 to state-funded primary care and mental health services
20 covered by the Medicaid program;

21 (g)(e) Makes provisions satisfactory to the agency for
22 insolvency protection and ensures that neither enrolled
23 Medicaid recipients nor the agency will be liable for the
24 debts of the entity;

25 (h)(d) Submits to the agency, if a private entity, a
26 financial plan that the agency finds to be fiscally sound and
27 that provides for working capital in the form of cash or
28 equivalent liquid assets excluding revenues from Medicaid
29 premium payments equal to at least the first 3 months of
30 operating expenses or \$200,000, whichever is greater;

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1 ~~(i)(e)~~ Furnishes evidence satisfactory to the agency
2 of adequate liability insurance coverage or an adequate plan
3 of self-insurance to respond to claims for injuries arising
4 out of the furnishing of health care;

5 ~~(j)(f)~~ Provides, through contract or otherwise, for
6 periodic review of its medical facilities and services, as
7 required by the agency; and

8 ~~(k)(g)~~ Provides organizational, operational,
9 financial, and other information required by the agency.

10 Section 2. (1) If the Agency for Health Care
11 Administration implements a managed care plan that would
12 include behavioral health care services in the counties of
13 Nassau, Baker, Clay, Duval, and St. Johns, the Agency for
14 Health Care Administration shall establish a workgroup to:

15 (a) Examine strategies that would allow minority
16 access administrative service organizations and county-based
17 administrative service organizations the ability to seek a
18 capitation rate to provide innovative programs to improve
19 access to behavioral health care services in rural areas and
20 areas identified as in need of minority access providers and
21 enhance and improve access to behavioral health care services.

22 (b) Make recommendations to the Agency for Health Care
23 Administration for incorporation in the request for proposal
24 process relating to minority access and the role of minority
25 access providers in emerging networks; the role of
26 county-based service delivery systems for the provision of
27 behavioral health care services; Department of Prepaid Mental
28 Health Plans; provider service networks; requirements to be
29 met by managed care plans when serving residents of limited
30 mental health assisted living facilities; the development of
31 administrative service organizations that may be appointed by

1 rural counties that may be part of the proposed managed care
2 pilot; and the development of administrative service
3 organizations that would focus on minority access issues and
4 minority access providers located in the proposed pilot areas.

5 (2) The workgroup shall consist of local minority
6 access providers, a representative of the North Florida
7 Behavioral Health Center, a member of a local chapter of the
8 National Alliance for the Mentally Ill, consumer
9 representatives, a member appointed by the Florida Council for
10 Community Mental Health, a representative of a local county
11 government, a representative from the Department of Children
12 and Family Services, a representative from the Department of
13 Health, a representative from the Agency for Health Care
14 Administration, and a representative from the local advocacy
15 council.

16 Section 3. (1) The Agency for Health Care
17 Administration, in consultation with the Department of Elderly
18 Affairs, shall establish a workgroup to be entitled Best
19 Practices and Limited Mental Health Assisted Living
20 Facilities.

21 (2) The workgroup shall identify best practices
22 associated with implementing a state-funded behavioral health
23 care service system for residents of an assisted living
24 facility that holds a limited mental health license. The
25 workgroup shall also review the need for developing enhanced
26 services for residents who have increasing medical needs
27 associated with aging or disabilities.

28 (3) The workgroup shall identify best practices in the
29 delivery of state-funded mental health services that have
30 proven to be cost-effective and efficient in the delivery of
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1 state-funded mental health care, particularly under managed
2 care plans.

3 (4) The workgroup shall determine which services are
4 most frequently used by residents and how integrated models of
5 service delivery may emerge that promote best practices under
6 managed care plans providing Medicaid-covered mental health
7 services.

8 (5) The workgroup shall evaluate the strategies,
9 services, and supports that are necessary to ensure an
10 adequate and appropriate array of state-funded mental health
11 service which promotes recovery-based outcomes as covered by
12 the Medicaid program.

13 (6) The workgroup shall also review and, when
14 appropriate, recommend changes to laws, administrative rules,
15 and modifications to 1915C waivers that relate to eligibility
16 and services. The workgroup shall also propose legislative
17 budget recommendations needed to implement the recommendations
18 of the workgroup.

19 (7) The workgroup shall include, but is not limited
20 to, one representative each from the Agency for Health Care
21 Administration, the Department of Elderly Affairs, the
22 Department of Children and Family Services, the Department of
23 Health, the Department of Corrections, a managed care provider
24 or its representative, one member appointed by the Florida
25 Council for Community Mental Health, one member appointed by
26 the Florida Psychiatric Society, one member appointed by the
27 Florida Coalition for Assisted Living and Mental Health, one
28 member appointed by the state chapter of the National Alliance
29 for the Mentally Ill, one member appointed by the State
30 Long-Term Care Ombudsman Council, and one member appointed by
31 the Americans with Disabilities Act Working Group.

1 (8) The workgroup may request the assistance of the
2 Florida Mental Health Institute to provide research or
3 analysis as the agency and the workgroup members may determine
4 necessary to accomplish its tasks.

5 (9) The workgroup shall elect a chair who is not an
6 employee of the state. The workgroup shall hold meetings at
7 the call of the chair. The workgroup shall receive staff
8 support from the agency. The workgroup members shall each
9 serve at his or her own expense and the workgroup shall
10 function within funds available to the Agency for Health Care
11 Administration.

12 (10) The workgroup must prepare a report and deliver a
13 copy of the report to the Governor, the President of the
14 Senate, and the Speaker of the House of Representatives no
15 later than January 5, 2006.

16 Section 4. This act shall take effect July 1, 2005.

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18 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
19 COMMITTEE SUBSTITUTE FOR
20 Senate Bill 1852

21 The committee substitute establishes additional criteria for
22 Medicaid prepaid health plans to provide services to persons
23 who live in a licensed assisted living facility that holds a
24 limited mental health license (ALF-LMHL). The committee
25 substitute also requires that, if the Agency for Health Care
26 Administration (AHCA) implements a managed care plan that
27 includes behavioral health care services in the counties of
28 Nassau, Baker, Clay, Duval, and St. Johns, AHCA must establish
29 a workgroup to examine strategies that would allow
30 administrative service organizations (ASOs) to seek a
31 capitation rate to provide access to behavioral health care
services; and requires AHCA, in consultation with the
Department of Elderly Affairs, to establish a workgroup
entitled Best Practices and Limited Mental Health Assisted
Living Facilities to identify best practices associated with
implementing state-funded behavioral health care services to
residents of ALF-LMHLs.