

By the Committee on Health Care; and Senator Fasano

587-2017-05

1 A bill to be entitled

2 An act relating to elderly affairs; amending s.

3 430.205, F.S.; deleting the requirement for the

4 Agency for Health Care Administration to

5 develop a plan to integrate a plan for frail

6 elderly persons into a diversion pilot program;

7 deleting the agency's requirement to integrate

8 two separate Medicaid waiver programs into one

9 waiver program; deleting the requirement to

10 seek federal waivers for these waiver programs;

11 requiring the agency and the Department of

12 Elderly Affairs to reimburse providers and

13 develop standards for case management within a

14 certain Medicaid waiver program; authorizing

15 the coordinating of certain medical services to

16 be included in the capitated rate for case

17 management services; deleting the agency's

18 requirements to implement interagency

19 agreements; providing reimbursement for an

20 elderly lead agency on a prepaid or fixed-sum

21 basis for certain services under a particular

22 diversion pilot project; clarifying that the

23 lead agency be reimbursed for all services by

24 the third year of operation; revising the basis

25 under which the agency is required to develop

26 reimbursement rates; deleting the method of

27 rate of payment for custodial nursing home

28 placement beyond the first 3 years; deleting

29 the department's requirements to study and

30 develop a plan for the integration of certain

31 database systems and submit the plan to the

1 Legislature; amending s. 430.7031, F.S.;
2 deleting the requirement for certain program
3 staff to annually review a certain number of
4 case files to find certain nursing home
5 residents who are eligible for possible
6 community placement; amending s. 430.705, F.S.;
7 revising eligibility requirements relating to
8 financial solvency for entities that provide
9 services under the long-term care community
10 diversion pilot projects; authorizing the
11 department to adopt rules; amending s. 430.707,
12 F.S.; requiring project providers to report
13 quarterly to the department regarding
14 compliance with financial requirements;
15 repealing s. 430.041, F.S., relating to the
16 Office of Long-Term-Care Policy; providing an
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Paragraphs (b) and (c) of subsection (6) of
22 section 430.205, Florida Statutes, are amended to read:

23 430.205 Community care service system.--

24 (6) Notwithstanding other requirements of this
25 chapter, the Department of Elderly Affairs and the Agency for
26 Health Care Administration shall develop an integrated
27 long-term-care delivery system.

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

29 ~~1. The agency, in consultation with the department,~~
30 ~~shall develop an implementation plan to integrate the Frail~~
31 ~~Elder Option into the Nursing Home Diversion pilot project and~~

1 ~~each program's funds into one capitated program serving the~~
2 ~~aged. Beginning July 1, 2004, the agency may not enroll~~
3 ~~additional individuals in the Frail Elder Option.~~

4 ~~2. The agency, in consultation with the department,~~
5 ~~shall integrate the Aged and Disabled Adult Medicaid waiver~~
6 ~~program and the Assisted Living for the Elderly Medicaid~~
7 ~~waiver program and each program's funds into one~~
8 ~~fee for service Medicaid waiver program serving the aged and~~
9 ~~disabled. Once the programs are integrated, funding to provide~~
10 ~~care in assisted living facilities under the new waiver may~~
11 ~~not be less than the amount appropriated in the 2003-2004~~
12 ~~fiscal year for the Assisted Living for the Elderly Medicaid~~
13 ~~waiver.~~

14 ~~a. The agency shall seek federal waivers necessary to~~
15 ~~integrate these waiver programs.~~

16 ~~1.b.~~ The agency and the department shall reimburse
17 providers for case management services on a capitated basis
18 and develop uniform standards for case management within the
19 Aged and Disabled Adult ~~in this fee for service~~ Medicaid
20 waiver program. The coordination of acute and chronic medical
21 services for individuals may ~~shall~~ be included in the
22 capitated rate for case management services.

23 ~~e.~~ The agency, in consultation with ~~and~~ the
24 department, shall adopt any rules necessary to comply with or
25 administer these requirements, ~~effect and implement~~
26 ~~interagency agreements between the department and the agency,~~
27 ~~and comply with federal requirements.~~

28 ~~2.3.~~ The Legislature finds that preservation of the
29 historic aging network of lead agencies is essential to the
30 well-being of Florida's elderly population. The Legislature
31 finds that the Florida aging network constitutes a system of

1 essential community providers which should be nurtured and
2 assisted to develop systems of operations which allow the
3 gradual assumption of responsibility and financial risk for
4 managing a client through the entire continuum of long-term
5 care services within the area the lead agency is currently
6 serving, and which allow lead agency providers to develop
7 managed systems of service delivery. The department, in
8 consultation with the agency, shall therefore:

9 a. Develop a demonstration project in which existing
10 community care for the elderly lead agencies are assisted in
11 transferring their business model and the service delivery
12 system within their current community care service area to
13 enable assumption, over a period of time, of full risk as a
14 community diversion pilot project contractor providing
15 long-term care services in the areas of operation. The
16 department, in consultation with the agency and the Department
17 of Children and Family Services, shall develop an
18 implementation plan for no more than three lead agencies by
19 October 31, 2004.

20 b. In the demonstration area, a community care for the
21 elderly lead agency shall be initially reimbursed on a prepaid
22 or fixed-sum basis for all home and community-based services
23 provided under the long-term care community diversion pilot
24 project ~~newly integrated fee for service Medicaid waiver~~. By
25 the end of the third year of operation, the lead agency shall
26 be reimbursed on a prepaid or fixed-sum basis for
27 ~~demonstration project shall include~~ all services provided
28 under the long-term care community diversion pilot project.

29 c. During the first year of operation, the department,
30 in consultation with the agency, may place providers at risk
31 to provide nursing home services for the enrolled individuals

1 | who are participating in the demonstration project. During the
2 | 3-year development period, the agency and the department may
3 | limit the level of custodial nursing home risk that the
4 | administering entities assume. Under risk-sharing
5 | arrangements, during the first 3 years of operation, the
6 | department, in consultation with the agency, may reimburse the
7 | administering entity for the cost of providing nursing home
8 | care for Medicaid-eligible participants who have been
9 | permanently placed and remain in a nursing home for more than
10 | 1 year, or may disenroll such participants from the
11 | demonstration project.

12 | d. The agency, in consultation with the department,
13 | shall develop reimbursement rates based on the federally
14 | approved, actuarially certified rate methodology for the
15 | long-term care community diversion pilot project ~~historical~~
16 | ~~cost experience of the state in providing long term care and~~
17 | ~~nursing home services under Medicaid waiver programs to the~~
18 | ~~population 65 years of age and older in the area served by the~~
19 | ~~pilot project.~~

20 | e. The department, in consultation with the agency,
21 | shall ensure that the entity or entities receiving prepaid or
22 | fixed-sum reimbursement are assisted in developing internal
23 | management and financial control systems necessary to manage
24 | the risk associated with providing services under a prepaid or
25 | fixed-sum rate system.

26 | f. If the department and the agency share risk of
27 | custodial nursing home placement, payment rates during the
28 | first 3 years of operation shall be set at not more than 100
29 | percent of the costs to the agency and the department of
30 | providing equivalent services to the population within the
31 | area of the pilot project for the year prior to the year in

1 | which the pilot project is implemented, adjusted forward to
2 | account for inflation and policy changes in the Medicaid
3 | program. ~~In subsequent years, the rate shall be negotiated,~~
4 | ~~based on the cost experience of the entity in providing~~
5 | ~~contracted services, but may not exceed 95 percent of the~~
6 | ~~amount that would have been paid in the pilot project area~~
7 | ~~absent the prepaid or fixed sum reimbursement methodology.~~

8 | g. Community care for the elderly lead agencies that
9 | have operated for a period of at least 20 years, which provide
10 | Medicare-certified services to elders, and which have
11 | developed a system of service provision by health care
12 | volunteers shall be given priority in the selection of the
13 | pilot project if they meet the minimum requirements specified
14 | in the competitive procurement.

15 | h. The agency and the department shall adopt rules
16 | necessary to comply with or administer these requirements,
17 | effect and implement interagency agreements between the agency
18 | and the department, and comply with federal requirements.

19 | i. The department and the agency shall seek federal
20 | waivers necessary to implement the requirements of this
21 | section.

22 | j. The Department of Elderly Affairs shall conduct or
23 | contract for an evaluation of the demonstration project. The
24 | department shall submit the evaluation to the Governor and the
25 | Legislature by January 1, 2007. The evaluation must address
26 | the effectiveness of the pilot project in providing a
27 | comprehensive system of appropriate and high-quality,
28 | long-term care services to elders in the least restrictive
29 | setting and make recommendations on expanding the project to
30 | other parts of the state. This sub-subparagraph is subject to
31 | an appropriation by the Legislature.

1 ~~4. The department, in consultation with the agency,~~
2 ~~shall study the integration of the database systems for the~~
3 ~~Comprehensive Assessment and Review of Long Term Care (CARES)~~
4 ~~program and the Client Information and Referral Tracking~~
5 ~~System (CIRTS) and develop a plan for database integration.~~
6 ~~The department shall submit the plan to the Governor, the~~
7 ~~President of the Senate, and the Speaker of the House of~~
8 ~~Representatives by December 31, 2004.~~

9 ~~3.5.~~ The agency, in consultation with the department,
10 shall work with the fiscal agent for the Medicaid program to
11 develop a service utilization reporting system that operates
12 through the fiscal agent for the capitated plans.

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

14 1. The agency, in consultation with the department,
15 shall monitor the newly integrated programs and report on the
16 progress of those programs to the Governor, the President of
17 the Senate, and the Speaker of the House of Representatives by
18 June 30, 2006. The report must include an initial evaluation
19 of the programs in their early stages following the evaluation
20 plan developed by the department, in consultation with the
21 agency and the selected contractor.

22 2. The department shall monitor the pilot projects for
23 resource centers on aging and report on the progress of those
24 projects to the Governor, the President of the Senate, and the
25 Speaker of the House of Representatives by June 30, 2006. The
26 report must include an evaluation of the implementation
27 process in its early stages.

28 3. The department, in consultation with the agency,
29 shall integrate the database systems for the Comprehensive
30 Assessment and Review for ~~of~~ Long-Term Care Services (CARES)
31 program and the Client Information and Referral Tracking

1 System (CIRTS) into a single operating assessment information
2 system by June 30, 2006.

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

7 ~~a. The department, in consultation with the agency,~~
8 ~~shall develop uniform standards for case management in this~~
9 ~~newly integrated capitated system.~~

10 ~~b. The agency shall seek federal waivers necessary to~~
11 ~~integrate these programs.~~

12 ~~c. The department, in consultation with the agency,~~
13 ~~shall adopt any rules necessary to comply with or administer~~
14 ~~these requirements, effect and implement interagency~~
15 ~~agreements between the department and the agency, and comply~~
16 ~~with federal requirements.~~

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

19 430.7031 Nursing home transition program.--The
20 department and the Agency for Health Care Administration:

21 (2) Shall collaboratively work to identify nursing
22 home residents who are able to move to community placements,
23 and ~~to~~ provide case management and supportive services to such
24 individuals while they are in nursing homes to assist such
25 individuals to move in moving to less expensive and less
26 restrictive settings. ~~CARES program staff shall annually~~
27 ~~review at least 20 percent of the case files for nursing home~~
28 ~~residents who are Medicaid recipients to determine which~~
29 ~~nursing home residents are able to move to community~~
30 ~~placements.~~

31

1 Section 3. Subsection (2) of section 430.705, Florida
2 Statutes, is amended, and subsection (10) is added to that
3 section, to read:

4 430.705 Implementation of the long-term care community
5 diversion pilot projects.--

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

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

12 1. Have a plan administrator who is dedicated to the
13 diversion pilot project and project staff who perform the
14 necessary project administrative functions, including data
15 collection, reporting, and analysis.

16 2. Demonstrate the ability to provide program
17 enrollees with a choice of care provider by contracting with
18 multiple providers that provide the same type of service.

19 3. Demonstrate through performance or other documented
20 means the capacity for prompt payment of claims as specified
21 under s. 641.3155.

22 4. Maintain an insolvency protection account in a bank
23 or savings and loan association located in this state with a
24 balance of at least \$100,000 into which monthly deposits equal
25 to at least 5 percent of premiums received under the project
26 are made until the balance equals 2 percent of the total
27 contract amount. The account shall be established with such
28 terms as to ensure that funds may be withdrawn only with the
29 signature approval of designated department representatives.

30 5. Maintain a surplus of at least \$1.5 million as
31 determined by the department. Each applicant and each provider

1 shall furnish to the department initial and annual unqualified
2 audited financial statements prepared by a certified public
3 accountant that expressly confirm that the applicant or
4 provider satisfies this surplus requirement. The department
5 may approve a waiver of compliance with the surplus
6 requirement for an existing diversion provider. The
7 department's approval of this waiver must be contingent on the
8 provider demonstrating proof to the department that the entity
9 has posted and maintains a \$1.5 million performance bond that
10 is written by an insurer licensed to transact insurance in
11 this state, in lieu of meeting the surplus requirement. The
12 department may not approve a waiver of compliance with the
13 surplus requirement that extends beyond June 30, 2006. As used
14 in this subparagraph, the term:

15 a. "Existing diversion provider" means an entity that
16 is approved by the department, on or before June 30, 2005, to
17 provide services to consumers through any long-term care
18 community diversion pilot project authorized under ss.
19 430.701-430.709.

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

21 (c) The requirements of paragraph (b) do not apply to
22 entities selected to provide services in the pilot projects
23 authorized under s. 430.205(6)(b)2. The department, in
24 consultation with the agency, shall develop by rule minimum
25 financial solvency and reporting standards for these providers
26 which are reflective of the amount of risk the provider will
27 assume under the pilot project. The standards adopted by rule
28 shall ensure safety for the pilot project enrollees and
29 financial protection for the state in the event of a
30 provider's inability to continue providing services under the
31 project. ~~The department shall select providers that:~~

1 ~~(a) Are determined by the Department of Financial~~
2 ~~Services to:~~

- 3 1. ~~Meet surplus requirements specified in s. 641.225;~~
4 2. ~~Demonstrate the ability to comply with the~~
5 ~~standards for financial solvency specified in s. 641.285;~~
6 3. ~~Demonstrate the ability to provide for the prompt~~
7 ~~payment of claims as specified in s. 641.3155; and~~
8 4. ~~Demonstrate the ability to provide technology with~~
9 ~~the capability for data collection that meets the security~~
10 ~~requirements of the federal Health Insurance Portability and~~
11 ~~Accountability Act of 1996, 42 C.F.R. ss. 160 and 164.~~

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

14 (10) The department, in consultation with the agency,
15 may adopt any rules necessary to administer the long-term care
16 community diversion pilot projects authorized under ss.
17 430.701-430.709.

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

20 430.707 Contracts.--

21 (1) The department, in consultation with the agency,
22 shall select and contract with managed care organizations and,
23 on a prepaid basis, with other qualified providers as defined
24 in s. 430.703(7) to provide long-term care within community
25 diversion pilot project areas. All providers shall ~~The agency~~
26 ~~shall evaluate and~~ report quarterly to the department
27 regarding the entity's the compliance ~~by other qualified~~
28 ~~providers~~ with all the financial and quality assurance
29 requirements of the contract.

30 Section 5. Section 430.041, Florida Statutes, is
31 repealed.

1 Section 6. This act shall take effect upon becoming a
2 law.

3
4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 2364

7 The committee substitute modifies financial solvency
8 requirements for "other qualified providers" within the
9 long-term care community diversion pilot projects (Nursing
10 Home Diversion and PACE programs) under the Department of
11 Elderly Affairs. The standards are rewritten in such a way as
12 to ensure that the state can approve the financial viability
13 of these other qualified providers, and allow them to remain
14 diversion program providers for up to 1-year, or until they
15 meet the solvency requirements. Within this 1-year period,
16 these providers may post a performance bond in lieu of meeting
17 the surplus requirement. The committee substitute provides
18 rule authority to the department, in consultation with AHCA,
19 and requires quarterly financial reporting by providers to
20 ensure that the providers not only met those standards upon
21 signing the contract, but maintain those standards throughout
22 the contract period. The committee substitute also repeals the
23 Office of Long-Term-Care Policy in the Department of Elderly
24 Affairs.
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