HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 371 Long-term Care Coverage
SPONSOR(S): Legg
TIED BILLS: **IDEN./SIM. BILLS:** SB 1208

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

SUMMARY ANALYSIS

HB 371 directs the Agency for Health Care Administration (AHCA) to establish the Florida Long-Term Care Partnership Program and provides an associated eligibility standard for nursing and rehabilitative services.

AHCA is required to develop a plan in the form of recommended legislation to implement the program prior to the next legislative session.

The bill shall take effect upon becoming law, except that the amendments relating to Medicaid eligibility are effective contingent upon action by Congress.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Reduce government --- Citizen participation in a long-term care insurance partnership program would likely reduce state Medicaid spending on nursing facility services.

Promote personal responsibility --- Purchase of long-term care insurance coverage for one's own needs would be more accessible and encouraged.

B. EFFECT OF PROPOSED CHANGES:

Background

In 1988, the Robert Wood Johnson Foundation sponsored the Long-Term Care Partnership Program (LTCPP or Partnership) as a demonstration project.[1] Its aim was to foster a public/private alliance between state governments and insurance companies with the goal of reducing state expenditures for long-term care by encouraging individual purchase of long-term care insurance. Four states (New York, California, Connecticut and Indiana) worked with private insurers to develop long-term care products that provided quality coverage at a more affordable price than otherwise available, and that provided the purchaser special Medicaid eligibility standards once their private benefits were exhausted. The states had State Plan Amendments approved by CMS in order to implement these programs.

The Partnership states use essentially two different approaches:

- New York uses the Total Asset Model, which requires the purchase of a minimum number of years of nursing home/at home care coverage. Once those benefits are used, none of the person's assets are considered when determining Medicaid long-term care eligibility.
- California and Connecticut use the Dollar for Dollar model, which allows the purchase of an amount of private coverage equal to the amount of assets the policyholder wants to protect. When the benefits are exhausted, the dollar amount of private insurance benefits paid out for long-term care is disregarded in determining Medicaid eligibility.
- Indiana uses a hybrid model, which represents a combination of the Total Assets and Dollar for Dollar approaches.

Each of the models requires that the policyholder's income be used for his or her cost of care.

Since the inception of the LTCPP, over 182,000 policies have been purchased. 2,057 policyholders have received benefits, and 89 have exhausted their benefits and accessed Medicaid.[2]

The Omnibus Budget Reconciliation Act of 1993 (OBRA 93) contains a provision that effectively keeps any other states from instituting a Partnership program at this time.[3] President Bush's proposed 2006 Budget includes a proposal to eliminate this ban on new programs.[4]

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[1] *See, generally*, University of Maryland Center on Aging, Partnership for Long Term Care, at www.hhp.umd.edu/AGING/PLTC; Ahlstrom, Alexis *et al.*, *The Long Term Care Partnership Program: Issues and Options*, The Brookings Institution, Washington, D.C., December 2004.

[2] Ahlstrom at page 5.

[3] The provision is in Section 1917(b) of the Social Security Act [42 U.S.C. 1396p] which requires that states pursue recovery against the estates of program participants. The states with CMS-approved LTCPP in existence prior to May 14, 1993, built this key provision into their programs and are not required to seek estate recovery against their participants.

[4] *Major Savings and Reforms in the President's 2006 Budget*, February 11, 2005, pg. 191; available at http://www.whitehouse.gov/omb/budget/fy2006/pdf/savings.pdf

Effect of Proposed Changes

HB 371 directs AHCA to establish the Florida Long-Term Care Partnership Program. The Partnership is to:

- Provide incentives for persons to obtain long-term care insurance
- Review and approve, in consultation with the Office of Insurance Regulation, long-term care insurance policies for inclusion within the program
- Provide a mechanism to qualify for Medicaid long-term care coverage without being required to spend down personal resources, using a dollar for dollar model
- Provide counseling on planning for long-term care needs
- Encourage the use of private initiatives to alleviate the financial burden on the state's medical assistance programs.

The bill provides that, for persons who are beneficiaries of an approved LTCPP policy and who have exhausted their benefits, their total countable assets for determining Medicaid long-term care eligibility are reduced by $1 for each $1 in paid out insurance benefits.

AHCA is to prepare a plan to implement the Florida LTCPP in the form of recommended legislation prior to the next legislative session. The legislation is to be sent to the Speaker of the House and the President of the Senate.

The bill shall take effect upon becoming law, except that the amendments relating to Medicaid eligibility are effective contingent upon action by Congress to remove the statutory provision that effectively keeps any other states from instituting a Partnership program.

C. SECTION DIRECTORY

Section 1: Amends s. 409.902, F.S.; directs AHCA to establish the Florida Long-Term Care Partnership Program; provides purposes for the program.

Section 2: Amends s. 409.905(8), F.S.; provides additional eligibility standard for nursing and rehabilitative services.

Section 3: Requires AHCA to develop a plan in the form of recommended legislation to implement the program prior to next legislative session.

Section 4: Provides an effective date of upon becoming law, except that the amendments relating to Medicaid eligibility are effective contingent upon action by Congress.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

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:

   The municipal/county mandates provision in section 18 of article VII of the Florida Constitution does not appear to applicable since the bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Office of Insurance Regulation (OIR) recommends a clarification to lines 46-49 to read:

> (b) Establish standards for ~~Review and approve, in consultation with the Office of Insurance Regulation,~~ long-term care insurance policies for designation as approved long-term care partnership program policies in consultation with the Office of Insurance Regulation.

The suggested amendment will assure that there is no statutory ambiguity created, i.e., OIR retains sole regulatory authority to review insurance policy form filings, but AHCA determines if a long-term care policy qualifies for inclusion in the LTCPP.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES