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1 A bill to be entitled

2 An act relating to long-term care coverage; amending s.
3 409.905, F.S.; revising conditions for eligibility for
4 nursing and rehabilitative services; repealing s.
5 409.905(8), F.S., as amended, to delete a conflicting
6 provision relating to eligibility for nursing and
7 rehabilitative services that was contingent upon amendment
8 to the Social Security Act; reenacting and amending s.
9 409.9102, F.S.; directing the Agency for Health Care
10 Administration to amend the Medicaid state plan that
11 established the Florida Long-term Care Partnership Program
12 for purposes of compliance with provisions of the Social
13 Security Act; revising conditions for qualification for
14 coverage; requiring consultation with the Department of
15 Children and Family Services; amending s. 4, ch. 2005-252,
16 Laws of Florida, to delete a contingency in an effective
17 date; providing an effective date.

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

20
21 Section 1. Subsection (8) of section 409.905, Florida
22 Statutes, is amended to read:

23 409.905 Mandatory Medicaid services.--The agency may make
24 payments for the following services, which are required of the
25 state by Title XIX of the Social Security Act, furnished by
26 Medicaid providers to recipients who are determined to be
27 eligible on the dates on which the services were provided. Any
28 service under this section shall be provided only when medically

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29 necessary and in accordance with state and federal law.
30 Mandatory services rendered by providers in mobile units to
31 Medicaid recipients may be restricted by the agency. Nothing in
32 this section shall be construed to prevent or limit the agency
33 from adjusting fees, reimbursement rates, lengths of stay,
34 number of visits, number of services, or any other adjustments
35 necessary to comply with the availability of moneys and any
36 limitations or directions provided for in the General
37 Appropriations Act or chapter 216.

38 (8) NURSING FACILITY SERVICES.--The agency shall pay for
39 24-hour-a-day nursing and rehabilitative services for a
40 recipient in a nursing facility licensed under part II of
41 chapter 400 or in a rural hospital, as defined in s. 395.602, or
42 in a Medicare certified skilled nursing facility operated by a
43 hospital, as defined by s. 395.002(11), that is licensed under
44 part I of chapter 395, and in accordance with provisions set
45 forth in s. 409.908(2)(a), which services are ordered by and
46 provided under the direction of a licensed physician. However,
47 if a nursing facility has been destroyed or otherwise made
48 uninhabitable by natural disaster or other emergency and another
49 nursing facility is not available, the agency must pay for
50 similar services temporarily in a hospital licensed under part I
51 of chapter 395 provided federal funding is approved and
52 available. The agency shall pay only for bed-hold days if the
53 facility has an occupancy rate of 95 percent or greater. The
54 agency is authorized to seek any federal waivers to implement
55 this policy. When determining eligibility for nursing and
56 rehabilitative services, if the individual is a beneficiary of a

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57 Florida long-term care partnership program policy and has
58 exhausted the benefits of the policy, the total countable assets
59 of the individual shall be reduced by an amount equal to the
60 insurance benefit payments that are made to or on behalf of the
61 individual.

62 Section 2. Subsection (8) of section 409.905, Florida
63 Statutes, as amended by chapter 2005-252, Laws of Florida, is
64 repealed:

65 409.905 Mandatory Medicaid services.--The agency may make
66 payments for the following services, which are required of the
67 state by Title XIX of the Social Security Act, furnished by
68 Medicaid providers to recipients who are determined to be
69 eligible on the dates on which the services were provided. Any
70 service under this section shall be provided only when medically
71 necessary and in accordance with state and federal law.

72 Mandatory services rendered by providers in mobile units to
73 Medicaid recipients may be restricted by the agency. Nothing in
74 this section shall be construed to prevent or limit the agency
75 from adjusting fees, reimbursement rates, lengths of stay,
76 number of visits, number of services, or any other adjustments
77 necessary to comply with the availability of moneys and any
78 limitations or directions provided for in the General
79 Appropriations Act or chapter 216.

80 ~~(8) NURSING FACILITY SERVICES. The agency shall pay for~~
81 ~~24 hour a day nursing and rehabilitative services for a~~
82 ~~recipient in a nursing facility licensed under part II of~~
83 ~~chapter 400 or in a rural hospital, as defined in s. 395.602, or~~
84 ~~in a Medicare certified skilled nursing facility operated by a~~

85 ~~hospital, as defined by s. 395.002(11), that is licensed under~~
 86 ~~part I of chapter 395, and in accordance with provisions set~~
 87 ~~forth in s. 409.908(2)(a), which services are ordered by and~~
 88 ~~provided under the direction of a licensed physician. However,~~
 89 ~~if a nursing facility has been destroyed or otherwise made~~
 90 ~~uninhabitable by natural disaster or other emergency and another~~
 91 ~~nursing facility is not available, the agency must pay for~~
 92 ~~similar services temporarily in a hospital licensed under part I~~
 93 ~~of chapter 395 provided federal funding is approved and~~
 94 ~~available. The agency shall pay only for bed hold days if the~~
 95 ~~facility has an occupancy rate of 95 percent or greater. When~~
 96 ~~determining eligibility for nursing and rehabilitative services,~~
 97 ~~if the individual is a beneficiary of an approved long term care~~
 98 ~~partnership program policy and has exhausted the benefits of the~~
 99 ~~policy, the total countable assets of the individual shall be~~
 100 ~~reduced by \$1 for each \$1 of benefits paid out under the~~
 101 ~~individual's approved long term care partnership program policy.~~
 102 ~~The agency is authorized to seek any federal waivers to~~
 103 ~~implement this policy.~~

104 Section 3. Section 409.9102, Florida Statutes, as created
 105 by chapter 2005-252, Laws of Florida, is reenacted and amended
 106 to read:

107 409.9102 Florida Long-term Care Partnership Program.--The
 108 Agency for Health Care Administration is directed to amend the
 109 Medicaid state plan establishing ~~establish~~ the Florida Long-term
 110 Care Partnership Program, in compliance with the requirements of
 111 s. 1921(b) of the Social Security Act, as amended, which shall:

112 (1) Provide incentives for an individual to obtain
 113 insurance to cover the costs of long-term care.

114 (2) Establish standards for long-term care insurance
 115 policies for designation as approved long-term care partnership
 116 program policies in consultation with the Office of Insurance
 117 Regulation.

118 (3) Provide a mechanism to qualify for coverage of the
 119 costs of long-term care needs under Medicaid without first being
 120 required to substantially exhaust his or her resources,
 121 including a provision for the disregard of any assets or
 122 resources in an amount equal to the insurance benefit payments
 123 that are made to or on behalf of an individual who is a
 124 beneficiary under a Florida long-term care partnership program
 125 policy reduction of the individual's asset valuation by \$1 for
 126 each \$1 of benefits paid out under the individual's approved
 127 long term care partnership program policy as a determination of
 128 Medicaid eligibility, in consultation with the Department of
 129 Children and Family Services.

130 (4) Provide and approve long-term care partnership plan
 131 information distributed to individuals through insurance
 132 companies offering approved partnership policies.

133 (5) Alleviate the financial burden on the state's medical
 134 assistance program by encouraging the pursuit of private
 135 initiatives.

136 Section 4. Section 4 of chapter 2005-252, Laws of Florida,
 137 is amended to read:

138 Section 4. This act shall take effect upon becoming a law,
 139 ~~except that the amendments to section 409.905, Florida Statutes,~~

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140 ~~and the newly created section 409.9102, Florida Statutes,~~
141 ~~provided in this act shall take effect contingent upon amendment~~
142 ~~to section 1917(b)(1)(c) of the Social Security Act by the~~
143 ~~United States Congress to delete the "May 14, 1993," deadline~~
144 ~~for approval by states of long-term care partnership plans.~~

145 Section 5. This act shall take effect July 1, 2006.