HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7065 PCB HCC 07-12 Medicaid
SPONSOR(S): Healthcare Council and Representative H. Gibson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Healthcare Council	12 Y, 3 N	Schoolfield	Gormley
1) Policy & Budget Council		Leznoff	Hansen
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill amends section 409.912(5), Florida Statutes, to implement an integrated fixed-payment service delivery system (Florida Senior Care) for Medicaid recipients age 60 and older in Area 7(Orange, Osceola, Seminole and Brevard counties) and Area 11 (Dade and Monroe counties) of the Agency for Health Care Administration. The bill authorizes the Agency for Health Care Administration to implement the Florida Senior Care program in accordance with approved federal waivers.

The bill makes participation of eligible individuals voluntary at both pilot sites. The Medicaid recipients must affirmatively choose to enroll into the pilot program. The bill specifies that individuals who choose to participate in the pilot may remain in their current licensed residence even if this residence is not under contract to the managed care program operator. The bill also provides enrollees access to an additional grievance process through the Subscriber Assistance Panel by designating the participating managed care organizations as prepaid health plans. The bill removes the requirement for the Agency for Health Care Administration to competitively procure managed care entities to operate the pilot program. The agency may select entities to operate the pilots who meet or exceed the minimum standards of the Agency. In addition, providers who participate are also provided with a grievance system that includes a formal and informal process. The bill creates a 10-business-day prompt payment requirement for participating managed care organizations in the pilot projects to make payment to nursing homes that bill electronically. This bill also clarifies section 409.915, Florida Statutes, to ensure continuation of county participation in nursing home cost contributions.

Finally, the bill makes changes to the OPPAGA evaluation requirement and requires AHCA to perform an analysis of the merits of seeking a combined Medicaid and Medicare federal waiver.

The House of Representatives proposal for general appropriations provides $649,384 from the General Revenue Fund and $649,384 in a matching trust fund to provide choice counseling services.

The bill is effective July 1, 2007.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government—The bill reduces the role of government in determining the long-term care options available to recipients
Promote Personal Responsibility—The bill will allow Medicaid recipients greater choice of health and long-term care services delivery plans.

B. EFFECT OF PROPOSED CHANGES:

This bill authorizes the Agency for Healthcare Administration (AHCA) to implement on a pilot basis an integrated, fixed-payment service delivery program called Florida Senior Care, which was created in response to 2005 Legislation.[1] The following provides background on the original authorizing legislation, details of the Florida Senior Care program Medicaid waiver created in response to the legislation, and the effects of this bill.

Background

The 2005 Legislature amended section 409.912(5), Florida Statutes, as part of Medicaid reform legislation to direct the Agency for Health Care in partnership with the Department of Elderly Affairs (DOEA) to create an integrated fixed-payment service delivery system for Medicaid recipients age 60 years of age or older. The program must combine all Medicaid funds for participating recipients (health and long-term care services). This includes Medicaid home and community based waiver services and all mandatory and optional Medicaid service funding authorized in sections 409.905 and 409.906, Florida Statutes. Some individuals were excluded from the program including individuals enrolled in the developmental disabilities waiver program, family and supported living waiver program, project AIDS care waiver program, traumatic brain injury and spinal cord injury waiver program, consumer directed care waiver program, program for all inclusive care for the elderly waiver program and residents of institutional care facilities for the developmentally disabled. Medicaid nursing home funds were to be excluded from the program unless AHCA can demonstrate how integration of these funds improves care and is cost effective. The program was to be implemented on a pilot basis in two areas of the state and in one pilot area enrollment to the program would be voluntary. The legislation also directed AHCA to competitively procure eligible entities to operate the program and required the credentialing of subcontract service providers. In addition, AHCA was directed to use a capitated rate methodology for the program and to ensure that rates are actuarially sound for providing quality care. The legislation also allowed program participants who enrolled at the implementation of the program to remain in their current licensed residence if they desire. AHCA was given permission by the legislation to seek federal waivers and to adopt rules to administer the program. OPPAGA is required to conduct an evaluation of the pilot program within 24 months of program implementation.

Florida Senior Care Approved Medicaid Waiver [2]
(Note: Some of the components in the approved Medicaid waiver are changed by this Council bill)

In response to the Legislative directives in chapter 409.912(5), AHCA in partnership with DOEA requested and received approval in September 2006, from federal Centers for Medicaid and Medicare services of 1915(b) and 1915(c) Medicaid waivers to implement the Legislative directive. Called Florida Senior Care, the integrated service delivery program will provide health and long-term care services to Medicaid recipients in two pilot areas of the state. The agency has included nursing home funding in the integrated program and has provided analysis that this will potentially improve coordination of care,

[1] Senate Bill 838,
[2] Florida Senior Care Summary of Approved Waiver Documents, November 2006, Agency for Health Care Administration.

reduce cost and increase budget predictability. [3] Individuals participating will have a choice of at least two plans from managed care organizations that will coordinate service delivery. A capitated payment structure is planned to give managed care organizations the flexibility to expend resources on the care needed most and in settings desired most by elder participants.

Florida Senior Care is intended to address fragmentation of service coordination for Medicaid participants by having one managed care organization provide all Medicaid services for a participant age 60 or older, including long term care. This plan includes physician services, hospitalization, prescription drugs, durable medical equipment, transportation, mental health services, and more. Home and Community Based waiver services will be limited as they are now, but the managed care organization can choose to provide additional services as a substitute for other, generally more expensive services such as nursing home care. This flexibility in the service menu is one of the key features of the Florida Senior Care plan.

Florida has operated a voluntary managed long-term care program for dually eligible participants age 65 and older for the last six years. The long-term care community diversion pilot project, also known as the Nursing Home Diversion waiver, currently serves more than 8,500 frail elders with plans to expand to 10,000 participants during Fiscal Year 2006-2007[4]. The Nursing Home Diversion program is fully capitated for almost all Medicaid services for the population served, including Medicare co-pays and deductibles, home and community based services and, if needed, nursing home care. The program is considered successful in providing integrated care with a focus on community based long term care. Limitations to this diversion model include the requirement that participants meet high frailty criteria to enter the program. This ensures that the program serves only individuals that are most needy, but it also increases the financial risk to the managed care plan and denies the plan the opportunity to provide preventative services before frailty advances and caregivers burn out from their care duties. Under Florida Senior Care, the inclusion of all elders, rather than just those who are frail and in need of formal long term care services will allow managed care organizations to spread their risk by incorporating more healthy individuals into their plan.

The Agency for Health Care Administration reports that Florida Senior Care will provide the following:
• *Coordinate all health care services*—Florida Senior Care will coordinate care across all health care settings including primary care doctors, specialists, hospital care, and when needed, long-term care in the home or in a nursing home.
• *Allow seniors to maintain their independence longer*—This system will provide flexibility to deliver care in the home or in the community as an alternative to nursing home care when appropriate based on an individual's needs. As a result, Florida Senior Care will allow Medicaid to provide a greater percentage of home and community based services to Florida's seniors.
• *Allow enrollees to choose the plan that's best for them*—Enrollment counseling will be available to help seniors make an informed choice. Once seniors have selected a plan, enrollees are free to change their primary care provider anytime under Florida Senior Care.
• *Provide a care coordinator to help arrange for needed services while encouraging individuals to participate in developing their plan of care*—Florida Senior Care will help seniors navigate a complicated health care system. Seniors will have one place to contact to arrange for health care services. The provision of a care coordinator will be especially beneficial for seniors who receive services through both the Medicare and Medicaid programs (dual eligibility).

Major Program Components of Approved Medicaid Waiver

Program Objectives—The Florida Senior Care program is intended to achieve the following outcomes: coordinate care, manage all health costs, and establish accountability for eligible Medicaid participants. In addition, the project strives to promote home and community based services; streamline long term

[3] Florida Senior Care: Inclusion of Funds for Medicaid Nursing Home Services, February 16, 2006, Mercer Government Human Services Consulting.
[4] Long-Term Care Community Diversion Pilot Project - Legislative Report, January 2007, Department of Elder Affairs.

care eligibility determinations; develop new quality management systems; create integrated networks of care at the local level; and develop an appropriate risk adjusted reimbursement method that will include incentives for community living arrangements.

Pilot Areas—As directed by the legislature, two pilot areas were chosen to test the program concept. The Panhandle and Central Florida pilot areas were chosen and included in the Medicaid waiver to represent both rural and urban areas.[5]

Eligibility and Enrollment—Most individuals age 60 or older enrolled in Medicaid in the pilot areas will be able to choose a Florida Senior Care provider. Individuals enrolled in certain programs are excluded from Florida Senior Care. Eligible individuals in the pilot areas may opt to continue receiving Medicaid services outside of Florida Senior Care. [6] These individuals will be provided choice counseling to assist them in making an informed choice. An emphasis on face to face counseling will be made for the seniors.

Participants will continue to enter the Medicaid program through financial eligibility determination by DCF Offices of Economic Self-Sufficiency or the Social Security Administration. Medical eligibility for long term care services will continue to be determined by the Department of Elder Affairs' CARES (Comprehensive Assessment Review and Evaluation of LTC Services) unit.

Service Provision—All Medicaid services will be available to Florida Senior Care enrollees including primary, acute, and long term care, and prescription medications. Each enrollee will have a care coordinator to assist in planning and coordinating the enrollee's care and in navigating the program. The majority of enrollees in the selected pilot areas, 86 percent, are also eligible for Medicare. These dually eligible individuals will continue to receive Medicare services as they do now, but the Florida Senior Care Coordinator will also assist with coordinating, as much as possible, Medicare and Medicaid services.

Delivery Systems—Managed care organizations will be selected for each pilot area. A variety of types of entities are eligible to participate. Each managed care organization must be able to demonstrate that it has a comprehensive network of qualified providers for each service that must be provided under the plan.

Program Administration—The Agency for Health Care Administration will approve the managed care organizations and administer their contracts. All program decisions will be made by AHCA in partnership with DOEA, who will share operational responsibilities for the Florida Senior Care program. The agency will determine whether managed care organizations seeking to be Florida Senior Care providers meet financial solvency standards and will review quarterly reports from the managed care organizations to ensure that solvency standards are maintained.

Accountability, Monitoring, and Evaluation— AHCA will select a contractor to perform an independent evaluation of the pilots. In addition, the Office of Program Policy Analysis and Government Accountability (OPPAGA), in consultation with the Auditor General, will comprehensively evaluate the pilot within 24 months of implementation.

Financing—Funding for the Florida Senior Care program will come from individual Medicaid services line items in the budget, as appropriated by the Florida Legislature. These funds will be taken in proportion to the population age 60 and older served in the pilot areas. Service funds will be pooled in

[5] This bill changes pilot areas from Area 1 to Area 11. The pilot areas are now Area 7 and Area 11 of AHCA and DOEA. The approved Medicaid waiver will need to be amended to reflect the change if this bill becomes statute.

[6] This bill makes both pilot sites voluntary enrollment. Therefore, individuals at both sites must make an affirmative choice of whether to participate in the pilot program. In the originally approved Medicaid waiver the individual must opt out (affirmatively say "no") to the offer for Florida Senior Care within 30 days or they will be automatically enrolled into one of the Florida Senior Care Plans. Individuals may elect to change their plan within 90 days. After this time period they must remain in the plan for one year. The federal waiver will need to be amended to comport with this bill if it becomes statute.

order to make fixed monthly payments to FSC plans for each enrolled individual. Capitated payments will be developed based on the current cost to Medicaid to provide services for this population.

Effect of Legislation:

The Council bill amends sections 409.912, 408.40 and 409.915, Florida Statutes, to make changes to the integrated fixed-payment delivery system for the implementation of the pilot programs. The following changes or additions are reflected in this bill:

Pilot Sites: This legislation designates Area 7 and Area 11 (instead of Area 1) as the pilot sites for the Florida Senior Care projects. Area 7 (Orange, Osceola, Seminole and Brevard counties) was one of the original sites selected in the approved Medicaid waiver. There are approximately 21,265 Medicaid recipients who would be eligible to participate in Area 7. Area 11 (Dade and Monroe counties) has 97,179 Medicaid eligible recipients who could participate. In contrast, Area 1 has approximately 5,743 eligible Medicaid recipients. The agency anticipates that only a percentage of the eligible Medicaid recipients in Area 7 and 11 will choose Florida Senior Care. The original estimate of participation was 85 percent when enrollment was mandatory in one area and voluntary in the other area. This estimate is currently being revised by the agency. The move to Area 11 for the pilot should provide more opportunity for people to enroll in the pilot and a larger sample for the evaluation of the Florida Senior Care program.

Voluntary Enrollment: The bill changes enrollment to voluntary for both pilot sites. In addition, the bill requires individuals to affirmatively choose to participate in Florida Senior Care. This eliminates auto enrollment of individuals who do not respond to the offer to participate in the pilot program. Individuals will have a choice of enrolling in the Florida Senior Care Pilot or remaining in their current service arrangement (e.g. Medipass, Medicaid managed care, Medicaid fee for service or Home and Community Based Medicaid waiver). The change to voluntary will require federal approval of an amendment to the Medicaid waiver for Florida Senior Care. The bill also requires the enrollment of participants to conform to the approved federal Medicaid waivers and s.409.912 (5).

Removes Competitive Procurement Requirement: The bill removes the requirement to competitively procure managed care entities for Florida Senior Care plans in the pilot areas. The bill allows any managed care entity that meets or exceeds AHCA minimum standards, to participate and offer plans in the pilot areas. It is anticipated that this change will increase the number of plans that offer services to Medicaid recipients in the pilot areas.

Designates plan operators (entities) as prepaid health plans: This bill designates the plan provider or entity as a prepaid health plan as referenced in section 408.7056(1) (e), Florida Statutes. This designation provides Florida Senior Care enrollees access to the Subscriber Assistance Panel grievance process. All enrollees will have access to internal grievance processes in their health plan and the Medicaid Fair Hearing Process. In addition, Florida Senior Care enrollees will have access to the Subscriber Assistance Panel to hear external grievances from Medicaid recipients in managed care plans.

Provider grievance system: This bill requires the agency to develop and maintain an informal and formal grievance system for providers of service. This provision also directs that the formal system will address grievances which have not been handled informally. This grievance system would give providers a forum for resolving disputes between the managed care entity and subcontract providers as well as the managed care entity and the state. This provision would make Florida Senior Care more consistent with the Medicaid reform pilot requirements for a provider grievance system.

Allow participants to remain in current residence: The bill amends the current statute to allow individuals who participate in Florida Senior Care to choose to remain in their current residence

regardless of when they enter the program. This provision would be contingent on the individual's current residential facility accepting the Medicaid rate or the contracted rate from the managed care organization. The residential settings are limited to those facilities licensed under chapters 400 and 429, Florida Statutes (e.g., nursing homes, assisted living facilities, adult family care homes, transitional living facilities, and homes for special services).

Prompt Payment for Nursing Homes: The bill requires managed care entities to pay nursing home providers within 10 business days when they submit electronic claims that have sufficient information to process the claim. The nursing home industry has expressed concern about prompt payment under Florida Senior care pilots and warned that cash flow problems could develop if a prompt payment provision was not implemented. The bill also provides an alternate method for managed care entities to make payments to nursing homes on a prospective capitated payment basis. This would provide payment for nursing homes in advance of delivery of services and alleviate cash flow concerns from late payment.

Evaluation by the OPPAGA: This bill amends the existing requirements for an evaluation by OPPAGA as follows:

- Requires OPPAGA to begin the evaluation as soon as Medicaid recipients are enrolled in the plan. This would allow OPPAGA to advise on progress from the beginning of the pilots.
- Sets 24 month duration of the evaluation once Medicaid recipients are enrolled.
- Clarifies the intent of the evaluation which is to assess each of the managed care plans in the program.
- Changes the deadline for a report to the Governor, Speaker of the House, and President of the Senate to December 31, 2009.

State Plan Option: The bill also adds language that allows the agency to seek Medicaid state plan amendments in addition to the existing Medicaid waiver authority in the statute. This addition contemplates changes in federal law under the Deficit Reduction Act which the agency may choose to consider if additional federal approvals are necessary.

Implementation Authority: This bill gives AHCA the authority to implement the Florida Senior Care waivers approved by the federal Centers for Medicaid and Medicare Services. Implementation must be in accordance with section 409.912(5), Florida Statutes.

Additional Analysis for Future waivers: The bill directs AHCA to provide an analysis to the Legislature regarding the merits and challenges of seeking a federal waiver that combines Medicare and Medicaid funding in a program for dually enrolled individuals age 65 and older. Some states (e.g., Wisconsin, Massachusetts and Minnesota) have received federal waivers to operate these type programs.

Technical changes: The name of the integrated fixed payment delivery *system* is changed to integrated fixed-payment delivery *program*. This technical change to using the word program instead of system provides a more accurate description of the project since the project is voluntary at pilot sites and does not comprise the total system of services. In addition, section 409.915(1) (b), Florida Statutes, is amended to clarify that county participation in nursing home payments will continue whether Medicaid recipients are in the fee for service program or a health maintenance managed care arrangement.

C. SECTION DIRECTORY:

Section 1: Amends s.409.912(5), F.S., specifying provisions of the integrated fixed-payment delivery program.

Section 2: Amends s. 408.40, F.S., making technical wording changes.

Section 3: Amends s. 409.915 (1) (b) to clarify continuation of county participation.

Section: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	FY 2007-08	FY 2008-09
Title XIX Medicaid Administration	$649,384	$649,384

2. Expenditures:

	FY 2007-08	FY 2008-09
Choice Counseling Services	$900,797	$900,797
Choice Counseling Materials/Training	$124,971	$124,971
Project Manager Contractual Services	$273,000	$273,000
Total	**$1,298,768**	**$1,298,768**
General Revenue Fund	$649,384	$649,384
Administrative Trust Fund	$649,384	$649,384

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Entities providing choice counseling services will be able to contract with AHCA.

D. FISCAL COMMENTS:

The amendments to this bill changed the pilots to voluntary enrollment and changed the pilot sites from Area 1 to Area 11. Additional fiscal analysis and impact is forthcoming to reflect these changes.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take any action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

At its March 20, 2007, meeting, the Council on Healthcare adopted four amendments to PCB-HCC-07-12 The amendments:

- Provide a technical change to s.409.912 to ensure continuation of county participation in nursing home contributions.
- Clarify the meaning of voluntary and require participants to affirmatively choose to be in the pilot program.
- Remove the competitive procurement requirement in the bill and allow managed care entities who meet or exceed Agency for Healthcare Administration standards to operate in the pilots.
- Designate the pilot sites as Area 7 and Area 11 of the Agency.

The Committee reported the bill favorably as amended.