

1 A bill to be entitled
2 An act relating to transportation services for the
3 transportation disadvantaged; amending s. 409.908, F.S.;
4 authorizing the Agency for Health Care Administration to
5 continue to contract for Medicaid nonemergency
6 transportation services in a specified agency service area
7 with managed care plans under certain conditions; amending
8 s. 427.011, F.S.; revising definitions; defining the term
9 "purchasing agency"; amending s. 427.012, F.S.; revising
10 the number of members required for a quorum at a meeting
11 of the Commission for the Transportation Disadvantaged;
12 amending s. 427.013, F.S.; revising responsibilities of
13 the commission; deleting a requirement that the commission
14 establish by rule acceptable ranges of trip costs;
15 removing a provision for functioning and oversight of the
16 quality assurance and management review program; requiring
17 the commission to incur expenses for promotional services
18 and items; amending s. 427.0135, F.S.; revising and
19 creating duties and responsibilities for agencies that
20 purchase transportation services for the transportation
21 disadvantaged; providing requirements for the payment of
22 rates; requiring an agency to negotiate with the
23 commission before procuring transportation disadvantaged
24 services; requiring an agency to identify its allocation
25 for transportation disadvantaged services in its
26 legislative budget request; amending s. 427.015, F.S.;
27 revising provisions relating to the function of the
28 metropolitan planning organization or designated official

29 | planning agency; amending s. 427.0155, F.S.; revising
 30 | duties of community transportation coordinators; amending
 31 | s. 427.0157, F.S.; revising duties of coordinating boards;
 32 | amending s. 427.0158, F.S.; deleting provisions requiring
 33 | the school board to provide information relating to school
 34 | buses to the transportation coordinator; providing for the
 35 | transportation coordinator to request certain information
 36 | regarding public transportation; amending s. 427.0159,
 37 | F.S.; revising provisions relating to the Transportation
 38 | Disadvantaged Trust Fund; providing for the deposit of
 39 | funds by an agency purchasing transportation services;
 40 | amending s. 427.016, F.S.; providing for construction and
 41 | application of specified provisions to certain acts of a
 42 | purchasing agency in lieu of the Medicaid agency;
 43 | requiring that an agency identify the allocation of funds
 44 | for transportation disadvantaged services in its
 45 | legislative budget request; providing an effective date.

46 |

47 | Be It Enacted by the Legislature of the State of Florida:

48 |

49 | Section 1. Subsection (18) of section 409.908, Florida
 50 | Statutes, is amended to read:

51 | 409.908 Reimbursement of Medicaid providers.--Subject to
 52 | specific appropriations, the agency shall reimburse Medicaid
 53 | providers, in accordance with state and federal law, according
 54 | to methodologies set forth in the rules of the agency and in
 55 | policy manuals and handbooks incorporated by reference therein.
 56 | These methodologies may include fee schedules, reimbursement

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57 methods based on cost reporting, negotiated fees, competitive
58 bidding pursuant to s. 287.057, and other mechanisms the agency
59 considers efficient and effective for purchasing services or
60 goods on behalf of recipients. If a provider is reimbursed based
61 on cost reporting and submits a cost report late and that cost
62 report would have been used to set a lower reimbursement rate
63 for a rate semester, then the provider's rate for that semester
64 shall be retroactively calculated using the new cost report, and
65 full payment at the recalculated rate shall be effected
66 retroactively. Medicare-granted extensions for filing cost
67 reports, if applicable, shall also apply to Medicaid cost
68 reports. Payment for Medicaid compensable services made on
69 behalf of Medicaid eligible persons is subject to the
70 availability of moneys and any limitations or directions
71 provided for in the General Appropriations Act or chapter 216.
72 Further, nothing in this section shall be construed to prevent
73 or limit the agency from adjusting fees, reimbursement rates,
74 lengths of stay, number of visits, or number of services, or
75 making any other adjustments necessary to comply with the
76 availability of moneys and any limitations or directions
77 provided for in the General Appropriations Act, provided the
78 adjustment is consistent with legislative intent.

79 (18) Unless otherwise provided for in the General
80 Appropriations Act, a provider of transportation services shall
81 be reimbursed the lesser of the amount billed by the provider or
82 the Medicaid maximum allowable fee established by the agency,
83 except when the agency has entered into a direct contract with
84 the provider, or with a community transportation coordinator,

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85 | for the provision of an all-inclusive service, or when services
86 | are provided pursuant to an agreement negotiated between the
87 | agency and the provider. The agency, as provided for in s.
88 | 427.0135, shall purchase transportation services through the
89 | community coordinated transportation system, if available,
90 | unless the agency determines a more cost-effective method for
91 | Medicaid clients. Nothing in this subsection shall be construed
92 | to limit or preclude the agency from contracting for services
93 | using a prepaid capitation rate or from establishing maximum fee
94 | schedules, individualized reimbursement policies by provider
95 | type, negotiated fees, prior authorization, competitive bidding,
96 | increased use of mass transit, or any other mechanism that the
97 | agency considers efficient and effective for the purchase of
98 | services on behalf of Medicaid clients, including implementing a
99 | transportation eligibility process. The agency shall not be
100 | required to contract with any community transportation
101 | coordinator or transportation operator that has been determined
102 | by the agency, the Department of Legal Affairs Medicaid Fraud
103 | Control Unit, or any other state or federal agency to have
104 | engaged in any abusive or fraudulent billing activities. The
105 | agency is authorized to competitively procure transportation
106 | services or make other changes necessary to secure approval of
107 | federal waivers needed to permit federal financing of Medicaid
108 | transportation services at the service matching rate rather than
109 | the administrative matching rate. Notwithstanding the provisions
110 | of chapter 427, the agency is authorized to continue contracting
111 | for Medicaid nonemergency transportation services in agency
112 | service area 11 with managed care plans that were under contract

113 for those services prior to July 1, 2004.

114 Section 2. Subsections (8), (12), and (13) of section
115 427.011, Florida Statutes, are amended to read:

116 427.011 Definitions.--For the purposes of ss. 427.011-
117 427.017:

118 (8) "Purchasing agency" ~~"Member department"~~ means a
119 department or agency whose head is an ex officio, nonvoting
120 advisor to a member of the commission, or an agency that
121 purchases transportation services for the transportation
122 disadvantaged.

123 ~~(12) "Annual budget estimate" means a budget estimate of~~
124 ~~funding resources available for providing transportation~~
125 ~~services to the transportation disadvantaged and which is~~
126 ~~prepared annually to cover a period of 1 state fiscal year.~~

127 (12) ~~(13)~~ "Nonsponsored transportation disadvantaged
128 services" means transportation disadvantaged services that are
129 not sponsored or subsidized by any funding source other than the
130 Transportation Disadvantaged Trust Fund.

131 Section 3. Subsection (4) of section 427.012, Florida
132 Statutes, is amended to read:

133 427.012 The Commission for the Transportation
134 Disadvantaged.--There is created the Commission for the
135 Transportation Disadvantaged in the Department of
136 Transportation.

137 (4) The commission shall meet at least quarterly, or more
138 frequently at the call of the chairperson. Four ~~Five~~ members of
139 the commission constitute a quorum, and a majority vote of the
140 members present is necessary for any action taken by the

141 commission.

142 Section 4. Subsections (7), (8), (9), (14), and (26) of
143 section 427.013, Florida Statutes, are amended, and subsection
144 (29) is added to that section, to read:

145 427.013 The Commission for the Transportation
146 Disadvantaged; purpose and responsibilities.--The purpose of the
147 commission is to accomplish the coordination of transportation
148 services provided to the transportation disadvantaged. The goal
149 of this coordination shall be to assure the cost-effective
150 provision of transportation by qualified community
151 transportation coordinators or transportation operators for the
152 transportation disadvantaged without any bias or presumption in
153 favor of multioperator systems or not-for-profit transportation
154 operators over single operator systems or for-profit
155 transportation operators. In carrying out this purpose, the
156 commission shall:

157 (7) Unless otherwise provided by state or federal law,
158 assure that all procedures, guidelines, and directives issued by
159 purchasing agencies ~~member departments~~ are conducive to the
160 coordination of transportation services.

161 (8) (a) Assure that purchasing agencies ~~member departments~~
162 purchase all trips within the coordinated system, unless they
163 have fulfilled the requirements of s. 427.0135(3) and use a more
164 cost-effective alternative provider that meets comparable
165 quality and standards.

166 (b) Provide, by rule, criteria and procedures for
167 purchasing agencies ~~member departments~~ to use if they wish to
168 use an alternative provider. Agencies ~~Departments~~ must

169 demonstrate ~~either~~ that the proposed alternative provider can
 170 provide a trip of comparable acceptable quality and standards
 171 for the clients at a lower cost than that provided within the
 172 coordinated system, ~~or~~ that the coordinated system cannot
 173 accommodate the agency's department's clients, or that the
 174 agency has satisfied the requirements of s. 427.0135(3).

175 (9) Develop by rule standards for community transportation
 176 coordinators and any transportation operator or coordination
 177 contractor from whom service is purchased or arranged by the
 178 community transportation coordinator covering coordination,
 179 operation, safety, insurance, eligibility for service, costs,
 180 and utilization of transportation disadvantaged services. Such
 181 rules shall not apply to purchasing agencies meeting the
 182 requirements of s. 427.0135(3) and using an alternative
 183 provider. These standards and rules must include, but are not
 184 limited to:

185 ~~(a) Inclusion, by rule, of acceptable ranges of trip costs~~
 186 ~~for the various modes and types of transportation services~~
 187 ~~provided.~~

188 (b) ~~(a)~~ Minimum performance standards for the delivery of
 189 services. These standards must be included in coordinator
 190 contracts and transportation operator contracts with clear
 191 penalties for repeated or continuing violations.

192 (b) ~~(e)~~ Minimum liability insurance requirements for all
 193 transportation services purchased, provided, or coordinated for
 194 the transportation disadvantaged through the community
 195 transportation coordinator.

196 (14) Consolidate, for each state agency, ~~the annual budget~~

197 ~~estimates for transportation disadvantaged services, and the~~
 198 amounts of each agency's actual expenditures, together with the
 199 actual expenditures annual budget estimates of each official
 200 ~~planning agency,~~ local government, and directly federally funded
 201 agency and the amounts collected by each official planning
 202 agency issue a report.

203 (26) Develop a quality assurance and management review
 204 program to monitor, based upon approved commission standards,
 205 services contracted for by an agency, and those provided by a
 206 community transportation operator pursuant to s. 427.0155. ~~Staff~~
 207 ~~of the quality assurance and management review program shall~~
 208 ~~function independently and be directly responsible to the~~
 209 ~~executive director.~~

210 (29) Incur expenses for the purchase of advertisements,
 211 marketing services, and promotional items.

212 Section 5. Section 427.0135, Florida Statutes, is amended
 213 to read:

214 427.0135 Purchasing agencies ~~Member departments;~~ duties
 215 and responsibilities.--Each purchasing agency ~~member department,~~
 216 in carrying out the policies and procedures of the commission,
 217 shall:

218 (1)~~(a)~~ Use the coordinated transportation system for
 219 provision of services to its clients, unless each department or
 220 purchasing agency meets the criteria outlined in rule or statute
 221 to use an alternative provider.

222 ~~(b) Subject to the provisions of s. 409.908(18), the~~
 223 ~~Medicaid agency shall purchase transportation services through~~
 224 ~~the community coordinated transportation system unless a more~~

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225 ~~most effective method is determined by the agency for Medicaid~~
226 ~~clients or unless otherwise limited or directed by the General~~
227 ~~Appropriations Act.~~

228 (2) Pay the rates established in the service plan or
229 negotiated statewide contract, unless the purchasing agency has
230 completed the procedure for using an alternative provider and
231 demonstrated that a proposed alternative provider can provide a
232 more cost-effective transportation service of comparable quality
233 and standards or unless the agency has satisfied the
234 requirements of subsection (3).

235 (3) Not procure transportation disadvantaged services
236 without initially negotiating with the commission, as provided
237 in s. 287.057(5)(f)13., or unless otherwise authorized by
238 statute. If the purchasing agency, after consultation with the
239 commission, determines that it cannot reach mutually acceptable
240 contract terms with the commission, the purchasing agency may
241 contract for the same transportation services provided in a more
242 cost-effective manner and of comparable or higher quality and
243 standards than those provided by the commission, as determined
244 by the purchasing agency. The Medicaid agency shall implement
245 this subsection in a manner consistent with s. 409.908(18) and
246 as otherwise limited or directed by the General Appropriations
247 Act.

248 (4) Identify in the legislative budget request provided to
249 the Governor each year for the General Appropriations Act the
250 specific amount of any money the purchasing agency will allocate
251 for the provision of transportation disadvantaged services.

252 (5)-(2) Provide the commission, by September 15 of each

253 year, an accounting of all funds spent as well as how many trips
254 were purchased with agency funds.

255 ~~(6)~~(3) Assist communities in developing coordinated
256 transportation systems designed to serve the transportation
257 disadvantaged. However, a purchasing agency ~~member department~~
258 may not serve as the community transportation coordinator in any
259 designated service area.

260 ~~(7)~~(4) Assure that its rules, procedures, guidelines, and
261 directives are conducive to the coordination of transportation
262 funds and services for the transportation disadvantaged.

263 ~~(8)~~(5) Provide technical assistance, as needed, to
264 community transportation coordinators or transportation
265 operators or participating agencies.

266 Section 6. Subsections (2) and (3) of section 427.015,
267 Florida Statutes, are amended to read:

268 427.015 Function of the metropolitan planning organization
269 or designated official planning agency in coordinating
270 transportation for the transportation disadvantaged.--

271 (2) Each metropolitan planning organization or designated
272 official planning agency shall recommend to the commission a
273 single community transportation coordinator. However, a
274 purchasing agency ~~member department~~ may not serve as the
275 community transportation coordinator in any designated service
276 area. The coordinator may provide all or a portion of needed
277 transportation services for the transportation disadvantaged but
278 shall be responsible for the provision of those coordinated
279 services. Based on approved commission evaluation criteria, the
280 coordinator shall subcontract or broker those services that are

281 more cost-effectively and efficiently provided by subcontracting
 282 or brokering. The performance of the coordinator shall be
 283 evaluated based on the commission's approved evaluation criteria
 284 by the coordinating board at least annually. A copy of the
 285 evaluation shall be submitted to the metropolitan planning
 286 organization or the designated official planning agency, and the
 287 commission. The recommendation or termination of any community
 288 transportation coordinator shall be subject to approval by the
 289 commission.

290 (3) Each metropolitan planning organization or designated
 291 official planning agency shall request each local government in
 292 its jurisdiction to provide the actual expenditures ~~an estimate~~
 293 of all local and direct federal funds to be expended for
 294 transportation for the disadvantaged. The metropolitan planning
 295 organization or designated official planning agency shall
 296 consolidate this information into a single report and forward
 297 it, by September 15 ~~the beginning of each fiscal year~~, to the
 298 commission.

299 Section 7. Subsection (7) of section 427.0155, Florida
 300 Statutes, is amended to read:

301 427.0155 Community transportation coordinators; powers and
 302 duties.--Community transportation coordinators shall have the
 303 following powers and duties:

304 (7) In cooperation with the coordinating board and
 305 pursuant to criteria developed by the Commission for the
 306 Transportation Disadvantaged, establish eligibility guidelines
 307 and priorities with regard to the recipients of nonsponsored
 308 transportation disadvantaged services that are purchased with

309 Transportation Disadvantaged Trust Fund moneys.

310 Section 8. Subsection (4) of section 427.0157, Florida
311 Statutes, is amended to read:

312 427.0157 Coordinating boards; powers and duties.--The
313 purpose of each coordinating board is to develop local service
314 needs and to provide information, advice, and direction to the
315 community transportation coordinators on the coordination of
316 services to be provided to the transportation disadvantaged. The
317 commission shall, by rule, establish the membership of
318 coordinating boards. The members of each board shall be
319 appointed by the metropolitan planning organization or
320 designated official planning agency. The appointing authority
321 shall provide each board with sufficient staff support and
322 resources to enable the board to fulfill its responsibilities
323 under this section. Each board shall meet at least quarterly and
324 shall:

325 (4) Assist the community transportation coordinator in
326 establishing eligibility guidelines and priorities with regard
327 to the recipients of nonsponsored transportation disadvantaged
328 services that are purchased with Transportation Disadvantaged
329 Trust Fund moneys.

330 Section 9. Subsections (2) and (3) of section 427.0158,
331 Florida Statutes, are amended to read:

332 427.0158 School bus and public transportation.--

333 (2) The school boards shall cooperate in the utilization
334 of their vehicles to enhance coordinated ~~disadvantaged~~
335 transportation disadvantaged services by providing ~~the~~
336 information as requested by the community transportation

337 ~~coordinator required by this section~~ and by allowing the use of
338 their vehicles at actual cost upon request when those vehicles
339 are available for such use and are not transporting students.
340 ~~Semiannually, no later than October 1 and April 30, a designee~~
341 ~~from the local school board shall provide the community~~
342 ~~transportation coordinator with copies to the coordinated~~
343 ~~transportation board, the following information for vehicles not~~
344 ~~scheduled 100 percent of the time for student transportation~~
345 ~~use:~~

346 ~~(a) The number and type of vehicles by adult capacity,~~
347 ~~including days and times, that the vehicles are available for~~
348 ~~coordinated transportation disadvantaged services;~~

349 ~~(b) The actual cost per mile by vehicle type available;~~

350 ~~(c) The actual driver cost per hour;~~

351 ~~(d) Additional actual cost associated with vehicle use~~
352 ~~outside the established workday or workweek of the entity; and~~

353 ~~(e) Notification of lead time required for vehicle use.~~

354 (3) The public transit fixed route or fixed schedule
355 system shall cooperate in the utilization of its regular service
356 to enhance coordinated transportation disadvantaged services by
357 providing the information as requested by the community
358 transportation coordinator ~~required by this section. Annually,~~
359 ~~no later than October 1, a designee from the local public~~
360 ~~transit fixed route or fixed schedule system shall provide~~ The
361 community transportation coordinator may request, without
362 limitation, with copies to the coordinated transportation board,
363 the following information:

364 (a) A copy of all current schedules, route maps, system

365 map, and fare structure;
 366 (b) A copy of the current charter policy;
 367 (c) A copy of the current charter rates and hour
 368 requirements; and
 369 (d) Required notification time to arrange for a charter.

370 Section 10. Subsection (4) is added to section 427.0159,
 371 Florida Statutes, to read:

372 427.0159 Transportation Disadvantaged Trust Fund.--

373 (4) A purchasing agency may deposit funds into the
 374 Transportation Disadvantaged Trust Fund for the commission to
 375 implement, manage, and administer the purchasing agency's
 376 transportation disadvantaged funds, as defined in s.
 377 427.011(10).

378 Section 11. Paragraph (b) of subsection (1) and subsection
 379 (2) of section 427.016, Florida Statutes, are amended to read:

380 427.016 Expenditure of local government, state, and
 381 federal funds for the transportation disadvantaged.--

382 (1)

383 (b) Nothing in this subsection shall be construed to ~~limit~~
 384 ~~or preclude~~ a purchasing ~~the Medicaid~~ agency from establishing
 385 maximum fee schedules, individualized reimbursement policies by
 386 provider type, negotiated fees, ~~competitive bidding~~, or any
 387 other mechanism, including contracting after initial negotiation
 388 with the commission, which that the agency considers more cost-
 389 effective and of comparable or higher quality and standards than
 390 those of the commission efficient and effective for the purchase
 391 of services on behalf of its Medicaid clients if it has
 392 fulfilled the requirements of s. 427.0135(3) or the procedure

393 for using an alternative provider. State and local agencies
 394 shall not contract for any transportation disadvantaged
 395 services, including Medicaid reimbursable transportation
 396 services, with any community transportation coordinator or
 397 transportation operator that has been determined by the Agency
 398 for Health Care Administration, the Department of Legal Affairs
 399 Medicaid Fraud Control Unit, or any state or federal agency to
 400 have engaged in any abusive or fraudulent billing activities.

401 (2) Each year, each agency, whether or not it is an ex
 402 officio, nonvoting advisor to a member of the Commission for the
 403 Transportation Disadvantaged, shall identify in the legislative
 404 budget request provided to the Governor for the General
 405 Appropriations Act inform the commission in writing, before the
 406 beginning of each fiscal year, of the specific amount of any
 407 money the agency will allocate allocated for the provision of
 408 transportation disadvantaged services. Additionally, each state
 409 agency shall, by September 15 of each year, provide the
 410 commission with an accounting of the actual amount of funds
 411 expended and the total number of trips purchased.

412 Section 12. This act shall take effect July 1, 2008.