

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

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,

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, after consultation with the commission,  
 91 determines that it cannot reach mutually acceptable contract  
 92 terms with the commission. The agency may then contract for the  
 93 same transportation services provided in a more cost-effective  
 94 manner and of comparable or higher quality and standards  
 95 ~~determines a more cost-effective method for Medicaid clients.~~  
 96 Nothing in this subsection shall be construed to limit or  
 97 preclude the agency from contracting for services using a  
 98 prepaid capitation rate or from establishing maximum fee  
 99 schedules, individualized reimbursement policies by provider  
 100 type, negotiated fees, prior authorization, competitive bidding,  
 101 increased use of mass transit, or any other mechanism that the  
 102 agency considers efficient and effective for the purchase of  
 103 services on behalf of Medicaid clients, including implementing a  
 104 transportation eligibility process. The agency shall not be  
 105 required to contract with any community transportation  
 106 coordinator or transportation operator that has been determined  
 107 by the agency, the Department of Legal Affairs Medicaid Fraud  
 108 Control Unit, or any other state or federal agency to have  
 109 engaged in any abusive or fraudulent billing activities. The  
 110 agency is authorized to competitively procure transportation  
 111 services or make other changes necessary to secure approval of  
 112 federal waivers needed to permit federal financing of Medicaid

113 transportation services at the service matching rate rather than  
 114 the administrative matching rate. Notwithstanding chapter 427,  
 115 the agency is authorized to continue contracting for Medicaid  
 116 nonemergency transportation services in agency service area 11  
 117 with managed care plans that were under contract for those  
 118 services before July 1, 2004.

119 Section 2. Subsections (8), (12), and (13) of section  
 120 427.011, Florida Statutes, are amended to read:

121 427.011 Definitions.--For the purposes of ss. 427.011-  
 122 427.017:

123 (8) "Purchasing agency" ~~"Member department"~~ means a  
 124 department or agency whose head is an ex officio, nonvoting  
 125 advisor to a member of the commission, or an agency that  
 126 purchases transportation services for the transportation  
 127 disadvantaged.

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

132 ~~(12)-(13)~~ "Nonsponsored transportation disadvantaged  
 133 services" means transportation disadvantaged services that are  
 134 not sponsored or subsidized by any funding source other than the  
 135 Transportation Disadvantaged Trust Fund.

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

138 427.012 The Commission for the Transportation  
 139 Disadvantaged.--There is created the Commission for the

140 Transportation Disadvantaged in the Department of  
 141 Transportation.

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

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

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

162 (7) Unless otherwise provided by state or federal law,  
 163 ensure ~~Assure~~ that all procedures, guidelines, and directives  
 164 issued by purchasing agencies ~~member departments~~ are conducive  
 165 to the coordination of transportation services.

166 (8) (a) Ensure ~~Assure~~ that purchasing agencies ~~member~~  
 167 ~~departments~~ purchase all trips within the coordinated system,

168 unless they have fulfilled the requirements of s. 427.0135(3)  
 169 and use a more cost-effective alternative provider that meets  
 170 comparable quality and standards.

171 (b) Unless the purchasing agency has negotiated with the  
 172 commission pursuant to the requirements of s. 427.0135(3),  
 173 provide, by rule, criteria and procedures for purchasing  
 174 agencies ~~member departments~~ to use if they wish to use an  
 175 alternative provider. Agencies ~~Departments~~ must demonstrate  
 176 either that the proposed alternative provider can provide a trip  
 177 of comparable ~~acceptable~~ quality and standards for the clients  
 178 at a lower cost than that provided within the coordinated  
 179 system, or that the coordinated system cannot accommodate the  
 180 agency's ~~department's~~ clients.

181 (9) Unless the purchasing agency has negotiated with the  
 182 commission pursuant to the requirements of s. 427.0135(3),  
 183 develop by rule standards for community transportation  
 184 coordinators and any transportation operator or coordination  
 185 contractor from whom service is purchased or arranged by the  
 186 community transportation coordinator covering coordination,  
 187 operation, safety, insurance, eligibility for service, costs,  
 188 and utilization of transportation disadvantaged services. These  
 189 standards and rules must include, but are not limited to:

190 ~~(a) Inclusion, by rule, of acceptable ranges of trip costs~~  
 191 ~~for the various modes and types of transportation services~~  
 192 ~~provided.~~

193 (a) ~~(b)~~ Minimum performance standards for the delivery of  
 194 services. These standards must be included in coordinator

195 contracts and transportation operator contracts with clear  
 196 penalties for repeated or continuing violations.

197 (b)(e) Minimum liability insurance requirements for all  
 198 transportation services purchased, provided, or coordinated for  
 199 the transportation disadvantaged through the community  
 200 transportation coordinator.

201 (14) Consolidate, for each state agency, ~~the annual budget~~  
 202 ~~estimates for transportation disadvantaged services,~~ and the  
 203 amounts of each agency's actual expenditures, together with the  
 204 actual expenditures ~~annual budget estimates~~ of each official  
 205 ~~planning agency,~~ local government, and directly federally funded  
 206 agency and the amounts collected by each official planning  
 207 agency issue a report.

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

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

217 Section 5. Section 427.0135, Florida Statutes, is amended  
 218 to read:

219 427.0135 Purchasing agencies ~~Member departments;~~ duties  
 220 and responsibilities.--Each purchasing agency ~~member department,~~  
 221 in carrying out the policies and procedures of the commission,  
 222 shall:



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

227           ~~(b) Subject to the provisions of s. 409.908(18), the~~  
 228 ~~Medicaid agency shall purchase transportation services through~~  
 229 ~~the community coordinated transportation system unless a more~~  
 230 ~~cost-effective method is determined by the agency for Medicaid~~  
 231 ~~clients or unless otherwise limited or directed by the General~~  
 232 ~~Appropriations Act.~~

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

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

251        (4) Identify in the legislative budget request provided to  
 252 the Governor each year for the General Appropriations Act the  
 253 specific amount of money the purchasing agency will allocate to  
 254 provide transportation disadvantaged services.

255        (5)~~(2)~~ Provide the commission, by September 15 of each  
 256 year, an accounting of all funds spent as well as how many trips  
 257 were purchased with agency funds.

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

263        (7)~~(4)~~ Ensure ~~Assure~~ that its rules, procedures,  
 264 guidelines, and directives are conducive to the coordination of  
 265 transportation funds and services for the transportation  
 266 disadvantaged.

267        (8)~~(5)~~ Provide technical assistance, as needed, to  
 268 community transportation coordinators or transportation  
 269 operators or participating agencies.

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

272        427.015 Function of the metropolitan planning organization  
 273 or designated official planning agency in coordinating  
 274 transportation for the transportation disadvantaged.--

275        (2) Each metropolitan planning organization or designated  
 276 official planning agency shall recommend to the commission a  
 277 single community transportation coordinator. However, a  
 278 purchasing agency ~~member department~~ may not serve as the

279 community transportation coordinator in any designated service  
280 area. The coordinator may provide all or a portion of needed  
281 transportation services for the transportation disadvantaged but  
282 shall be responsible for the provision of those coordinated  
283 services. Based on approved commission evaluation criteria, the  
284 coordinator shall subcontract or broker those services that are  
285 more cost-effectively and efficiently provided by subcontracting  
286 or brokering. The performance of the coordinator shall be  
287 evaluated based on the commission's approved evaluation criteria  
288 by the coordinating board at least annually. A copy of the  
289 evaluation shall be submitted to the metropolitan planning  
290 organization or the designated official planning agency, and the  
291 commission. The recommendation or termination of any community  
292 transportation coordinator shall be subject to approval by the  
293 commission.

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

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

305           427.0155 Community transportation coordinators; powers and  
306 duties.--Community transportation coordinators shall have the  
307 following powers and duties:

308           (7) In cooperation with the coordinating board and  
309 pursuant to criteria developed by the Commission for the  
310 Transportation Disadvantaged, establish eligibility guidelines  
311 and priorities with regard to the recipients of nonsponsored  
312 transportation disadvantaged services that are purchased with  
313 Transportation Disadvantaged Trust Fund moneys.

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

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

329           (4) Assist the community transportation coordinator in  
330 establishing eligibility guidelines and priorities with regard  
331 to the recipients of nonsponsored transportation disadvantaged

332 services that are purchased with Transportation Disadvantaged  
 333 Trust Fund moneys.

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

336 427.0158 School bus and public transportation.--

337 (2) The school boards shall cooperate in the utilization  
 338 of their vehicles to enhance coordinated ~~disadvantaged~~  
 339 transportation disadvantaged services by providing ~~the~~  
 340 information as requested by the community transportation  
 341 coordinator ~~required by this section~~ and by allowing the use of  
 342 their vehicles at actual cost upon request when those vehicles  
 343 are available for such use and are not transporting students.  
 344 ~~Semiannually, no later than October 1 and April 30, a designee~~  
 345 ~~from the local school board shall provide the community~~  
 346 ~~transportation coordinator with copies to the coordinated~~  
 347 ~~transportation board, the following information for vehicles not~~  
 348 ~~scheduled 100 percent of the time for student transportation~~  
 349 ~~use:~~

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

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

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

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

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

358 (3) The public transit fixed route or fixed schedule  
 359 system shall cooperate in the utilization of its regular service

360 to enhance coordinated transportation disadvantaged services by  
 361 providing the information as requested by the community  
 362 transportation coordinator ~~required by this section. Annually,~~  
 363 ~~no later than October 1, a designee from the local public~~  
 364 ~~transit fixed route or fixed schedule system shall provide~~ The  
 365 community transportation coordinator may request, without  
 366 limitation, with copies to the coordinated transportation board,  
 367 the following information:

368 (a) A copy of all current schedules, route maps, system  
 369 map, and fare structure;

370 (b) A copy of the current charter policy;

371 (c) A copy of the current charter rates and hour  
 372 requirements; and

373 (d) Required notification time to arrange for a charter.

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

376 427.0159 Transportation Disadvantaged Trust Fund.--

377 (4) A purchasing agency may deposit funds into the  
 378 Transportation Disadvantaged Trust Fund for the commission to  
 379 implement, manage, and administer the purchasing agency's  
 380 transportation disadvantaged funds, as defined in s.

381 427.011(10).

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

384 427.016 Expenditure of local government, state, and  
 385 federal funds for the transportation disadvantaged.--

386 (1)

387 (b) ~~Nothing in~~ This subsection does not ~~shall be construed~~  
 388 ~~to limit or preclude~~ a purchasing the Medicaid agency from  
 389 establishing maximum fee schedules, individualized reimbursement  
 390 policies by provider type, negotiated fees, ~~competitive bidding,~~  
 391 or any other mechanism, including contracting after initial  
 392 negotiation with the commission, which that the agency considers  
 393 more cost-effective and of comparable or higher quality and  
 394 standards than those of the commission ~~efficient and effective~~  
 395 for the purchase of services on behalf of its Medicaid clients  
 396 if it has fulfilled the requirements of s. 427.0135(3) or the  
 397 procedure for using an alternative provider. State and local  
 398 agencies shall not contract for any transportation disadvantaged  
 399 services, including Medicaid reimbursable transportation  
 400 services, with any community transportation coordinator or  
 401 transportation operator that has been determined by the Agency  
 402 for Health Care Administration, the Department of Legal Affairs  
 403 Medicaid Fraud Control Unit, or any state or federal agency to  
 404 have engaged in any abusive or fraudulent billing activities.

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

CS/CS/HB 1175, Engrossed 1

2008

414 | commission with an accounting of the actual amount of funds  
415 | expended and the total number of trips purchased.

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