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CS/CS/HB 1175, Engrossed 1

2008 Legislature

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

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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, 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

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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

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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,

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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

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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:

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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.

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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

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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:

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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

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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

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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)

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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

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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.