

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 189 Federal Funding for Home Health Services for the Elderly
SPONSOR(S): Bucher and others
TIED BILLS: **IDEN./SIM. BILLS:** SM 288

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Healthy Seniors		DePalma	Ciccone
2) Healthcare Council			
3) Rules & Calendar Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

House Memorial 189 requests that Congress increase federal financial assistance for home health services for elderly patients upon the determination that a patient is in need of such services. Furthermore, the memorial urges Congress to establish federal guidelines for students and schools responsible for training certified nursing assistants (CNAs) and home health aides (HHAs).

The legislation directs that copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

The memorial has no direct fiscal impact on state funds.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families – Increased federal funding for home health services would assist individuals in delaying or avoiding the need for nursing care and other institutional treatment.

B. EFFECT OF PROPOSED CHANGES:

Home Health Services

In general, “home health services” refers to the broad range of health care services provided through licensed home health agencies (and other related home health care entities), which are intended to permit recipients to avoid or delay institutionalization through the provision of medical services and supplies furnished in an individual’s home or place of residence.

Part III of chapter 400, F.S., the “Home Health Services Act”, governs home health agencies, which are defined in s. 400.462(11), F.S., as organizations providing home health services and staffing services, and which are licensed by the Agency for Health Care Administration (AHCA). Such home health services may include nursing care; physical, occupational, respiratory, and speech therapy; certain home health aide services (assistance with daily living – such as bathing, dressing, eating, personal hygiene, and ambulation); dietetics and nutrition practice/counseling; and the distribution of medical supplies (restricted to drugs and other biologicals prescribed by a physician).

Federal financial assistance for home health services is provided through Medicare, Medicaid and Medicaid Waiver, and, to a limited extent, through the Older Americans Act. None of these federal funding sources pay for 24-hour care for elderly patients at home.¹

In 2005, annual expenditures for home health care exceeded \$53.4 billion.² Medicare is the largest single payer of home health care services. In 2006, Medicare spending accounted for approximately 37 percent of home health expenditures.³ In partial response to tremendous spending growth in Medicare home health services, Congress passed the Balanced Budget Act of 1997 (“the BBA”). Among other provisions intended to generate efficiencies in home health expenditures, the BBA mandated a prospective payment system to replace the traditional cost-based reimbursement methodology for home health services.⁴ These measures have resulted in a general slowing of Medicare home health spending since 1997.⁵

¹ “Medicare and Home Health Care”, U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, 2007, available at: <http://www.medicare.gov/Publications/Pubs/pdf/10969.pdf>.

² “Basic Statistics About Home Care”, prepared by the National Association for Home Care and Hospice, 2007, available at: http://www.nahc.org/facts/07HC_Stats.pdf.

³ *Id.*

⁴ “FYI: Who Uses Medicare’s Home Health Benefit?” American Association of Retired Persons Public Policy Institute, 1998, available at: <http://www.aarp.org/research/housing-mobility/homecare/aresearch-import-693-FYI.html>. See also, “Access to Home Health Services under Medicare’s Interim Payment System”, National Health Policy Forum, 1999, available at: http://nhpf.ags.com/pdfs_ib/IB744_HomeHealth_7-13-99.pdf.

⁵ “Basic Statistics About Home Care”, National Association for Home Care and Hospice, *Supra*.

While Medicare pays for the largest share of home health care expenditures, combined federal-state Medicaid outlays for in-home services (including personal care services, which Medicare does not reimburse for) are actually greater. Medicaid home health spending was anticipated to grow 19.8 percent in 2006, and average a 9.8 percent growth rate, per year, from 2007 to 2016.⁶

Florida Medicaid requires state matching funds for home health services. Medicaid Waiver federal funding is limited, and also requires matching funds. Medicare reimbursement is provided directly to home health agencies, and is limited to 60-day episodes through the prospective payment system mandated by the BBA. However, all Medicare patients that are homebound and have medically-necessary services ordered by physicians may receive part-time home health services. In Florida, total expenditures for home health services during Fiscal Year 2006-2007 were \$160,103,520.⁷

Certified Nursing Assistant and Home Health Aide Training

Certified Nursing Assistants (CNAs) are individuals certified by the Board of Nursing within the Department of Health as having satisfied the provisions of part II of Chapter 464, F.S. In general, CNAs provide care and assist individuals with tasks relating to the activities of daily living.⁸ Similarly, for purposes of part III of chapter 400, F.S., Home Health Aides (HHAs) are individuals providing hands-on personal care, performing simple procedures as an extension of therapy or nursing services, assisting in ambulation or exercises, or assisting in the administration of medications as permitted by rule.⁹

The Florida Department of Education has established CNA and HHA training curricula that is used in adult vocational technical schools and licensed non-public career education schools. Pursuant to s. 464.203, F.S., it is possible for a CNA to take the test for state certification without successfully completing an approved training program. While general training curricula have been established, there is no uniform state certification for HHAs in Florida.

For both CNAs and HHAs, a licensed home health agency is statutorily-required to ensure that such individual is adequately trained to perform the tasks of a CNA or HHA in the home setting.¹⁰ Moreover, home health agencies are required to have on file a copy of each CNA's State of Florida certification, as well as documentation of each HHA's successful completion of at least 40 hours of training pursuant to s. 400.497(1), F.S.¹¹ Additional screening requirements of CNAs, HHAs and other employees and contractors of home health agencies are imposed by s. 400.512, F.S.¹²

Federal regulations for home health agencies enrolled in Medicare and Medicaid permit Home Health Aides to take competency evaluations given by home health agencies in lieu of training. Training of aides can be provided by home health agencies. At a minimum, aide training programs are federally required to include 75 hours of training across thirteen specified training areas, including at least 16

⁶ "National Health Expenditure Projections: 2006-2016", Centers for Medicare and Medicaid Services, 2007, available at: <http://www.cms.hhs.gov/NationalHealthExpendData/downloads/proj2006.pdf>.

⁷ Agency for Health Care Administration Legislative Analysis, February 2008, on file with Committee staff.

⁸ S. 464.201(5), F.S.

⁹ S. 400.462(14), F.S.

¹⁰ S. 400.462, F.S.

¹¹ Rules 59A-8.0095 and 59A-18.0081, F.A.C.

¹² Per s. 400.512, F.S., the Level I screening requirements of chapter 435 apply.

hours of supervised practical training.¹³ CNAs may work as home health aides in a home health agency setting. There are no federal regulations for HHAs and CNAs choosing to work on their own.

Effect of Proposed Changes

The bill urges Congress to increase federal financial assistance for home health services for elderly patients upon the determination that a patient is in need of such services. Furthermore, the memorial requests that Congress establish federal guidelines for students and schools responsible for training certified nursing assistants (CNAs) and home health aides (HHAs).

The legislation directs that copies of the memorial are to be sent to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

C. SECTION DIRECTORY:

Not applicable.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹³ 42 C.F.R. 484.36; "supervised practical training" means training in a laboratory or other setting in which the trainee demonstrates knowledge while performing tasks on an individual basis under the direct supervision of a registered nurse or licensed practical nurse.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. Further, 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

No statement submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES