

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 329 Reimbursement of Medicaid Providers
SPONSOR(S): Bucher and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1410

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Health Innovation</u>	<u>7 Y, 0 N</u>	<u>Quinn-Gato</u>	<u>Calamas</u>
2) <u>Healthcare Council</u>	<u></u>	<u></u>	<u></u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
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SUMMARY ANALYSIS

House Bill 329 requires the Agency for Health Care Administration (AHCA) to provide reimbursement for physician and dental services provided to children under the age of 21 years at least at the level provided by federal law for physician reimbursements under the Medicare program. The bill further requires AHCA to reimburse for dental services at 50 percent of usual and customary rates for dental services. Finally, the bill requires AHCA to include in all managed care contracts a requirement to provide at least such reimbursement for physician and dental services.

The bill creates all of the above-referenced requirements by notwithstanding other provisions of Florida law related to physician reimbursement rates.

The bill has a \$216,314,790 fiscal impact on the General Revenue Fund in Fiscal Year 2008-09 and a \$227,130,530 fiscal impact in Fiscal Year 2009-10. (See Fiscal Notes section).

The effective date of the bill is July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families – by increasing Medicaid provider rates for physicians and dentists, the bill may result in a greater choice of providers for Medicaid recipients under the age of 21.

B. EFFECT OF PROPOSED CHANGES:

Background

Medicaid Reimbursement Generally

Pursuant to Section 409.908, F.S., governs the reimbursement of Medicaid providers. As the single state agency to administer the Florida Medicaid program, AHCA is responsible for reimbursing Medicaid providers in accordance with Florida and federal law according to methodologies set forth in AHCA's rules and policy manuals and handbooks incorporated by reference therein, which may include fee schedules, reimbursement methods based upon cost reporting, negotiated fees, competitive bidding, and other effective mechanisms selected by AHCA for efficiency in purchasing goods and services for Medicaid recipients.¹ Reimbursement is subject to specific appropriation.²

Medicaid Reimbursement to Physician and Dentist Providers

Current law requires that physicians be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by AHCA.³ AHCA has established a fee schedule for physicians based upon the Medicare Resource Based Relative Value System.⁴ The fee schedule is subject to any limitations or directions provided for in the General Appropriations Act.⁵

Health care services are assigned procedure codes using the Healthcare Common Procedural Coding System, which are, for the most part, assigned a total relative value based upon estimated average physician time and effort, practice expense, and the cost of professional liability insurance.⁶ The relative value is then multiplied by a conversion factor to determine a fee.⁷ According to AHCA, a conversion factor is used in order to maintain budget neutrality, unless the Legislature provides additional funding for the physician services budget.⁸ Current Medicaid reimbursement is about 57 percent of Medicare rates.

AHCA does not specify the rates that Medicaid managed care organizations must pay physicians and dentists in the organizations' networks.⁹

In its bill analysis, AHCA stated that in the last seven years, there have been four physician fee increases applicable to pediatric services. These increases, which are all currently in effect, are as follows:

¹ s. 409.908, F.S.

² *Id.*

³ s. 409.908(12)(a), F.S.

⁴ *Id.* at (12)(b); *see also* Agency for Health Care Administration 2008 Bill Analysis and Economic Impact Statement.

⁵ s. 409.908(12)(b).

⁶ *See supra* note 4.

⁷ Agency for Health Care Administration 2008 Bill Analysis and Economic Impact Statement.

⁸ *Id.*

⁹ *Id.*

- Pediatric Surgery Fee – In 2000, the Legislature appropriated \$1,023,408 for services provided by board-certified pediatric surgery and urology specialists. This fee is applicable to 434 procedure codes commonly provided by pediatric surgeons and dentists.
- Pediatric Primary Care – In 2000, the Legislature appropriated \$1,819,393 to increase the rates for the three most commonly utilized office visit procedure codes for beneficiaries ages 0-19.
- Pediatric Services – In 2002, the Legislature authorized a four percent fee increase, totaling \$2,227,325, for all practitioner provider types for services provided to beneficiaries under age 21.
- Pediatric Physician Specialty – In 2004, the Legislature provided \$12,165,450 to increase reimbursement for physician specialty services provided to beneficiaries under age 21. Currently, 28 different physician specialty types receive an enhanced fee of 24 percent over the base fee to other physician providers for the same services.¹⁰

Medicaid dental providers have not received a Medicaid fee increase since 1996.¹¹

Litigation of Physician and Dentist Rates

In 2005, The Florida Pediatric Society/The Florida Chapter of the American Academy of Pediatrics and the Florida Academy of pediatric Dentistry, Inc. filed a class action lawsuit in the United States District Court for the Southern District of Florida against AHCA, the Department of Children and Families and the Department of Health alleging that Florida state health officials have failed to provide children enrolled in Medicaid with essential medical and dental services as required by federal Medicaid law.¹² The plaintiffs sought a declaratory and injunctive relief, specifically seeking to require the agencies to ensure payments to providers are sufficient to ensure access to care and services for Medicaid eligible children at least to the same extent such care and services are available to other children in the same geographic area.¹³ The litigation remains ongoing at this time.

Effect of Proposed Changes

House Bill 329 requires AHCA, notwithstanding other provisions of s. 409.908(12), to reimburse for physician services and dental services provided to children under the age of 21 years at least at the level provided by federal law for physician reimbursements under the Medicare program.

The bill further requires AHCA to reimburse for dental services for children under the age of 21 at 50 percent of usual and customary rates for dental services. The phrase “usual and customary rates” is not defined in the bill.

Finally, the bill requires AHCA to include in all managed care contracts a requirement to provide at least such reimbursement for physician and dental services.

The effective date of the bill is July 1, 2008.

C. SECTION DIRECTORY:

Section 1. Amends s. 409.908, F.S.; relating to reimbursement of Medicaid providers.

Section 2. Provides an effective date of July 1, 2008.

¹⁰ *Id.*

¹¹ *Id.*

¹² See Case No. 05-23037-CIV- JORDAN (S.D. Fla.). The complaint was also filed by certain named plaintiffs and class representatives. On March 13, 2008, the Plaintiffs filed an unopposed motion to drop 6 of the named plaintiffs from the action because they either did not wish to serve as named plaintiffs any longer or counsel for the class had been unable to reach them for a sustained period of time. *Id.* at Docket Entry 165.

¹³ *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	<u>2008-09</u>	<u>2009-10</u>
Federal Funds	\$271,876,106	\$285,469,911

2. Expenditures:

The proposed legislation will significantly increase Medicaid physician and dental services fees for Medicaid beneficiaries under age 21. Physician rates will be increased to at least the level provided by federal law for physician reimbursement under the federal Medicare program and dental services will be increased to 50 percent of usual and customary rates provided for dental services. "Usual and customary rates" were calculated based on claims submitted by Medicaid dentists. The FY 2009-2010 amount is a 5 percent increase over the 2008-09 estimates.

	<u>2008-09</u>	<u>2009-10</u>
Medicaid Expenditures	\$488,190,896	\$512,600,441
General Revenue Fund	\$216,314,790	\$227,130,530
Medical Care Trust Fund	\$269,440,969	\$282,913,018
Refugee Assistance Trust Fund	\$2,435,137	\$2,556,893

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will provide for increased reimbursement rates for private physicians and dentists who are Medicaid providers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA has indicated that it will have to amend its Rule 59G-4.002, F.A.C., which incorporates all Medicaid fees/provider reimbursement schedules. AHCA has sufficient rule-making authority to make this amendment.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill as drafted provides for some ambiguity as to which Medicaid rate shall apply to dental services. The bill requires dental services to be reimbursed at the Medicare rate applicable to physician services, and also requires dental services to be reimbursed at 50 percent of the usual and customary rates provided for dental services. In conducting its fiscal analysis, AHCA applied 50 percent of the usual and customary rates; not the Medicare rate.

D. STATEMENT OF THE SPONSOR

No statement provided.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On March 18, 2008, the Health Innovation Committee adopted one amendment to the bill. This amendment:

- Creates subparagraph 409.908(12)(d), F.S., providing specified rates for certain Medicaid services provided to children under 21, notwithstanding any other provision of that subsection, and requiring Medicaid managed care contracts to require at least like reimbursement for such services;
- Creates sub-subparagraph 409.908(12)(d)1., F.S., providing that Medicaid physician services shall be reimbursed at the rate of at least 120 percent of the 2007 Medicare Physician Fee Schedule with an annual adjustment equal to the Medical Consumer Price Index;
- Creates sub-subparagraph 409.908(12)(d)2., F.S., providing that Medicaid dental services shall be reimbursed at a rate equal to the 50th percentile of fees charged in a respective geographical area as reported by the National Dental Advisory Service;

The bill was reported favorably with one amendment.