

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Health Policy Committee

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BILL: SPB 7010

INTRODUCER: For consideration by Health Policy Committee

SUBJECT: Alzheimer's Disease Medicaid Home and Community-Based-Services Waiver Program

DATE: December 31, 2007      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Garner	Wilson		<b>Pre-meeting</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

This proposed committee bill codifies the recommendations of the Senate Interim Project Report 2008-133, "Review of the Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease."

The proposed committee bill extends the 2008 sunset date for the Alzheimer's Disease Medicaid home and community-based-services waiver program so that the program is automatically eliminated at the close of the 2010 Regular Session of the Legislature.

The proposed committee bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an evaluation of comparable Medicaid home and community-based-services waiver programs to determine their comparative cost effectiveness and ability to delay or prevent institutionalization of Medicaid recipients. The bill requires OPPAGA to coordinate with relevant experts to determine which waiver programs should be included in the evaluation in order to make reasonable comparisons. The evaluation must also include a review of the flexibility provided to states by the federal Deficit Reduction Act (DRA) of 2005, in regard to Medicaid home and community-based services. The evaluation shall be submitted to the President of the Senate and the Speaker of the House of Representatives by February 1, 2010.

This bill amends s. 430.502(9), F.S., and creates an undesignated section of law.

## II. Present Situation:

### **Alzheimer's Disease**

Dementia describes a group of symptoms related to a brain disorder that seriously affects a person's ability to carry out activities of daily living like cooking, driving, shopping, or attending to personal hygiene. The two most common forms of dementia among older people are Alzheimer's Disease (which initially involves the parts of the brain that control thought, memory, and language) and multi-infarct dementia (caused by a series of small strokes or changes in the brain's blood supply which results in the death of brain tissue). It is still not known what causes Alzheimer's Disease and there is no cure.<sup>1</sup>

Alzheimer's Disease afflicts approximately 5.1 million persons in the United States as of 2007. It is estimated that 360,000 Floridians had Alzheimer's disease in 2000, and this number is expected to reach 450,000 by 2010 (a 25 percent increase). Ninety-six percent of persons with Alzheimer's Disease are 65 years of age or older.<sup>2</sup> The mortality rate for persons with Alzheimer's Disease has increased over the last few years. Alzheimer's Disease is now the seventh leading cause of death in the United States (65,965 deaths in 2004). While age-adjusted death rates decreased significantly from 2003 to 2004 for 9 of the 15 leading causes of death, significant increases in mortality rates occurred for unintentional injuries, hypertension, and Alzheimer's Disease.<sup>3</sup>

This increase in Alzheimer's Disease morbidity and mortality has direct fiscal effects on federal and state health programs. Persons with Alzheimer's Disease and other dementias tend to use more medical services and have higher overall medical expenses than persons without these conditions. In 2000, Medicare spent nearly three times as much, on average, for people with Alzheimer's Disease and other dementias as for beneficiaries without dementia (\$13,207 versus \$4,454 per beneficiary). The drivers behind the cost differentials include more hospital stays and physician visits. Additionally, approximately 30 percent of Medicare beneficiaries with Alzheimer's Disease and other dementias also receive services financed by Medicaid, especially long-term care services. Among nursing home patients with Alzheimer's Disease and other dementias, 51 percent used Medicaid to pay for their nursing home care in 2000.<sup>4</sup>

### **Florida's Alzheimer's Disease Initiative**

Because of the large number of persons at risk for Alzheimer's Disease in Florida, the Legislature created the Alzheimer's Disease Initiative (ADI) in 1985 to provide a continuum of services to meet the changing needs of individual's with Alzheimer's Disease, and similar memory disorders, and their families. The initiative is comprised of four components: 1) memory disorder clinics that provide diagnosis, research, treatment, and referrals; 2) model day care programs to test new care alternatives; 3) a research database and brain bank to support research; and 4) supportive services, including case management, counseling, consumable medical

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<sup>1</sup> National Institute on Aging. "Alzheimer's Disease: Fact Sheet." Found at: <http://www.nia.nih.gov/Alzheimers/Publications/adfact.htm> (last visited on December 31, 2007).

<sup>2</sup> Alzheimer's Association. *Alzheimer's Disease Facts and Figures 2007*. Found at: [http://www.alz.org/national/documents/Report\\_2007FactsAndFigures.pdf](http://www.alz.org/national/documents/Report_2007FactsAndFigures.pdf) (last visited on December 31, 2007).

<sup>3</sup> Centers for Disease Control and Prevention. National Vital Statistics Reports. "Deaths: Final Data for 2004." August 21, 2007. Found at: [http://www.cdc.gov/nchs/data/nvsr/nvsr55/nvsr55\\_19.pdf](http://www.cdc.gov/nchs/data/nvsr/nvsr55/nvsr55_19.pdf) (last visited on December 31, 2007).

<sup>4</sup> Alzheimer's Association. *Alzheimer's Disease Facts and Figures 2007*. Found at: [http://www.alz.org/national/documents/Report\\_2007FactsAndFigures.pdf](http://www.alz.org/national/documents/Report_2007FactsAndFigures.pdf) (last visited on December 31, 2007).

supplies, respite for caregivers, and nine other services as part of Medicaid's Alzheimer's Home and Community-Based Waiver Program.<sup>5</sup> The statutory authorization for the ADI is found in ss. 430.501-430.504, Florida Statutes. Authority to continue the waiver program shall be automatically eliminated at the close of the 2008 Regular Session unless the Legislature takes action to continue the program.

### **Medicaid Home and Community-Based-Services Waiver Programs**

In 1981, the U.S. Congress approved the use of Medicaid home and community-based-services (HCBS) waiver programs to allow states to provide certain Medicaid services in the home for persons who would otherwise require institutional care in a hospital, nursing facility, or intermediate care facility. These programs are federally-approved Medicaid initiatives authorized by Title XIX of the Social Security Act, Section 1915.

States may offer a variety of services to consumers under an HCBS waiver program and the number of services that can be provided is not limited. These programs may provide a combination of both traditional medical services (i.e., dental services, skilled nursing services, etc.) as well as non-medical services (i.e., respite care, case management, environmental modifications, etc.). Family members and friends may be providers of waiver services if they meet the specified provider qualifications. The HCBS waiver programs are initially approved for 3 years and may be renewed at 5-year intervals.<sup>6</sup> If a state terminates a HCBS waiver, federal law requires that recipients receive continued services in an amount that does not violate the comparability of service requirements established in the Social Security Act.<sup>7</sup> In effect, the state has to transition recipients into programs with comparable services. Florida currently operates the following home and community-based-services waiver programs:<sup>8</sup>

- Adult Cystic Fibrosis;
- Aged/Disabled Adult Services;
- Adult Day Health Care;
- Assisted Living for the Elderly;
- Alzheimer's Disease;
- Channeling Services for the Frail Elderly;
- Consumer Directed Care Plus;
- Developmental Disabilities;
- Familial Dysautonomia;
- Family and Supported Living Model;
- Nursing Home Diversion;
- Project AIDS Care (PAC); and
- Traumatic Brain Injury and Spinal Cord Injury.

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<sup>5</sup> The Department of Elder Affairs. Found at: <http://elderaffairs.state.fl.us/english/alzheimers.html> (last visited on December 31, 2007).

<sup>6</sup> U.S. Centers for Medicare and Medicaid Services. Found at: [http://www.cms.hhs.gov/MedicaidStWaivProgDemoPGI/05\\_HCBSWaivers-Section1915\(c\).asp](http://www.cms.hhs.gov/MedicaidStWaivProgDemoPGI/05_HCBSWaivers-Section1915(c).asp) (last visited on December 31, 2007).

<sup>7</sup> 42 C.F.R. 441.356.

<sup>8</sup> Found at: [http://www.fdhc.state.fl.us/Medicaid/hcbs\\_waivers/index.shtml](http://www.fdhc.state.fl.us/Medicaid/hcbs_waivers/index.shtml) (last visited on December 31, 2007).

### **Recent Changes in Federal Medicaid Law Pertaining To HCBS Waivers**

Congress provided new flexibility to state Medicaid programs through the passage of the Deficit Reduction Act (DRA) of 2005.<sup>9</sup> Among the DRA's changes to the Medicaid program is a provision allowing states to include home and community-based services for the elderly and disabled as an optional benefit instead of requiring a waiver.<sup>10</sup> In addition, unlike other optional services (such as rehabilitation or personal care), states are allowed to cap the number of people eligible for the services through modifications to the needs-based eligibility criteria established by the state. The DRA also removes the prior statutory requirement that beneficiaries get needed services at home only if they would need institutional care without them. States can now provide home and community-based care under their state plans to those who may not yet be at risk for immediate institutionalization.

### **Senate Interim Project 2008-133**

In Interim Project 2008-133, professional staff reviewed subsections (7), (8), and (9) of s. 430.502, F.S., which require the Agency for Health Care Administration (AHCA) and the Department of Elder Affairs (DOEA) to implement a Medicaid home and community-based waiver program for persons with Alzheimer's Disease.<sup>11</sup> The goal of the waiver program is to allow Medicaid recipients with Alzheimer's Disease to live in the community as long as possible and avoid long-term care in nursing facilities by providing supportive services to beneficiaries and their caregivers.

#### *The Medicaid Alzheimer's Disease HCBS Waiver Program*

The Medicaid Alzheimer's Disease home and community-based-services waiver program serves persons aged 60 years and over who have a specific diagnosis of Alzheimer's Disease (no other dementias qualify) and who have a live-in caregiver. Eligible waiver participants must be diagnosed with Alzheimer's Disease by a physician, as confirmed by a Memory Disorder Clinic, a board certified neurologist, or a licensed medical doctor with experience in neurology. Eligible participants must also meet the nursing home level of care criteria as assessed by the DOEA's Comprehensive Assessment Review and Evaluation Services (CARES) unit. Persons already living in a nursing home or an intermediate care facility for individuals with mental retardation, the medically needy, and those persons receiving services through another Medicaid, home and community-based waiver program are ineligible for participation in the Medicaid Alzheimer's Disease waiver program. The authorized services delivered through the Medicaid Alzheimer's Disease waiver program include:

- Case management;
- Adult day care;
- Respite care;
- Wanderer alarm systems;
- Wanderer identification and location programs;
- Caregiver training;
- Behavioral assessment and intervention;
- Incontinence supplies;

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<sup>9</sup> P.L. 109-171.

<sup>10</sup> Section 6086 of the DRA of 2005.

<sup>11</sup> Ch. 2003-57, s. 26, L.O.F.

- Personal care assistance;
- Environmental modifications; and,
- Pharmacy review.

The Alzheimer's Disease waiver program began enrolling participants in late 2005 in three areas of the state: Miami-Dade/Broward, Palm Beach, and Pinellas Counties. The AHCA and the DOEA selected vendors through a competitive bid process. Each vendor, in turn, was contracted to develop a network of service providers to deliver direct waiver services consistent with those listed above. Each contract is for a 36-month period, the beginning and end dates varying by each vendor. The contract with Gulf Coast Jewish Family Services, Inc., is for \$388,800 (\$135 per member per month at a maximum average caseload of 90 individuals), and is effective from February 15, 2005, through February 14, 2008. The contract with Miami Jewish Home and Hospital for the Aged, Inc., is for \$874,800 (\$135 per member per month at a maximum average caseload of 180 individuals), and is effective from March 15, 2005, through March 14, 2008. The contract with Alzheimer's Community Care, Inc., is for \$388,800 (\$135 per member per month at a maximum average caseload of 80 individuals), and is effective from September 20, 2005, through June 30, 2008.

### *Findings*

The objectives of this interim project were to determine: how many people are enrolled in and using the waiver services; whether the waiver program is considered effective and efficient in helping individuals with Alzheimer's Disease remain in the community; and, whether the waiver should be reauthorized during the 2008 Regular Session of the Legislature. Senate professional staff from the Senate Health Policy Committee and the Senate Children, Families, and Elder Affairs Committee conducted a joint project to develop recommendations regarding reauthorization of the waiver program. Professional staff conducted interviews with operational staff in the AHCA and the DOEA and with staff of the contract vendors to assess the implementation of the waiver program. Professional staff also reviewed data related to the waiver program's implementation and reviewed evaluations of the waiver program conducted by the Louis de la Parte Florida Mental Health Institute at the University of South Florida, including interviewing the principal investigator about the research findings. Finally, professional staff analyzed vendor contracts provided by the AHCA.

Based on this review, professional staff concluded that the Alzheimer's Disease waiver program was slow to be implemented and has limited participation. As of October 2007 (the third year of the program), the program was serving only 207 Medicaid recipients which represent about 60 percent of the 350 available slots. In comparison, most of the other Medicaid home and community-based-services waiver programs are at capacity and new slots added through the appropriations process are usually filled within the same fiscal year. Professional staff identified a number of reasons for the slow startup, including a contract award challenge, programming issues that hindered provider enrollment, staff turnover in the AHCA and among the vendors, and a limited pool of eligible recipients.

A review of evaluations conducted by the University of South Florida found that individuals who did enroll in the waiver program spent less days on average in institutional settings like nursing homes and hospitals than persons who did not enroll in the waiver. The evaluations found that participants in the Alzheimer's Disease waiver program only spent an average of 3.6 days in

nursing homes over the course of a year, compared to an average of 4.79 days in nursing homes for persons in the Aged and Disabled waiver program, and an average of 9.16 days in nursing homes for non-waiver Medicaid recipients with similar health conditions. However, the average per member program cost associated with delaying these participants from going into nursing homes was substantially higher compared to the cost for those who did not receive any waiver services. The non-waiver group had the lowest average annual expenditures of all the comparison groups with almost \$5,900 less in expenditures on average per person than the 12-month Alzheimer's Disease waiver program participant.

#### *Recommendations*

Based on the limited availability of program data and the short period of time that the program has been operational, professional staff recommended that the Alzheimer's Disease waiver program should be saved from repeal for a period of 2 years. During this 2-year period, it was recommended that a comprehensive study comparing cost savings and nursing home diversion effectiveness of this and similar home and community-based waiver initiatives be conducted. The study should also examine whether the state could achieve similar results by using the flexibility provided to states through the federal DRA to provide home and community-based-services without using waiver programs.

### **III. Effect of Proposed Changes:**

**Section 1.** Amends s. 430.502(9), F.S., specifying that the authority to continue the waiver program shall be automatically eliminated at the close of the 2010 Regular Session of the Legislature unless further action is taken to continue the program.

**Section 2.** Creates an undesignated section of law requiring the Office of Program Policy Analysis and Government Accountability to conduct an evaluation of comparable Medicaid home and community-based-services waivers to determine which are most effective. The evaluation must also determine whether specialty waiver programs are more effective than general HCBS waiver programs and whether some of the waiver programs should be consolidated or eliminated. The evaluation is to be presented to the President of the Senate and the Speaker of the House of Representatives by February 1, 2010.

**Section 3.** Provides that the act shall take effect upon becoming a law.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

#### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The net fiscal effect of continuing the Alzheimer's Disease HCBS waiver program for an additional 2 years is unclear. If the Legislature extends the program for 2 more years, there would be a direct cost of \$135 per member per month paid to the vendors for each recipient in the program for a potential maximum cost of \$1,134,000 (\$135 x 350 enrollees x 24 months). However, based on current enrollment trends, it is unknown whether the program would fill to capacity within this timeframe.

If the Legislature allowed the program to sunset, it is unlikely that there would be a corresponding cost savings because when a state terminates an HCBS waiver, federal law requires that recipients receive continued Medicaid services in an amount that does not violate the comparability of service requirements established in the Social Security Act.<sup>12</sup> In effect, the state has to transition recipients into programs with comparable services. These other waiver programs cost as much as, or more than, the Alzheimer's Disease waiver program, so the enrollee's costs would be at least the same. The only cost savings would occur as these individuals attrition out of the Medicaid program entirely and new recipients are not allowed to enroll.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

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<sup>12</sup> 42 C.F.R. 441.356.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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