

By the Committees on Health and Human Services Appropriations;
Transportation and Economic Development Appropriations; and
Senator Fasano

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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

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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 to
54 methodologies set forth in the rules of the agency and in policy
55 manuals and handbooks incorporated by reference therein. These
56 methodologies may include fee schedules, reimbursement methods
57 based on cost reporting, negotiated fees, competitive bidding
58 pursuant to s. 287.057, and other mechanisms the agency considers

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59 | efficient and effective for purchasing services or goods on
60 | behalf of recipients. If a provider is reimbursed based on cost
61 | reporting and submits a cost report late and that cost report
62 | would have been used to set a lower reimbursement rate for a rate
63 | semester, then the provider's rate for that semester shall be
64 | retroactively calculated using the new cost report, and full
65 | payment at the recalculated rate shall be effected retroactively.
66 | Medicare-granted extensions for filing cost reports, if
67 | applicable, shall also apply to Medicaid cost reports. Payment
68 | for Medicaid compensable services made on behalf of Medicaid
69 | eligible persons is subject to the availability of moneys and any
70 | limitations or directions provided for in the General
71 | Appropriations Act or chapter 216. Further, nothing in this
72 | section shall be construed to prevent or limit the agency from
73 | adjusting fees, reimbursement rates, lengths of stay, number of
74 | visits, or number of services, or making any other adjustments
75 | necessary to comply with the availability of moneys and any
76 | limitations or directions provided for in the General
77 | Appropriations Act, provided the adjustment is consistent with
78 | 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, for
85 | the provision of an all-inclusive service, or when services are
86 | provided pursuant to an agreement negotiated between the agency
87 | and the provider. The agency, as provided for in s. 427.0135,

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88 shall purchase transportation services through the community
89 coordinated transportation system, if available, unless the
90 agency, after consultation with the commission, determines that
91 it cannot reach mutually acceptable contract terms with the
92 commission. The agency may then contract for the same
93 transportation services provided in a more cost-effective manner
94 and of comparable or higher quality and standards. ~~determines a~~
95 ~~more cost-effective method for Medicaid clients.~~ Nothing in this
96 subsection shall be construed to limit or preclude the agency
97 from contracting for services using a prepaid capitation rate or
98 from establishing maximum fee schedules, individualized
99 reimbursement policies by provider type, negotiated fees, prior
100 authorization, competitive bidding, increased use of mass
101 transit, or any other mechanism that the agency considers
102 efficient and effective for the purchase of services on behalf of
103 Medicaid clients, including implementing a transportation
104 eligibility process. The agency shall not be required to contract
105 with any community transportation coordinator or transportation
106 operator that has been determined by the agency, the Department
107 of Legal Affairs Medicaid Fraud Control Unit, or any other state
108 or federal agency to have engaged in any abusive or fraudulent
109 billing activities. The agency is authorized to competitively
110 procure transportation services or make other changes necessary
111 to secure approval of federal waivers needed to permit federal
112 financing of Medicaid transportation services at the service
113 matching rate rather than the administrative matching rate.
114 Notwithstanding chapter 427, the agency is authorized to continue
115 contracting for Medicaid nonemergency transportation services in
116 agency service area 11 with managed care plans that were under

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117 contract for those services before July 1, 2004.

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

120 427.011 Definitions.--For the purposes of ss. 427.011-
121 427.017:

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

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

131 ~~(12)-(13)~~ "Nonsponsored transportation disadvantaged
132 services" means transportation disadvantaged services that are
133 not sponsored or subsidized by any funding source other than the
134 Transportation Disadvantaged Trust Fund.

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

137 427.012 The Commission for the Transportation
138 Disadvantaged.--There is created the Commission for the
139 Transportation Disadvantaged in the Department of Transportation.

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

145 Section 4. Subsections (7), (8), (9), (14), and (26) of

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146 section 427.013, Florida Statutes, are amended, and subsection
147 (29) is added to that section, to read:

148 427.013 The Commission for the Transportation
149 Disadvantaged; purpose and responsibilities.--The purpose of the
150 commission is to accomplish the coordination of transportation
151 services provided to the transportation disadvantaged. The goal
152 of this coordination is shall be to assure the cost-effective
153 provision of transportation by qualified community transportation
154 coordinators or transportation operators for the transportation
155 disadvantaged without any bias or presumption in favor of
156 multioperator systems or not-for-profit transportation operators
157 over single operator systems or for-profit transportation
158 operators. In carrying out this purpose, the commission shall:

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

163 (8) (a) Ensure ~~Assure~~ that purchasing agencies ~~member~~
164 ~~departments~~ purchase all trips within the coordinated system,
165 unless they have fulfilled the requirements of s. 427.0135(3) and
166 use a more cost-effective alternative provider that meets
167 comparable quality and standards.

168 (b) Unless the purchasing agency has negotiated with the
169 commission pursuant to the requirements of s. 427.0135(3),
170 provide, by rule, criteria and procedures for purchasing agencies
171 ~~member departments~~ to use if they wish to use an alternative
172 provider. Agencies ~~Departments~~ must demonstrate ~~either~~ that the
173 proposed alternative provider can provide a trip of comparable
174 ~~acceptable~~ quality and standards for the clients at a lower cost

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175 than that provided within the coordinated system, or that the
176 coordinated system cannot accommodate the agency's ~~department's~~
177 clients.

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

187 ~~(a) Inclusion, by rule, of acceptable ranges of trip costs~~
188 ~~for the various modes and types of transportation services~~
189 ~~provided.~~

190 (a) ~~(b)~~ Minimum performance standards for the delivery of
191 services. These standards must be included in coordinator
192 contracts and transportation operator contracts with clear
193 penalties for repeated or continuing violations.

194 (b) ~~(e)~~ Minimum liability insurance requirements for all
195 transportation services purchased, provided, or coordinated for
196 the transportation disadvantaged through the community
197 transportation coordinator.

198 (14) Consolidate, for each state agency, ~~the annual budget~~
199 ~~estimates for transportation disadvantaged services,~~ and the
200 amounts of each agency's actual expenditures, together with the
201 actual expenditures ~~annual budget estimates~~ of each official
202 ~~planning agency,~~ local government, and directly federally funded
203 agency and the amounts collected by each official planning agency

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204 | ~~issue a report.~~

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

212 | (29) Incur expenses for the purchase of advertisements,
213 | marketing services, and promotional items.

214 | Section 5. Section 427.0135, Florida Statutes, is amended
215 | to read:

216 | 427.0135 Purchasing agencies ~~Member departments~~; duties and
217 | responsibilities.--Each purchasing agency ~~member department~~, in
218 | carrying out the policies and procedures of the commission,
219 | shall:

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

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

230 | (2) Pay the rates established in the service plan or
231 | negotiated statewide contract, unless the purchasing agency has
232 | completed the procedure for using an alternative provider and

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233 demonstrated that a proposed alternative provider can provide a
234 more cost-effective transportation service of comparable quality
235 and standards or unless the agency has satisfied the requirements
236 of subsection (3).

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

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

252 (5)(2) Provide the commission, by September 15 of each
253 year, an accounting of all funds spent as well as how many trips
254 were purchased with agency funds.

255 (6)(3) Assist communities in developing coordinated
256 transportation systems designed to serve the transportation
257 disadvantaged. However, a purchasing agency member department may
258 not serve as the community transportation coordinator in any
259 designated service area.

260 (7)(4) Ensure ~~Assure~~ that its rules, procedures,
261 guidelines, and directives are conducive to the coordination of

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262 transportation funds and services for the transportation
263 disadvantaged.

264 (8)~~(5)~~ Provide technical assistance, as needed, to
265 community transportation coordinators or transportation operators
266 or participating agencies.

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

269 427.015 Function of the metropolitan planning organization
270 or designated official planning agency in coordinating
271 transportation for the transportation disadvantaged.--

272 (2) Each metropolitan planning organization or designated
273 official planning agency shall recommend to the commission a
274 single community transportation coordinator. However, a
275 purchasing agency ~~member department~~ may not serve as the
276 community transportation coordinator in any designated service
277 area. The coordinator may provide all or a portion of needed
278 transportation services for the transportation disadvantaged but
279 shall be responsible for the provision of those coordinated
280 services. Based on approved commission evaluation criteria, the
281 coordinator shall subcontract or broker those services that are
282 more cost-effectively and efficiently provided by subcontracting
283 or brokering. The performance of the coordinator shall be
284 evaluated based on the commission's approved evaluation criteria
285 by the coordinating board at least annually. A copy of the
286 evaluation shall be submitted to the metropolitan planning
287 organization or the designated official planning agency, and the
288 commission. The recommendation or termination of any community
289 transportation coordinator shall be subject to approval by the
290 commission.

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

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

302 427.0155 Community transportation coordinators; powers and
303 duties.--Community transportation coordinators shall have the
304 following powers and duties:

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

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

313 427.0157 Coordinating boards; powers and duties.--The
314 purpose of each coordinating board is to develop local service
315 needs and to provide information, advice, and direction to the
316 community transportation coordinators on the coordination of
317 services to be provided to the transportation disadvantaged. The
318 commission shall, by rule, establish the membership of
319 coordinating boards. The members of each board shall be appointed

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320 by the metropolitan planning organization or designated official
321 planning agency. The appointing authority shall provide each
322 board with sufficient staff support and resources to enable the
323 board to fulfill its responsibilities under this section. Each
324 board shall meet at least quarterly and shall:

325 (4) Assist the community transportation coordinator in
326 establishing eligibility guidelines and priorities with regard to
327 the recipients of nonsponsored transportation disadvantaged
328 services that are purchased with Transportation Disadvantaged
329 Trust Fund moneys.

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

332 427.0158 School bus and public transportation.--

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

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

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

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349 ~~(c) The actual driver cost per hour;~~
350 ~~(d) Additional actual cost associated with vehicle use~~
351 ~~outside the established workday or workweek of the entity; and~~
352 ~~(e) Notification of lead time required for vehicle use.~~

353 (3) The public transit fixed route or fixed schedule system
354 shall cooperate in the utilization of its regular service to
355 enhance coordinated transportation disadvantaged services by
356 providing the information as requested by the community
357 transportation coordinator ~~required by this section. Annually, no~~
358 ~~later than October 1, a designee from the local public transit~~
359 ~~fixed route or fixed schedule system shall provide~~ The community
360 transportation coordinator may request, without limitation, with
361 ~~copies to the coordinated transportation board,~~ the following
362 information:

363 (a) A copy of all current schedules, route maps, system
364 map, and fare structure;
365 (b) A copy of the current charter policy;
366 (c) A copy of the current charter rates and hour
367 requirements; and
368 (d) Required notification time to arrange for a charter.

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

371 427.0159 Transportation Disadvantaged Trust Fund.--

372 (4) A purchasing agency may deposit funds into the
373 Transportation Disadvantaged Trust Fund for the commission to
374 implement, manage, and administer the purchasing agency's
375 transportation disadvantaged funds, as defined in s. 427.011(10).

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

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378 427.016 Expenditure of local government, state, and federal
379 funds for the transportation disadvantaged.--

380 (1)

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

399 (2) Each year, each agency, whether or not it is an ex
400 officio, nonvoting advisor to ~~a member of~~ the Commission for the
401 Transportation Disadvantaged, shall identify in the legislative
402 budget request provided to the Governor for the General
403 Appropriations Act ~~inform the commission in writing, before the~~
404 ~~beginning of each fiscal year,~~ of the specific amount of any
405 money the agency will allocate ~~allocated~~ for the provision of
406 transportation disadvantaged services. Additionally, each state

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407 | agency shall, by September 15 of each year, provide the
408 | commission with an accounting of the actual amount of funds
409 | expended and the total number of trips purchased.

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