

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 131 Federal Funding for Home Health Services for Elders

SPONSOR(S): Pafford and others

TIED BILLS: **IDEN./SIM. BILLS:** SM 152

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|--|---------------|----------------|-----------------------|
| 1) | Elder & Family Services Policy Committee | 10 Y, 0 N | Ciccone | Ciccone |
| 2) | Health & Family Services Policy Council | 19 Y, 0 N | Lowell | Gormley |
| 3) | Policy Council | | Phillips | Hogge |
| 4) | Rules & Calendar Council | | | |
| 5) | | | | |

SUMMARY ANALYSIS

Background:

- Home and community-based services are intended to prevent or delay nursing home placement and can be more cost effective than institutional care;
- In general, Certified Nursing Assistants (CNAs) provide care and assist individuals with tasks relating to the activities of daily living.¹ Similarly, Home Health Aides (HHAs) are individuals who provide hands-on personal care, perform simple procedures as an extension of therapy or nursing services, assist in ambulation or exercises, or assist in the administration of medications.²
- 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;
- Home and community-based services are primarily provided through Medicaid waivers to include meals, hands-on personal care, administering medications, providing physical therapy and in-home care; and,
- Approximately \$1.650 billion³ in state and federal funds were appropriated by the 2008-09 Florida Legislature for the purpose of funding home and community-based services for elders and individuals with disabilities.

The bill:

- Urges Congress to increase financial assistance and encourages states to increase financial assistance for, and broaden access to, publicly supported home and community-based services for elders and individuals with disabilities;
- Encourages Congress to implement more unified training and supervision standards for CNAs and HHAs on a statewide and national level; and,
- Directs that copies of the memorial be transmitted 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.

¹ s. 464.201(5), Florida Statutes

² s. 400.462(15), F.S.

³ Provided 3/31/09 by Departments of Children and Families, Health and Elderly Affairs and Agency for Persons with Disabilities. Total does not include Home and Community Based programs delivered by the Department of Health.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0131d.PC.doc

DATE: 3/30/2009

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Funding for Home and Community Based Services

Home and Community Based Services allow elders to age in place. These services also prevent or delay premature nursing home placement and are more cost effective than institutional care. Home and Community Based Services provide a continuum of care, such as meals and in-home care, which encourages positive aging and self-care. These services are provided primarily through Medicaid waivers and other programs.

In the case of individuals with disabilities, Home and Community Based Service programs offer community based help to adults and children that will enable them to stay in their homes as an alternative to being placed in an institution. These programs help Florida's individuals with disabilities live as independently as possible by providing access to available services designed to promote self-sufficiency, community integration, and freedom from abuse, neglect or exploitation.⁴

Federal Medicaid waiver program policies are overseen by the Agency for Health Care Administration (AHCA) and administered by Department of Elder Affairs (DOEA). In fiscal year 2008-09, the Legislature appropriated approximately \$443 million in state and federal funds for Home and Community Based services to fund these waivers.⁵

In the same year, the Florida Legislature appropriated approximately \$159.7 million non-Medicaid dollars for other Home and Community Based Services, which includes approximately \$90 million from the federal Older Americans Act.⁶

⁴ General description of Home and Community Based programs in Departments of Children and Families and Health and Agency for Persons with Disabilities, verified 3/31/09.

⁵ These waivers include the Adult Day Health Care and Channeling waivers, operated by the Agency for Health Care Administration, as well as the Aged and Disabled Adult, Alzheimer's Disease, Assisted Living for the Elderly, and Nursing Home Diversion waivers, operated by the Department of Elder Affairs, last verified 3/31/09.

⁶ Older Americans Act, 42 United States Code 3001 et.seq. as amended by Public Law 106-501; Section 20.41 and Chapter 430, Florida Statutes. Older Americans Act services include congregate meals, home delivered meals, family caregiver support services, elder abuse prevention, and others. Source: Department of Elder Affairs Summary of Programs Services, 2007, last verified by DOEA 3/31/09.

With respect to current funding levels for individuals with disabilities, the Florida Legislature also appropriated \$167.5 million in state and federal funds for Home and Community Based services within the Department of Children and Families (DCF); and, \$879.9 million within the Agency for Persons with Disabilities (APD)⁷.

Certified Nursing and Home Health Aide Training

Certified Nursing Assistants (CNAs) are individuals certified by the Board of Nursing within the Department of Health who have satisfied the provisions of part II of Chapter 464, Florida Statutes. 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 who provide hands-on personal care, perform simple procedures as an extension of therapy or nursing services, assist in ambulation or exercises, or assist in the administration of medications.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 CNAs and HHAs, a licensed home health agency is statutorily-required to ensure that an individual is adequately trained to perform the tasks of a CNA or HHA in a 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. Additional screening requirements of CNAs, HHAs, and other employees and contractors of home health agencies are imposed by s. 400.512, F.S.¹¹

Federal regulations for home health agencies enrolled in Medicare and Medicaid permit an HHA to take competency evaluations given by the home health agency in lieu of training. In the alternative, aide training may be provided by the home health agency. Federally-required aide training programs, at a minimum, must include 75 hours of training across thirteen specified training areas, including at least 16 hours of supervised practical training.¹²

Proposed Changes

House Memorial 131 urges Congress to increase financial assistance and encourages states to increase financial assistance for, and broaden access to, publicly supported home and community-based services for elders and individuals with disabilities. Additionally, the memorial encourages Congress to implement more unified training and supervision standards for CNAs and HHAs on a statewide and national level.

The memorial directs that copies of the memorial be transmitted 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.

B. SECTION DIRECTORY:

Not applicable.

⁷ Provided by the Office of Budget Services, Department of Children and Families; and, Bureau of Administrative Services, Agency for Persons with Disability. Although the Department of Health provides Home and Community Based programs, the total amount appropriated by the Legislature within this time period was not provided.

⁸ s. 464.201(5), F.S.

⁹ s. 400.462(15), F.S.

¹⁰ s. 400.476(3), F.S.

¹¹ Per s. 400.512, F.S., the Level 1 screening standards of chapter 435 apply.

¹² 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).

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.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The memorial does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

None.