

**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.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB 1628  
 INTRODUCER: Senator Gelber  
 SUBJECT: Long-Term-Care Services  
 DATE: March 12, 2009      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bell	Wilson	HR	<b>Favorable</b>
2.	Ray	Walsh	CF	<b>Favorable</b>
3.	_____	_____	HA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The bill requires the Agency for Health Care Administration (AHCA or the agency), in consultation with the Department of Elder Affairs (DOEA or the department), to accept and forward to the Centers for Medicare and Medicaid Services (CMS) an application to expand the Program of All-inclusive Care for the Elderly (PACE) pilot project from a current PACE entity in good standing with AHCA, DOEA, and CMS.

This bill substantially amends s. 430.707, F.S.

**II. Present Situation:**

**Program of All-Inclusive Care for the Elderly**

The Program of All-Inclusive Care for the Elderly is a capitated benefit model authorized by the federal Balanced Budget Act of 1997 that features a comprehensive service delivery system and integrated federal Medicare and state Medicaid financing. The program is modeled on the system of acute and long-term-care services developed by On Lok Senior Health Services in San Francisco, California. The model was tested through CMS demonstration projects that began in the mid-1980s.<sup>1</sup>

The PACE model was developed to address the needs of long-term-care clients, providers, and payers.

<sup>1</sup> Centers for Medicare and Medicaid Services website: <http://www.cms.hhs.gov/PACE/> (last visited on March 13, 2009).

For most participants, the comprehensive service package permits them to continue living at home while receiving services rather than receiving services in other more costly long term care settings. Capitated financing allows providers to deliver all the services that participants need rather than being limited to those services reimbursable under the Medicare and Medicaid fee-for-service systems.<sup>2</sup>

The Balanced Budget Act of 1997 established the PACE model of care as a permanent entity within the Medicare program and enabled states to provide the PACE services to Medicaid beneficiaries as a state option without a Medicaid waiver. The state plan must include PACE as an optional Medicaid benefit before the State and the Secretary of the Department of Health and Human Services can enter into program agreements with PACE providers.<sup>3</sup>

A PACE organization is a not-for-profit private or public entity that is primarily engaged in providing the PACE services and must:<sup>4</sup>

- Have a governing board that includes community representation;
- Be able to provide the complete service package regardless of frequency or duration of services;
- Have a physical site to provide adult day services;
- Have a defined service area;
- Have safeguards against conflicts of interest;
- Have demonstrated fiscal soundness; and
- Have a formal participant bill of rights.

The PACE project is a unique federal/state partnership. The federal government establishes the PACE organization requirements and application process. The state Medicaid agency or other state agency is responsible for oversight of the entire application process, which includes reviewing the initial application and providing an on-sight readiness review before a PACE organization can be authorized to serve patients. An approved PACE organization must sign a contract with the CMS and the state Medicaid agency.<sup>5</sup>

### **Florida Medicaid Program**

Florida's Medicaid Program is jointly funded by the federal, state, and county governments to provide medical care to eligible individuals. Florida implemented its Medicaid program on January 1, 1970, to provide medical services to indigent people. The agency is the single state agency responsible for the Florida Medicaid Program. The statutory provisions for the Medicaid program appear in ss. 409.901 through 409.9205, F.S.

Some Medicaid services are mandatory services that must be covered by any state participating in the Medicaid program pursuant to federal law.<sup>6</sup> Other services are optional. A state may choose to include optional services in its state Medicaid plan, but if included, such services must

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> PACE Fact Sheet, available at: <http://www.cms.hhs.gov/PACE/Downloads/PACEFactSheet.pdf>.

<sup>5</sup> *Id.*

<sup>6</sup> These mandatory services are codified in s. 409.905, F.S.

be offered to all individuals statewide who meet Medicaid eligibility criteria as though they are mandatory benefits.<sup>7</sup> Similarly, some eligibility categories are mandatory<sup>8</sup> and some are optional.<sup>9</sup> Payments for services to individuals in the optional eligibility categories are subject to the availability of monies and any limitations established by the General Appropriations Act or Chapter 216, Florida Statutes.

### **Florida PACE Project**

The Florida PACE project is one project among many that provide alternative, long-term care options for elders who qualify for Medicare and the state Medicaid program. The PACE project was initially authorized in Chapter 98-327, Laws of Florida, and is codified in s. 430.707(2), F.S. The PACE model targets individuals who would otherwise qualify for Medicaid nursing home placement and provides them with a comprehensive array of home and community-based services at a cost less than the cost of nursing home care. The PACE project is administered by DOEA in consultation with AHCA.

Proviso language in the 2006-2007 general appropriations act authorized 150 additional clients for the existing PACE project in Miami-Dade County and funding for the development of PACE projects to serve 200 clients in Martin and St. Lucie counties, and 200 clients in Lee County.<sup>10</sup>

In addition to receiving the necessary legislative authority, the development of a new PACE organization or the expansion of an existing program is a lengthy process that includes: identifying a service area, acquiring and renovating a PACE facility and processing the PACE application through the state and the federal review system. The Florida PACE Centers, Inc., is currently in the final stages of negotiating a construction agreement with a local contractor for its second PACE facility and has expressed interest in expanding to a third site.<sup>11</sup>

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

The bill amends s. 430.707, F.S., to direct AHCA, in consultation with DOEA, to accept and forward to CMS an application to expand a PACE pilot project from a current PACE entity in good standing with AHCA, DOEA, and CMS.

The effective date of the bill is July 1, 2009.

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

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

None.

<sup>7</sup> Optional services covered under the Florida Medicaid Program are codified in s. 409.906, F.S.

<sup>8</sup> s. 409.903, F.S.

<sup>9</sup> s. 409.904, F.S.

<sup>10</sup> Section 3, Chapter 2006-25, L.O.F. Currently, there are two operating PACE organizations in the state, Florida Pace, Inc., in Miami – Dade County and Hope Select Care, in Lee County.

<sup>11</sup> PACE Fact Sheet, available at: <http://www.cms.hhs.gov/PACE/Downloads/PACEFactSheet.pdf>.

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

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

On line 35 of the bill, the word “pilot” may cause confusion between the community diversion **pilot** project discussed in subsection (1) of s. 430.707, F.S., and the project providing benefits pursuant to PACE that is discussed in subsection (2) of s. 43.707, F.S.

**VII. Related Issues:**

None.

**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.