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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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04/22/2009 06:15 PM

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Senator Peaden moved the following:

Senate Amendment (with directory and title amendments)

Delete lines 780 - 830

and insert:

(4) The agency may contract with:

(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such ~~an~~ entity must be licensed under chapter 624, chapter 636, or chapter 641, or authorized under paragraph (c), and must possess the clinical systems and operational competence to manage risk and provide comprehensive



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13 behavioral health care to Medicaid recipients. As used in this
14 paragraph, the term "comprehensive behavioral health care
15 services" means covered mental health and substance abuse
16 treatment services that are available to Medicaid recipients.
17 The secretary of the Department of Children and Family Services
18 shall approve ~~provisions of~~ procurements related to children in
19 the department's care or custody before ~~prior to~~ enrolling such
20 children in a prepaid behavioral health plan. Any contract
21 awarded under this paragraph must be competitively procured. In
22 developing the behavioral health care prepaid plan procurement
23 document, the agency shall ensure that the procurement document
24 requires the contractor to develop and implement a plan to
25 ensure compliance with s. 394.4574 related to services provided
26 to residents of licensed assisted living facilities that hold a
27 limited mental health license. Except as provided in
28 subparagraph 8., and except in counties where the Medicaid
29 managed care pilot program is authorized pursuant to s.
30 409.91211, the agency shall seek federal approval to contract
31 with a single entity meeting these requirements to provide
32 comprehensive behavioral health care services to all Medicaid
33 recipients not enrolled in a Medicaid managed care plan
34 authorized under s. 409.91211 or a Medicaid health maintenance
35 organization in an AHCA area. In an AHCA area where the Medicaid
36 managed care pilot program is authorized pursuant to s.
37 409.91211 in one or more counties, the agency may procure a
38 contract with a single entity to serve the remaining counties as
39 an AHCA area or the remaining counties may be included with an
40 adjacent AHCA area and are ~~shall be~~ subject to this paragraph.
41 Each entity must offer a sufficient choice of providers in its



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42 network to ensure recipient access to care and the opportunity
43 to select a provider with whom they are satisfied. The network
44 shall include all public mental health hospitals. To ensure
45 unimpaired access to behavioral health care services by Medicaid
46 recipients, all contracts issued pursuant to this paragraph must
47 ~~shall~~ require 80 percent of the capitation paid to the managed
48 care plan, including health maintenance organizations, to be
49 expended for the provision of behavioral health care services.
50 If ~~In the event~~ the managed care plan expends less than 80
51 percent of the capitation paid ~~pursuant to this paragraph~~ for
52 the provision of behavioral health care services, the difference
53 shall be returned to the agency. The agency shall provide the
54 ~~managed care~~ plan with a certification letter indicating the
55 amount of capitation paid during each calendar year for ~~the~~
56 ~~provision of~~ behavioral health care services pursuant to this
57 section. The agency may reimburse for substance abuse treatment
58 services on a fee-for-service basis until the agency finds that
59 adequate funds are available for capitated, prepaid
60 arrangements.

61 1. By January 1, 2001, the agency shall modify the
62 contracts with the entities providing comprehensive inpatient
63 and outpatient mental health care services to Medicaid
64 recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk
65 Counties, to include substance abuse treatment services.

66 2. By July 1, 2003, the agency and the Department of
67 Children and Family Services shall execute a written agreement
68 that requires collaboration and joint development of all policy,
69 budgets, procurement documents, contracts, and monitoring plans
70 that have an impact on the state and Medicaid community mental



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71 health and targeted case management programs.

72 3. Except as provided in subparagraph 8., by July 1, 2006,
73 the agency and the Department of Children and Family Services
74 shall contract with managed care entities in each AHCA area
75 except area 6 or arrange to provide comprehensive inpatient and
76 outpatient mental health and substance abuse services through
77 capitated prepaid arrangements to all Medicaid recipients who
78 are eligible to participate in such plans under federal law and
79 regulation. In AHCA areas where eligible individuals number less
80 than 150,000, the agency shall contract with a single managed
81 care plan to provide comprehensive behavioral health services to
82 all recipients who are not enrolled in a Medicaid health
83 maintenance organization or a Medicaid capitated managed care
84 plan authorized under s. 409.91211. The agency may contract with
85 more than one comprehensive behavioral health provider to
86 provide care to recipients who are not enrolled in a Medicaid
87 capitated managed care plan authorized under s. 409.91211 or a
88 Medicaid health maintenance organization in AHCA areas where the
89 eligible population exceeds 150,000. In an AHCA area where the
90 Medicaid managed care pilot program is authorized pursuant to s.
91 409.91211 in one or more counties, the agency may procure a
92 contract with a single entity to serve the remaining counties as
93 an AHCA area or the remaining counties may be included with an
94 adjacent AHCA area and shall be subject to this paragraph.
95 Contracts for comprehensive behavioral health providers awarded
96 pursuant to this section shall be competitively procured. Both
97 for-profit and not-for-profit corporations are ~~shall be~~ eligible
98 to compete. Managed care plans contracting with the agency under
99 subsection (3) shall provide and receive payment for the same



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100 comprehensive behavioral health benefits as provided in AHCA
101 rules, including handbooks incorporated by reference. In AHCA
102 area 11, the agency shall contract with at least two
103 comprehensive behavioral health care providers to provide
104 behavioral health care to recipients in that area who are
105 enrolled in, or assigned to, the MediPass program. One of the
106 behavioral health care contracts must ~~shall~~ be with the existing
107 provider service network pilot project, as described in
108 paragraph (d), for the purpose of demonstrating the cost-
109 effectiveness of the provision of quality mental health services
110 through a public hospital-operated managed care model. Payment
111 shall be at an agreed-upon capitated rate to ensure cost
112 savings. Of the recipients in area 11 who are assigned to
113 MediPass under ~~the provisions of~~ s. 409.9122(2)(k), a minimum of
114 50,000 of those MediPass-enrolled recipients shall be assigned
115 to the existing provider service network in area 11 for their
116 behavioral care.

117 4. By October 1, 2003, the agency and the department shall
118 submit a plan to the Governor, the President of the Senate, and
119 the Speaker of the House of Representatives which provides for
120 the full implementation of capitated prepaid behavioral health
121 care in all areas of the state.

122 a. Implementation shall begin in 2003 in those AHCA areas
123 of the state where the agency is able to establish sufficient
124 capitation rates.

125 b. If the agency determines that the proposed capitation
126 rate in any area is insufficient to provide appropriate
127 services, the agency may adjust the capitation rate to ensure
128 that care will be available. The agency and the department may



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129 use existing general revenue to address any additional required
130 match but may not over-obligate existing funds on an annualized
131 basis.

132 c. Subject to any limitations provided ~~for~~ in the General
133 Appropriations Act, the agency, in compliance with appropriate
134 federal authorization, shall develop policies and procedures
135 that allow for certification of local and state funds.

136 5. Children residing in a statewide inpatient psychiatric
137 program, or in a Department of Juvenile Justice or a Department
138 of Children and Family Services residential program approved as
139 a Medicaid behavioral health overlay services provider may ~~shall~~
140 not be included in a behavioral health care prepaid health plan
141 or any other Medicaid managed care plan pursuant to this
142 paragraph.

143 6. In converting to a prepaid system of delivery, the
144 agency shall in its procurement document require an entity
145 providing only comprehensive behavioral health care services to
146 prevent the displacement of indigent care patients by enrollees
147 in the Medicaid prepaid health plan providing behavioral health
148 care services from facilities receiving state funding to provide
149 indigent behavioral health care, to facilities licensed under
150 chapter 395 which do not receive state funding for indigent
151 behavioral health care, or reimburse the unsubsidized facility
152 for the cost of behavioral health care provided to the displaced
153 indigent care patient.

154 7. Traditional community mental health providers under
155 contract with the Department of Children and Family Services
156 pursuant to part IV of chapter 394, child welfare providers
157 under contract with the Department of Children and Family



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158 Services in areas 1 and 6, and inpatient mental health providers
159 licensed pursuant to chapter 395 must be offered an opportunity
160 to accept or decline a contract to participate in any provider
161 network for prepaid behavioral health services.

162 8. All Medicaid-eligible children, except children in area
163 1 and children in Highlands County, Hardee County, Polk County,
164 or Manatee County of area 6, that who are open for child welfare
165 services in the HomeSafeNet system, shall receive their
166 behavioral health care services through a specialty prepaid plan
167 operated by community-based lead agencies ~~either~~ through a
168 single agency or formal agreements among several agencies. The
169 specialty prepaid plan must result in savings to the state
170 comparable to savings achieved in other Medicaid managed care
171 and prepaid programs. Such plan must provide mechanisms to
172 maximize state and local revenues. The specialty prepaid plan
173 shall be developed by the agency and the Department of Children
174 and Family Services. The agency may ~~is authorized to~~ seek any
175 federal waivers to implement this initiative. Medicaid-eligible
176 children whose cases are open for child welfare services in the
177 HomeSafeNet system and who reside in AHCA area 10 are exempt
178 from the specialty prepaid plan upon the development of a
179 service delivery mechanism for children who reside in area 10 as
180 specified in s. 409.91211(3)(dd).

181 (14)(a) The agency shall operate or contract for the
182 operation of utilization management and incentive systems
183 designed to encourage cost-effective use of services and to
184 eliminate overutilization of Medicaid services that are
185 medically unnecessary. The agency shall establish norms for the
186 utilization of Medicaid services which are risk-adjusted for



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187 patient acuity. The agency shall also track Medicaid provider
188 prescription and treatment patterns and develop utilization
189 norms. Providers that demonstrate a pattern of submitting claims
190 for medically unnecessary services shall be referred to the
191 Medicaid program integrity unit for investigation. By February
192 1, 2010, the agency shall submit a report to the Governor, the
193 President of the Senate, and the Speaker of the House of
194 Representatives on the utilization of Medicaid services and the
195 establishment of utilization norms in the Medicaid program. The
196 report must include a definition of overutilization and gross
197 overutilization of Medicaid services and recommendations to
198 decrease the overutilization of Medicaid services in the
199 Medicaid program.

200 (17) An entity contracting on a prepaid or fixed-sum basis
201 shall meet the, ~~in addition to meeting any applicable statutory~~
202 ~~surplus requirements of s. 641.225, also maintain at all times~~
203 ~~in the form of cash, investments that mature in less than 180~~
204 ~~days allowable as admitted assets by the Office of Insurance~~
205 ~~Regulation, and restricted funds or deposits controlled by the~~
206 ~~agency or the Office of Insurance Regulation, a surplus amount~~
207 ~~equal to one-and-one-half times the entity's monthly Medicaid~~
208 ~~prepaid revenues. As used in this subsection, the term "surplus"~~
209 ~~means the entity's total assets minus total liabilities. If an~~
210 ~~entity's surplus falls below an amount equal to the surplus~~
211 ~~requirements of s. 641.225 one-and-one-half times the entity's~~
212 ~~monthly Medicaid prepaid revenues, the agency shall prohibit the~~
213 ~~entity from engaging in marketing and preenrollment activities,~~
214 ~~shall cease to process new enrollments, and may ~~shall~~ not renew~~
215 ~~the entity's contract until the required balance is achieved.~~



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216 ~~The requirements of this subsection do not apply:~~

217 ~~(a) Where a public entity agrees to fund any deficit~~
218 ~~incurred by the contracting entity; or~~

219 ~~(b) Where the entity's performance and obligations are~~
220 ~~guaranteed in writing by a guaranteeing organization which:~~

221 ~~1. Has been in operation for at least 5 years and has~~
222 ~~assets in excess of \$50 million; or~~

223 ~~2. Submits a written guarantee acceptable to the agency~~
224 ~~which is irrevocable during the term of the contracting entity's~~
225 ~~contract with the agency and, upon termination of the contract,~~
226 ~~until the agency receives proof of satisfaction of all~~
227 ~~outstanding obligations incurred under the contract.~~

228
229 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

230 And the directory clause is amended as follows:

231 Delete lines 716 - 717

232 and insert:

233 Section 12. Paragraph (c) of subsection (4), paragraph (a)
234 of subsection (14), and subsection (17) of section 409.912,
235 Florida Statutes, are amended to read:

236
237 ===== T I T L E A M E N D M E N T =====

238 And the title is amended as follows:

239 Delete lines 49 - 53

240 and insert:

241 providers; amending s. 409.912, F.S.; requiring that
242 certain entities that provide comprehensive behavioral
243 health care services to certain Medicaid recipients be
244 licensed or authorized; requiring the agency to



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245 establish norms for the utilization of Medicaid
246 services; requiring the agency to submit a report
247 relating to the overutilization of Medicaid services;
248 revising the requirement for an entity that contracts
249 on a prepaid or fixed-sum basis to meet certain
250 surplus requirements; deleting the requirement that an
251 entity maintain certain investments and restricted
252 funds or deposits; revising the circumstances in which
253 the agency must prohibit the entity from engaging in
254 certain activities, cease to process new enrollments,
255 and not renew the entity's contract; deleting certain
256 exemptions; amending s.