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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2010	.	
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The Committee on Health and Human Services Appropriations  
(Haridopolos) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 1255 and 1256  
insert:

Section 26. Paragraph (b) of subsection (48) of section  
409.912, Florida Statutes, is amended to read:

409.912 Cost-effective purchasing of health care.—The  
agency shall purchase goods and services for Medicaid recipients  
in the most cost-effective manner consistent with the delivery  
of quality medical care. To ensure that medical services are  
effectively utilized, the agency may, in any case, require a



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13 confirmation or second physician's opinion of the correct  
14 diagnosis for purposes of authorizing future services under the  
15 Medicaid program. This section does not restrict access to  
16 emergency services or poststabilization care services as defined  
17 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
18 shall be rendered in a manner approved by the agency. The agency  
19 shall maximize the use of prepaid per capita and prepaid  
20 aggregate fixed-sum basis services when appropriate and other  
21 alternative service delivery and reimbursement methodologies,  
22 including competitive bidding pursuant to s. 287.057, designed  
23 to facilitate the cost-effective purchase of a case-managed  
24 continuum of care. The agency shall also require providers to  
25 minimize the exposure of recipients to the need for acute  
26 inpatient, custodial, and other institutional care and the  
27 inappropriate or unnecessary use of high-cost services. The  
28 agency shall contract with a vendor to monitor and evaluate the  
29 clinical practice patterns of providers in order to identify  
30 trends that are outside the normal practice patterns of a  
31 provider's professional peers or the national guidelines of a  
32 provider's professional association. The vendor must be able to  
33 provide information and counseling to a provider whose practice  
34 patterns are outside the norms, in consultation with the agency,  
35 to improve patient care and reduce inappropriate utilization.  
36 The agency may mandate prior authorization, drug therapy  
37 management, or disease management participation for certain  
38 populations of Medicaid beneficiaries, certain drug classes, or  
39 particular drugs to prevent fraud, abuse, overuse, and possible  
40 dangerous drug interactions. The Pharmaceutical and Therapeutics  
41 Committee shall make recommendations to the agency on drugs for



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42 which prior authorization is required. The agency shall inform  
43 the Pharmaceutical and Therapeutics Committee of its decisions  
44 regarding drugs subject to prior authorization. The agency is  
45 authorized to limit the entities it contracts with or enrolls as  
46 Medicaid providers by developing a provider network through  
47 provider credentialing. The agency may competitively bid single-  
48 source-provider contracts if procurement of goods or services  
49 results in demonstrated cost savings to the state without  
50 limiting access to care. The agency may limit its network based  
51 on the assessment of beneficiary access to care, provider  
52 availability, provider quality standards, time and distance  
53 standards for access to care, the cultural competence of the  
54 provider network, demographic characteristics of Medicaid  
55 beneficiaries, practice and provider-to-beneficiary standards,  
56 appointment wait times, beneficiary use of services, provider  
57 turnover, provider profiling, provider licensure history,  
58 previous program integrity investigations and findings, peer  
59 review, provider Medicaid policy and billing compliance records,  
60 clinical and medical record audits, and other factors. Providers  
61 shall not be entitled to enrollment in the Medicaid provider  
62 network. The agency shall determine instances in which allowing  
63 Medicaid beneficiaries to purchase durable medical equipment and  
64 other goods is less expensive to the Medicaid program than long-  
65 term rental of the equipment or goods. The agency may establish  
66 rules to facilitate purchases in lieu of long-term rentals in  
67 order to protect against fraud and abuse in the Medicaid program  
68 as defined in s. 409.913. The agency may seek federal waivers  
69 necessary to administer these policies.

70 (48)



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71 (b) The agency shall limit its network of durable medical  
72 equipment and medical supply providers. For dates of service  
73 after January 1, 2009, the agency shall limit payment for  
74 durable medical equipment and supplies to providers that meet  
75 all the requirements of this paragraph.

76 1. Providers must be accredited by a Centers for Medicare  
77 and Medicaid Services deemed accreditation organization for  
78 suppliers of durable medical equipment, prosthetics, orthotics,  
79 and supplies. The provider must maintain accreditation and is  
80 subject to unannounced reviews by the accrediting organization.

81 2. Providers must provide the services or supplies directly  
82 to the Medicaid recipient or caregiver at the provider location  
83 or recipient's residence or send the supplies directly to the  
84 recipient's residence with receipt of mailed delivery.  
85 Subcontracting or consignment of the service or supply to a  
86 third party is prohibited.

87 3. Notwithstanding subparagraph 2., a durable medical  
88 equipment provider may store nebulizers at a physician's office  
89 for the purpose of having the physician's staff issue the  
90 equipment if it meets all of the following conditions:

91 a. The physician must document the medical necessity and  
92 need to prevent further deterioration of the patient's  
93 respiratory status by the timely delivery of the nebulizer in  
94 the physician's office.

95 b. The durable medical equipment provider must have written  
96 documentation of the competency and training by a Florida-  
97 licensed registered respiratory therapist of any durable medical  
98 equipment staff who participate in the training of physician  
99 office staff for the use of nebulizers, including cleaning,



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100 warranty, and special needs of patients.

101 c. The physician's office must have documented the training  
102 and competency of any staff member who initiates the delivery of  
103 nebulizers to patients. The durable medical equipment provider  
104 must maintain copies of all physician office training.

105 d. The physician's office must maintain inventory records  
106 of stored nebulizers, including documentation of the durable  
107 medical equipment provider source.

108 e. A physician contracted with a Medicaid durable medical  
109 equipment provider may not have a financial relationship with  
110 that provider or receive any financial gain from the delivery of  
111 nebulizers to patients.

112 4. Providers must have a physical business location and a  
113 functional landline business phone. The location must be within  
114 the state or not more than 50 miles from the Florida state line.  
115 The agency may make exceptions for providers of durable medical  
116 equipment or supplies not otherwise available from other  
117 enrolled providers located within the state.

118 5. Physical business locations must be clearly identified  
119 as a business that furnishes durable medical equipment or  
120 medical supplies by signage that can be read from 20 feet away.  
121 The location must be readily accessible to the public during  
122 normal, posted business hours and must operate no less than 5  
123 hours per day and no less than 5 days per week, with the  
124 exception of scheduled and posted holidays. The location may not  
125 be located within or at the same numbered street address as  
126 another enrolled Medicaid durable medical equipment or medical  
127 supply provider or as an enrolled Medicaid pharmacy that is also  
128 enrolled as a durable medical equipment provider. A licensed



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129 orthotist or prosthetist that provides only orthotic or  
130 prosthetic devices as a Medicaid durable medical equipment  
131 provider is exempt from the provisions in this paragraph.

132 6. Providers must maintain a stock of durable medical  
133 equipment and medical supplies on site that is readily available  
134 to meet the needs of the durable medical equipment business  
135 location's customers.

136 7. Providers must provide a surety bond of \$50,000 for each  
137 provider location, up to a maximum of 5 bonds statewide or an  
138 aggregate bond of \$250,000 statewide, as identified by Federal  
139 Employer Identification Number. Providers who post a statewide  
140 or an aggregate bond must identify all of their locations in any  
141 Medicaid durable medical equipment and medical supply provider  
142 enrollment application or bond renewal. Each provider location's  
143 surety bond must be renewed annually and the provider must  
144 submit proof of renewal even if the original bond is a  
145 continuous bond. A licensed orthotist or prosthetist that  
146 provides only orthotic or prosthetic devices as a Medicaid  
147 durable medical equipment provider is exempt from the provisions  
148 in this paragraph.

149 8. Providers must obtain a level 2 background screening, in  
150 accordance with chapter 435 and s. 408.809 ~~as provided under s.~~  
151 ~~435.04~~, for each provider employee in direct contact with or  
152 providing direct services to recipients of durable medical  
153 equipment and medical supplies in their homes. This requirement  
154 includes, but is not limited to, repair and service technicians,  
155 fitters, and delivery staff. The provider shall pay for the cost  
156 of the background screening.

157 9. The following providers are exempt from the requirements



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158 of subparagraphs 1. and 7.:

159 a. Durable medical equipment providers owned and operated  
160 by a government entity.

161 b. Durable medical equipment providers that are operating  
162 within a pharmacy that is currently enrolled as a Medicaid  
163 pharmacy provider.

164 c. Active, Medicaid-enrolled orthopedic physician groups,  
165 primarily owned by physicians, which provide only orthotic and  
166 prosthetic devices.

167

168 ===== T I T L E A M E N D M E N T =====

169 And the title is amended as follows:

170

171 Delete line 70

172 and insert:

173

174 Medicaid providers; amending s. 409.912, F.S.;

175 requiring Medicaid providers to obtain a level 2

176 background screening for each provider employee in

177 direct contact with or providing direct services to

178 Medicaid recipients; amending s. 411.01, F.S.;