

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HM 1349 Statewide Implementation of Florida's Medicaid Reform Program

SPONSOR(S): Grant

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Federal Affairs Subcommittee	9 Y, 3 N, As CS	Bennett	Camechis
2) State Affairs Committee			

SUMMARY ANALYSIS

This memorial requests the federal Centers for Medicare and Medicaid Services (CMS) approve federal waivers to allow implementation of Florida's Statewide Medicaid Managed Care program (SMMC).

Medicaid is the health care safety net for low-income Americans. In 2005, the Florida Legislature authorized the Agency for Health Care Administration (AHCA) to establish a pilot program to reform Medicaid in Florida for the purpose of improving health outcomes of Medicaid beneficiaries and achieving budget predictability. The pilot was conducted in Broward and Duval Counties. Soon thereafter, the pilot program was expanded to three more counties. In 2011, the Florida Legislature passed legislation, developed using tenets of the pilot program, to establish the SMMC. Rather than utilizing the traditional Medicaid fee-for service payment structure, the SMMC's managed care plans pay a set amount per beneficiary for all of an individual's health care needs.

Federal waivers are necessary in order to implement Florida's SMMC program because the program alters current federal Medicaid programs. Variations from federal Medicaid regulations must be approved in the form of a waiver, issued by the Secretary of Health and Human Services, by way of the CMS and the White House's Office of Management and Budget (OMB).

Provisions in Florida's 2011 legislation creating the SMMC require AHCA to apply for the federal waivers necessary to implement the program. AHCA has submitted waiver requests for CMS's review, but it is unknown whether or when the waivers will be granted.

This memorial has no fiscal impact

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Effect of Proposed Changes

This memorial requests the federal Centers for Medicare and Medicaid Services (CMS) approve the federal waivers allowing Florida's Medicaid reform to be implemented statewide.

Present Situation

Background

Medicaid is the health care safety net for low-income Americans, and is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The state and federal government share the costs of the Medicaid program. States are not required to participate in the federal Medicaid program but, if they do, the state plans must generally conform to federal Medicaid regulations. In return for their participation, participating state governments get partial reimbursement from the federal government. States may experiment with new types of plans; however, the plans must generally conform to federal Medicaid regulations, and any variations must be approved by the Secretary of Health and Human Services.¹

Medicaid in Florida

Florida's Medicaid program serves over 3 million people at estimated cost of over \$20 billion for FY 2011-2012.² The Agency for Health Care Administration (AHCA) oversees the complex system of eligibility groups, financing, and service models. Medicaid costs have increased significantly since its inception, due to substantial eligibility expansion as well as the broad range of services and programs funded by Medicaid. For example, over half the childbirths in Florida are paid for by the Medicaid program, and about one quarter of Florida children are covered by Medicaid.³

Pilot Program

In 2005, the Florida Legislature passed a law to begin reforming the state's Medicaid program with the intent of improving health outcomes of Medicaid beneficiaries and achieving budget predictability. In September 2006, AHCA obtained approval from the Legislature and a federal waiver from the CMS to implement a managed care pilot program in Broward and Duval counties. Soon thereafter, the pilot program was expanded to Baker, Clay, and Nassau counties.⁴

According to AHCA, the five-county pilot program "created an environment that encouraged beneficiaries to more actively participate in the management of their health care and incentivized health plans to provide care centered on the person's individual needs."⁵ On December 15, 2011, the CMS approved AHCA's request for a 3-year waiver extension for the pilot program through June 30, 2014.

¹ *Spry v. Thompson*, 487 F.3d 1272, 1273 (9th Cir. 2007).

² Estimated expenditures for Fiscal Year 2011-12 (July 2011 through June 2012); <http://www.fdhc.state.fl.us/medicaid/>

³ Florida Medicaid: Program Overview, Agency for Health Care Administration Presentation to House Health and Human Services Committee, 2011.

⁴ For more details on the pilot program, please see: Fla. H.R. HB 7107 (2011) Final Staff Analysis (June 28, 2011) (available at <http://www.myfloridahouse.gov/Sections/Documents/loadaddoc.aspx?FileName=h7107z.HHSC.DOCX&DocumentType=Analysis&BillNumber=7107&Session=2011>) (Staff Analysis).

⁵ Agency for Health Care Administration, Florida Medicaid Reform Year 5, Annual Report July 1, 2010 – June 30, 2011, 1115 Research and Demonstration Waiver. Available at: http://ahca.myflorida.com/medicaid/medicaid_reform/annual.shtml

Statewide Medicaid Managed Care Program

On May 6, 2011, the Florida Legislature passed legislation,⁶ developed using tenets of the pilot program, to establish the Statewide Medicaid Managed Care program (SMMC). Rather than utilizing the traditional Medicaid fee-for-service payment structure, the SMMC's managed care plans pay a set amount per beneficiary for all of an individual's health care needs. The SMMC program is characterized by:⁷

- Care and services provided in a managed care model;
- Mandatory participation for most, voluntary for some, with some populations excluded;
- Competitive, negotiated selection of managed care plans that meet strict selection criteria;
- Regionalized plan selection of a limited number of plans to ensure coverage in rural areas;
- Limited plan numbers in the eleven regions to ensure stability but allow significant patient choice;
- Varying models of managed care: HMOs, PSNs, specialty plans, and medical home plans;
- Specific plan accountability measures, including network standards, achieved savings rebates, encounter data, performance measures, and fraud and abuse measures;
- Negotiated payments based on risk-adjusted rates;
- Customized benefits to allow meaningful recipient choice; and
- Opt-Out Program for recipients to use their Medicaid dollars to purchase other forms of coverage

State law directs AHCA to implement parts of the SMMC by October 1, 2013, and full implementation is required by October 1, 2014.⁸

Federal Waivers

Provisions⁹ of the Social Security Act of 1965 grant the states authority to implement experimental Medicaid programs that are "designed to improve the techniques of administering assistance."¹⁰ The Department of Health and Human Services (by way of CMS) and the White House's Office of Management and Budget (OMB)¹¹ must "waive" federal Medicaid requirements whenever a state uses federal funds in ways that alter the federal Medicaid program. Much of the approval process is complex and informal; there are few rules or guidelines in place and CMS has ultimate discretion. The application review period typically lasts between six and twenty-five months and involves extensive negotiations between the state and CMS. If approved, the state is usually granted an operational waiver for a period of five years, at the end of which the state may seek renewal in the form of a three-year waiver extension.

Federal waivers are necessary in order to implement Florida's SMMC program because the program alters current state-administered federal Medicaid programs. Provisions of the reform legislation require AHCA to apply for the federal waivers necessary to implement the program.¹² AHCA submitted timely waiver requests for CMS's review;¹³ however, it is unknown whether or when the CMS will approve the waivers.

⁶ House Bill 7107 (Ch. 2011-134, L.O.F) and HB 7109 (Ch. 2011-135, L.O.F); signed into law by Governor Rick Scott on June 2, 2011; codified as § 409.961 - § 409.985, Fla. Stat. (2011).

⁷ For comprehensive analysis of changes to Florida's Medicaid program as a result of House Bills 7107 and 7109 *see generally*: Staff Analysis, *supra* note 4 at 21; and Fla. H.R., HB 7109 (2011) Final Staff Analysis (June 28, 2011) (available at <http://www.myfloridahouse.gov/Sections/Documents/loadoc.aspx?FileName=h7109z.HHSC.DOCX&DocumentType=Analysis&BillNumber=7109&Session=2011>).

⁸ § 409.971 and 409.978(1), Fla. Stat. (2011).

⁹ Public Welfare Amendments of 1962, Pub. L. No. 87-43, tit. I, sec. 122, tit. XI, § 1115, 76 Stat. 173, 192 (1962) (codified as amended at 42 U.S.C. § 1315 (1988))

¹⁰ S. Rep. No. 87-1589 (1962), reprinted in 1962 U.S.C.C.A.N. 1943, 1962

¹¹ OMB approval is required when the plan uses more than \$1 million and affects more than 300 Medicaid recipients. *See* Elizabeth Andersen, Administering Health Care: Lessons from the Health Care Financing Administration's Waiver Policy-Making, 10 J.L. & Pol. 215, 227-28 (1994).

¹² § 409.964 and 409.985(4), Fla. Stat. (2011).

¹³ Information on the submitted waiver request available at: http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#tab3

Current State Legislation

A similar memorial proposed in the Florida Senate (SM 1836) urges the Secretary of Health and Human Services to approve the federal Medicaid waivers required to expand Florida's SMMC. A Senate bill (CS/SB 730) would alter parts of the SMMC with respect to Medicaid recipients who are dually eligible for Medicaid and Medicare. The bill passed the Senate Health Regulation Committee and the Senate Budget Subcommittee on Health and Human Services, and is now in the full Senate Budget Committee. A similar House bill (HB 727) has been referred to committee but has not been heard.

B. SECTION DIRECTORY: Not Applicable

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: None.
2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 30, 2012, the Federal Affairs Subcommittee adopted a title amendment to correct a drafting error in the title.