

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1195 Medicaid Managed Care  
**SPONSOR(S):** Pritchett and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1346

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Innovation Subcommittee		McElroy	Shaw
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

By October 1, 2014, all Florida Medicaid recipients are required to receive covered services through the Statewide Medicaid Managed Care (SMMC) program. There are two types of exemptions from this requirement. The first is comprised of groups of individuals who are completely exempt from participation in the SMMC program. These groups are delineated in s. 409.965, F.S. The second is comprised of groups of individuals who are exempt but who may voluntarily participate in the in the SMMC program. These groups are delineated in s. 409.972, F.S.

The Agency for Health Care Administration (AHCA) is required to create an integrated managed care program for Medicaid enrollees that incorporates all of the minimum benefits for the delivery of primary and acute care, including behavioral health services. The AHCA began implementing the SMMC in January 2012. Statewide implementation of the SMMC is expected to be completed by October 1, 2014.

On December 28, 2012, the ACHA released an Invitation to Negotiate (ITN) to competitively procure managed care plans on a statewide basis. The ITN lists behavioral health services as one of the core provisions of the scope of services to be offered in the managed care plans.

The bill amends s. 409.972, F.S. to create an exemption for children residing in a Department of Children and Families licensed residential program approved as a Medicaid behavioral health overlay services provider. These children will be exempt from the mandatory enrollment requirement however; they may elect to voluntarily participate in the SMMC.

The bill does not appear to have a fiscal impact on state government.

The bill provides an effective date of July 1, 2013.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

##### **Medicaid**

Medicaid is a joint federal and state funded program that provides health care for low income Floridians. The program is administered by the AHCA and financed with federal and state funds. The statutory authority for the Medicaid program is contained in ch. 409, F.S.

Federal law establishes the minimum benefit levels to be covered in order to receive federal matching funds. Florida's mandatory and optional benefits are prescribed in state law under ss. 409.905, and 409.906 F.S., respectively. Currently, Florida Medicaid recipients receive their benefits through a number of different delivery systems.

##### **Behavioral Health Services in Child Welfare Settings**

Behavioral health overlay services in child welfare settings are mental health, substance abuse, and supportive services designed to meet the behavioral health treatment needs of recipients who are placed in the care of Medicaid enrolled, certified residential group care agencies under contract with the Department of Children and Families (DCF).<sup>1</sup> The purpose of behavioral health overlay services in child welfare settings are to address on-site and on a child specific basis, medically necessary mental health and substance abuse treatment needs of children who are placed in a residential group care setting.<sup>2</sup>

##### **Statewide Medicaid Managed Care (SMMC)**

In 2011, the Legislature passed HB 7107 creating the SMMC program as part IV of ch. 409, F.S. All Florida Medicaid recipients are required to receive covered services through the Statewide Medicaid Managed Care (SMMC) program.<sup>3</sup> There are two types of exemptions from this requirement. The first is comprised of groups of individuals who are completely exempt from participation in the SMMC program and consists of the following:

- Women who are eligible only for family planning services;
- Women who are eligible only for breast and cervical cancer services;
- Persons who are eligible for emergency Medicaid for aliens; and,
- Children receiving services in a prescribed pediatric extended care center.<sup>4</sup>

The second is comprised of groups of individuals who are exempt but who may voluntarily participate in the in the SMMC program and consists of the following:

- Medicaid recipients who have other creditable health care coverage, excluding Medicare;
- Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice or mental health treatment facilities as defined by s. 394.455(32);
- Persons eligible for refugee assistance;
- Medicaid recipients who are residents of a developmental disability center, including Sunland Center in Marianna and Tacachale in Gainesville; and,

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<sup>1</sup> ACHA, Florida Medicaid: *Community Behavioral Health Services Coverage and Limitations Handbook*. [https://portal.flmmis.com/.../Community\\_Behavioral\\_HealthHB.pdf](https://portal.flmmis.com/.../Community_Behavioral_HealthHB.pdf) (last visited on March 24, 2013)

<sup>2</sup> Id.

<sup>3</sup> Section 409.965, F.S

<sup>4</sup> Id.

- Medicaid recipients enrolled in the home and community based services waiver pursuant to chapter 393, and Medicaid recipients waiting for waiver services.<sup>5</sup>

AHCA is required to create an integrated managed care program for Medicaid enrollees that incorporates all of the minimum benefits for the delivery of primary and acute care, including behavioral health services.<sup>6</sup> The AHCA began implementing the SMMC in January 2012. Statewide implementation of SMMC is expected to be completed by October 1, 2014.

On December 28, 2012, the ACHA released an Invitation to Negotiate (ITN) to competitively procure managed care plans on a statewide basis.<sup>7</sup> The deadline for written inquiries on the ITN was February 12, 2013, and the deadline for the ACHA's responses is March 29, 2013.<sup>8</sup> The negotiations for the plans will be conducted from July 8, 2013, through September 6, 2013.<sup>9</sup> The ACHA anticipates that the Notice of Intent to Award will be posted by September 16, 2013.<sup>10</sup> The ITN lists behavioral health services as one of the core provisions of the scope of services to be offered in the managed care plans.<sup>11</sup>

The ITN is currently in a statutorily imposed "Blackout Period" until 72 hours after the award and the ACHA cannot provide interpretation or additional information not included in the MMA ITN documents. Specifically, s.287.057(23), F.S., provides as follows:

Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

### Effects of Proposed Changes

The bill creates an exemption for children residing in a Department of Children and Families licensed residential program approved as a Medicaid behavioral health overlay services provider. Persons eligible for Medicaid but exempt from mandatory participation who do not choose to enroll in managed care shall be served in the Medicaid fee-for-service program.<sup>12</sup> Thus, these children will be exempt from the mandatory enrollment requirement however, they may elect to voluntarily participate in the SMMC.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 409.972, F.S., relating to mandatory and voluntary enrollment.

**Section 2.** Provides an effective date of July 1, 2013.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

<sup>5</sup> Section 409.972, F.S.

<sup>6</sup> Health and Human Services Committee, Fla. House of Representatives, *PCB HHSC 11-01 Staff Analysis*, p.25, (Mar. 25, 2013).

<sup>7</sup> ACHA Invitation to Negotiate, *Statewide Medicaid Managed Care, Addendum 2 Solicitations Number: ACHA ITN 017-12/13*; dated February 26, 2013. [http://myflorida.com/apps/vbs/vbs\\_www.ad.view\\_ad?advertisement\\_key\\_num=105774](http://myflorida.com/apps/vbs/vbs_www.ad.view_ad?advertisement_key_num=105774) (last visited March 24, 2013).

<sup>8</sup> ACHA Invitation to Negotiate, *Statewide Medicaid Managed Care, Solicitations Number: ACHA ITN 017-12/13*; dated December 28, 2012. [http://myflorida.com/apps/vbs/vbs\\_www.ad.view\\_ad?advertisement\\_key\\_num=105774](http://myflorida.com/apps/vbs/vbs_www.ad.view_ad?advertisement_key_num=105774) (last visited March 24, 2013).

<sup>9</sup> Id.

<sup>10</sup> Id.

<sup>11</sup> Id..

<sup>12</sup> Section 409.972, F.S.

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 bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

With limited exceptions, all Florida Medicaid recipients are required to receive covered services through the SMMC program.<sup>13</sup> Behavioral health services are one of the ITN's core provisions of services to be offered in the managed care plans. Specifically, the ITN requires that the managed Medicaid Assistance (MMA) program include services for behavioral health overlay services in child welfare settings and services for residential care. Although the bill does not eliminate these requirements, it potentially creates a material change to the terms of the ITN. Parties interested in responding to the ITN cannot ask for clarification on this issue as the ITN is currently in a statutorily imposed "Blackout Period". Thus, the potential for an ITN protest exists as the bill potentially creates a material change to the terms and conditions of the ITN. Alternatively, the ACHA could reissue the ITN and address this issue. This however could potentially delay the expected date for the statewide implementation of the SMMC.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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<sup>13</sup> Section 409.965, F.S.  
STORAGE NAME: h1195.HIS  
DATE: 3/27/2013