

**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.)

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Prepared By: The Professional Staff of the Committee on Appropriations

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BILL: SB 1518

INTRODUCER: Appropriations Committee

SUBJECT: Department of Children and Families

DATE: April 3, 2013

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Hansen		<b>AP SPB 7056 as introduced</b>
2.				
3.				
4.				
5.				
6.				

**I. Summary:**

SB 1518 provides that contracts under section 394.9082, Florida Statutes, between the Department of Children and Families (DCF) and managing entities must be funded by general revenue, other state funds, or applicable federal sources. A managing entity may carry forward unexpended state funds from one fiscal year to the next, under specified parameters. The method of payment for a fixed-price, managing entity contract must provide for a two-month advance payment at the beginning of each fiscal year, followed by equal monthly payments thereafter.

In addition, the bill provides that, beginning in the 2013-2014 state fiscal year, 90 percent of the recurring core services funding for community-based care lead agencies will be based on the prior-year recurring base funding and 10 percent will be based on the equity allocation model under section 409.16713, Florida Statutes. Unless otherwise specified in the General Appropriations Act (GAA), any new core services funds will be allocated based on the equity allocation model under specified parameters.

The bill conforms statutes relating to DCF to the Senate proposed General Appropriations Bill, SPB 7040

The bill takes effect July 1, 2013.

This bill substantially amends sections 394.9082 and 409.16713, Florida Statutes.

## II. Present Situation:

### Managing Entities

Section 394.9082, F.S., provides for the DCF to contract with community-based managing entities for the purchase, coordination, integration, and management of behavioral health services. Previously, the Legislature determined that a management structure that places the responsibility for publicly financed behavioral health treatment and prevention services within a single, private, nonprofit entity at the local level would promote improved access to care, and service continuity; provide for more efficient and effective delivery of substance abuse and mental health services; streamline administrative processes; create cost efficiencies; and provide flexibility to better match available services to consumers' identified needs.

A managing entity is defined as a corporation that is organized in this state as a nonprofit organization under s. 501(c)(3) of the Internal Revenue Code, and is under contract to the DCF to manage the day-to-day operational delivery of behavioral health services through an organized system of care.<sup>1</sup> Behavioral health services are defined as mental health services and substance abuse prevention and treatment services that are provided using state and federal funds.<sup>2</sup>

Managing entities are required to develop a provider network of subcontracted direct service agencies that provide a comprehensive array of emergency, acute care, residential, outpatient, recovery support, and consumer support services for behavioral health.<sup>3</sup> A managing entity must also develop and implement written cooperative agreements with the criminal and juvenile justice systems, local community-based care networks, and local behavioral health providers to develop strategies and alternatives for diverting people who have mental illness and substance abuse problems from the criminal justice system. These agreements must also address the provision of appropriate services to persons who have behavioral health problems and when they leave the criminal justice system.<sup>4</sup>

Managing entities must collect and submit data to the DCF regarding services provided. The DCF is required to evaluate managing entity services and to work with managing entities to establish performance standards.

The operating costs of managing entity contracts are funded through DCF appropriations and by any savings and efficiencies achieved through the efforts of managing entities. The DCF is directed to negotiate for reasonable and appropriate administrative costs within managing entity contracts.<sup>5</sup>

The DCF currently contracts with seven managing entities on a regional basis, providing services to a statewide population of approximately 350,000 annually. The DCF's appropriation for the 2012-2013 fiscal year allocated to managing entities is approximately \$520.8 million.

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<sup>1</sup> See s. 394.9082(2)(d), F.S.

<sup>2</sup> See s. 394.9082(2)(a), F.S.

<sup>3</sup> See s. 394.9082(2)(e), F.S.

<sup>4</sup> See s. 394.9082(5)(e), F.S.

<sup>5</sup> See s. 394.9082(4)(b), F.S.

## Community-based Foster Care and Related Services

Section 409.1671, F.S., expresses legislative intent to outsource the provision of foster care and related services statewide. The term “outsource” means to contract with competent, community-based agencies, while the term “related services” includes, but is not limited to, family preservation, independent living, emergency shelter, residential group care, foster care, therapeutic foster care, intensive residential treatment, foster care supervision, case management, post-placement supervision, permanent foster care, and family reunification.<sup>6</sup>

The DCF is authorized to contract for the delivery, administration, or management of protective services, foster care, and other related services or programs, as appropriate.<sup>7</sup>

The term “eligible lead community-based provider” is defined as a single agency with which the DCF is required to contract for the provision of child protective services in a community that is no smaller than a county. The DCF secretary may authorize more than one eligible lead community-based provider within a single county when doing so will result in more effective delivery of foster care and related services. To compete for an outsourcing project, a provider must meet a series of qualifications and be governed by a board of directors whose membership must be composed of at least 51 percent Florida residents. Of the state residents, at least 51 percent must also reside within the service area of the lead community-based provider.<sup>8</sup>

The DCF retains responsibility for the quality of contracted services and programs and must ensure that services are delivered in accordance with applicable federal and state statutes, rules, and regulations. The DCF must adopt written policies and procedures for monitoring the contract for delivery of services by lead community-based providers. These policies and procedures must, at a minimum, address the evaluation of fiscal accountability and program operations, including provider achievement of performance standards, provider monitoring of subcontractors, and timely follow-up of corrective actions for significant findings related to providers and subcontractors.<sup>9</sup>

While retaining these responsibilities for the quality of the contracted services and programs, the DCF is authorized to outsource programmatic, administrative, or fiscal monitoring oversight of “community-based care lead agencies.”<sup>10</sup>

In 1996, the Legislature required the DCF to create pilot projects for the provision of foster care and related services through established community-based care organizations.<sup>11</sup> In 1998, the Legislature required the DCF to outsource the provision of all foster care and related services statewide.<sup>12</sup> The transition was completed in state fiscal year 2004-05. The DCF has 20 lead agency contracts. The DCF’s appropriation for the provision of community-based care services is approximately \$750 million annually.

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<sup>6</sup> See s. 409.1671(1)(a), F.S.

<sup>7</sup> See s. 409.1671(2)(a), F.S.

<sup>8</sup> See s. 409.1671(1)(e), F.S.

<sup>9</sup> *Supra*, note 7.

<sup>10</sup> See s. 409.1671(12), F.S.

<sup>11</sup> See s. 5, ch. 96-402, L.O.F.

<sup>12</sup> See s. 1, ch. 98-180, L.O.F.

### **Allocation of Funds for Community-based Care Lead Agencies**

Section 409.16713, F.S., requires that the DCF allocate funds for community-based care lead agencies according to an equity allocation model.<sup>13</sup> This model was designed to allocate funds among community-based care lead agencies depending to some degree on the differing needs and services required by specific populations being served by each agency. The equity allocation model includes “core services funding,” which is defined as all funds allocated to community-based care lead agencies operating under contract with the DCF under s. 409.1671, F.S., with a number of exceptions.<sup>14</sup>

The equity allocation model must include the following factors:

- Proportion of children in poverty;
- Proportion of child abuse hotline workload;
- Proportion of children in care; and
- Proportion of contribution in the reduction of out-of-home care.

The equity allocation of core services funds must be calculated based on the following weights:

- Proportion of children in poverty shall be weighted as 30 percent of the total;
- Proportion of child abuse hotline workload shall be weighted as 30 percent of the total;
- Proportion of children in care shall be weighted as 30 percent of the total; and
- Proportion of contribution to the reduction in out-of-home care shall be weighted as 10 percent of the total.

Seventy-five percent of the recurring core services funding for each community-based care lead agency is based on the prior-year recurring base of core services funds and 25 percent is based on the equity allocation model.

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

**Section 1** of the bill amends s. 394.9082, F.S., to provide that:

- Contracts between the DCF and managing entities must be funded by general revenue, other state funds, or applicable federal sources.
- A managing entity may carry forward unexpended state funds from one fiscal year to the next, up to a maximum of eight percent of the contract amount, and any unexpended funds in excess of the eight percent threshold must be returned to the DCF.
- The funds carried forward may not be used in any way to create an increase in recurring future obligations.
- Carried-forward funds must be expended on programs or services authorized under the contract and such expenditures of carried-forward funds must be reported separately to the DCF.

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<sup>13</sup> This requirement is a recent development, created in 2011 under s. 1, ch. 2011-62, L.O.F.

<sup>14</sup> See s. 409.16713(1)(a), F.S.

- Unexpended funds at the end of a contract period must be returned to the DCF, but carried-forward funds may be retained through contract renewals and procurements as long as the same managing entity is retained under contract.
- The method of payment for a fixed-price, managing entity contract must provide for a two-month advance payment at the beginning of each fiscal year, followed by equal monthly payments thereafter.

These provisions are identical to the requirements of the current law regarding funding for community-based care lead agencies. The existing law was enacted in 2010.<sup>15</sup>

**Section 2** of the bill amends s. 409.16713, F.S., to provide that:

- Beginning in the 2013-2014 fiscal year, 90 percent of the recurring core services funding for community-based care lead agencies will be based on the prior-year recurring base funding and 10 percent will be based on the equity allocation model, as opposed to the 75 percent and 25 percent proportions, respectively, in current law.
- Unless otherwise specified in the GAA, any new core services funds will be allocated based on the equity allocation model. Such allocations must be proportional to the proportion of funding based on the equity model and allocated only to the community-based care lead agency contracts, if the current funding proportion is less than the proportion of funding based on the equity model. Current law applies these provisions to the 2011-2012 fiscal year specifically, regardless of the GAA; the bill deletes the reference limiting these provisions to the 2011-2012 fiscal year reference.

**Section 3** of the bill provides an effective date of July 1, 2013.

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

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

None.

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

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

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<sup>15</sup> See s. 409.1671(8)-(9), F.S.

**B. Private Sector Impact:**

Section 1 of the bill will prevent managing entities from having to revert unexpended state funds from one fiscal year to the next, which may simplify their finances and cash flow. Section 2 of the bill will alter the allocation of community-based care funds among the DCF’s community-based care lead agencies to an unknown degree.

**C. Government Sector Impact:**

Over the past three fiscal years, managing entities have reverted general revenue back to the DCF. Under the bill, these funds may no longer revert. See chart below.

<b>Managing Entity Reversions</b>	SFY 2011-12	SFY 2010-11	SFY 2009-10	3-year Average
Mental Health Services	\$2,506,741	\$4,656,361	\$2,097,398	\$3,086,833
Substance Abuse Services	\$307,860	\$198,260	\$689,878	\$398,666
<b>Total Reversions</b>	<b>\$2,814,601</b>	<b>\$4,854,621</b>	<b>\$2,787,276</b>	<b>\$3,485,499</b>

Managing entities are required to expend any carried-forward funds exclusively on programs or services authorized under their contracts with the DCF, and unexpended funds at the end of a contract period will still revert back to the state. While the bill may prevent an indeterminate amount of general revenue from reverting back to the DCF in Fiscal Year 2013-2014, or in any given state fiscal year, there should be no fiscal impact over the life of a managing entity contract, assuming the managing entity fulfills its contractual obligations and abides by state law.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The term “community-based care lead agency” appears in 12 different sections of the Florida Statutes, in either its singular or plural form, but has no statutory definition.<sup>16</sup> In terms of contracting, ss. 409.1671 and 409.16713, F.S., make reference to DCF contracts with “community-based care lead agencies,” but s. 409.1671, F.S., specifically requires the DCF to contract with “eligible lead community-based providers,” a term which is defined in law.<sup>17</sup>

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

<sup>16</sup> See ss. 20.19, 39.001, 39.0011, 39.00145, 39.0016, 402.40, 402.7306, 409.1451, 409.1671, 409.16713, 409.16745, and 409.175, F.S.

<sup>17</sup> *Supra*, note 8.

B. Amendments:

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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