

By Senator Evers

2-01397-13

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1 A bill to be entitled
 2 An act relating to Medicaid nursing home eligibility;
 3 amending s. 409.902, F.S.; specifying limitations and
 4 sanctions on persons transferring assets in order to
 5 become eligible for Medicaid nursing facility
 6 services; making technical corrections; requiring the
 7 Department of Children and Families to adopt rules;
 8 providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 409.902, Florida Statutes, is amended to
 13 read:

14 409.902 Designated single state agency; eligibility
 15 determinations ~~payment requirements; program title;~~ release of
 16 medical records; Internet eligibility system; rules.-

17 (1) SINGLE STATE MEDICAID AGENCY.-The Agency for Health
 18 Care Administration is designated as the single state agency
 19 authorized to make payments for medical assistance and related
 20 services under Title XIX of the Social Security Act. These
 21 payments shall be made, subject to any limitations or directions
 22 provided for in the General Appropriations Act, only for
 23 services included in the Medicaid program, ~~shall be made~~ only on
 24 behalf of eligible individuals, and ~~shall be made~~ only to
 25 qualified providers in accordance with federal requirements
 26 under ~~for~~ Title XIX of the Social Security Act and ~~the~~
 27 ~~provisions of~~ state law. This program of medical assistance is
 28 designated the "Medicaid program."

29 (2) ELIGIBILITY DETERMINATIONS.-The Department of Children

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30 and Families ~~Family Services~~ is responsible for determining
31 Medicaid eligibility ~~determinations~~, including, but not limited
32 to, policy, rules, and the agreement with the Social Security
33 Administration for Medicaid eligibility ~~determinations~~ for
34 Supplemental Security Income recipients, as well as the actual
35 determination of eligibility.

36 (a) As a condition of Medicaid eligibility, subject to
37 federal approval, the agency ~~for Health Care Administration~~ and
38 the department ~~of Children and Family Services~~ shall ensure that
39 each Medicaid recipient ~~of Medicaid~~ consents to the release of
40 her or his medical records to the agency ~~for Health Care~~
41 ~~Administration~~ and the Medicaid Fraud Control Unit of the
42 Department of Legal Affairs.

43 (b) ~~(2)~~ Eligibility is restricted to United States citizens
44 and to lawfully admitted noncitizens who meet the criteria
45 provided in s. 414.095(3).

46 1. ~~(a)~~ Citizenship or immigration status must be verified.
47 For noncitizens, this includes verification of the validity of
48 documents with the United States Citizenship and Immigration
49 Services using the federal SAVE verification process.

50 2. ~~(b)~~ State funds may not be used to provide medical
51 services to individuals who do not meet the requirements of this
52 subsection unless the services are necessary to treat an
53 emergency medical condition or are for pregnant women. Such
54 services are authorized only to the extent provided under
55 federal law and in accordance with federal regulations as
56 provided in 42 C.F.R. s. 440.255.

57 (3) ELIGIBILITY FOR NURSING FACILITY SERVICES.—In
58 determining eligibility for nursing facility services, including

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59 institutional hospice services and services provided through a
60 home and community-based waiver, under the Medicaid program, the
61 Department of Children and Families shall apply the following
62 limitations and sanctions on asset transfers made after July 1,
63 2013.

64 (a) Individuals who enter into a personal services contract
65 with a relative shall be considered to have transferred assets
66 without fair compensation to qualify for Medicaid if any of the
67 following occurs:

68 1. The contracted services duplicate services available
69 through other sources or providers, such as Medicaid, Medicare,
70 private insurance, or another legally obligated third party.

71 2. The contracted services do not directly benefit the
72 individual or are services normally provided out of
73 consideration for the individual;

74 3. The actual cost to deliver services is not computed in a
75 manner that clearly reflects the actual number of hours to be
76 expended and the contract does not clearly identify each
77 specific service and the average number of hours required to
78 deliver each service each month.

79 4. The hourly rate for each contracted service is computed
80 at more than minimum wage, except if the provider is a
81 professional in the field for the specific service or services,
82 in which case the hourly rate is more than the amount normally
83 charged by a professional who traditionally provides the same or
84 similar services in the same geographical area.

85 5. The contracted services are not provided on a
86 prospective basis only and are for services provided before July
87 1, 2013.

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88 6. The contract does not provide fair compensation to the
89 individual in her or his lifetime as set forth in the life
90 expectancy tables published by the Office of the Chief Actuary
91 of the Social Security Administration.

92 (b) If an applicant for services has a nonapplicant spouse,
93 the applicant spouse shall be determined ineligible for Medicaid
94 if she or he, or the person acting on her or his behalf, refuses
95 to provide information about the nonapplicant spouse or
96 cooperate in the pursuit of court-ordered medical support or the
97 recovery of Medicaid expenses paid by the state on her or his
98 behalf.

99 (c) The agency shall seek recovery of all Medicaid-covered
100 expenses and pursue court-ordered medical support for a
101 recipient from the nonrecipient spouse if she or he refuses to
102 make her or his assets available to the recipient spouse and the
103 recipient spouse has assigned his or her right to support to the
104 state.

105 (4)(3) INTERNET ELIGIBILITY SYSTEM.—To the extent that
106 funds are appropriated, the Department of Children and Families
107 shall collaborate with the agency for Health Care Administration
108 to develop an Internet-based system that is modular,
109 interoperable, and scalable for eligibility determination for
110 Medicaid and the Children's Health Insurance Program (CHIP)
111 which that complies with all applicable federal and state laws
112 and requirements.

113 (a)(4) The system shall accomplish the following primary
114 business objectives:

115 1.(a) Provide individuals and families with a single point
116 of access to information that explains benefits, premiums, and

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117 cost sharing available through Medicaid, the Children's Health
118 Insurance Program, or any other state or federal health
119 insurance exchange.

120 2.~~(b)~~ Enable timely, accurate, and efficient enrollment of
121 eligible persons into available assistance programs.

122 3.~~(e)~~ Prevent eligibility fraud.

123 4.~~(d)~~ Allow for detailed financial analysis of eligibility-
124 based cost drivers.

125 (b)~~(5)~~ The system shall include, but is not limited to, the
126 following business and functional requirements:

127 1.~~(a)~~ Allow for the completion and submission of an online
128 application for eligibility determination that accepts the use
129 of electronic signatures.

130 2.~~(b)~~ Include a process that enables automatic enrollment
131 of qualified individuals in Medicaid, the Children's Health
132 Insurance Program, or any other state or federal exchange that
133 offers cost-sharing benefits for the purchase of health
134 insurance.

135 3.~~(e)~~ Allow for the determination of Medicaid eligibility
136 based on modified adjusted gross income by using information
137 submitted in the application and information accessed and
138 verified through automated and secure interfaces with authorized
139 databases.

140 4.~~(d)~~ Include the ability to determine specific categories
141 of Medicaid eligibility and interfaces with the Florida Medicaid
142 Management Information System to support a determination, using
143 federally approved assessment methodologies, of state and
144 federal financial participation rates for persons in each
145 eligibility category.

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146 5.~~(e)~~ Allow for the accurate and timely processing of
147 eligibility claims and adjudications.

148 6.~~(f)~~ Align with and incorporate all applicable state and
149 federal laws, requirements, and standards to include the
150 information technology security requirements established
151 pursuant to s. 282.318 and the accessibility standards
152 established under part II of chapter 282.

153 7.~~(g)~~ Produce transaction data, reports, and performance
154 information that contribute to an evaluation of the program,
155 continuous improvement in business operations, and increased
156 transparency and accountability.

157 (c)~~(6)~~ The department shall develop the system, subject to
158 the approval by the Legislative Budget Commission and as
159 required by the General Appropriations Act for the 2012-2013
160 fiscal year.

161 (d)~~(7)~~ The system must be completed by October 1, 2013, and
162 ready for implementation by January 1, 2014.

163 (e)~~(8)~~ The department shall implement the following project
164 governance structure until the system is implemented:

165 1.~~(a)~~ The Secretary of Children and Family Services shall
166 have overall responsibility for the project.

167 2.~~(b)~~ The project shall be governed by an executive
168 steering committee composed of three department staff members
169 appointed by the Secretary of Children and Family Services;
170 three agency staff members, including at least two state
171 Medicaid program staff members, appointed by the Secretary of
172 the Agency for Health Care Administration; one staff member from
173 Children's Medical Services within the Department of Health
174 appointed by the Surgeon General; and a representative from the

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175 Florida Healthy Kids Corporation.

176 ~~3.(e)~~ The executive steering committee shall have the
177 overall responsibility for ensuring that the project meets its
178 primary business objectives and shall:

179 ~~a.1.~~ Provide management direction and support to the
180 project management team.

181 ~~b.2.~~ Review and approve any changes to the project's scope,
182 schedule, and budget.

183 ~~c.3.~~ Review, approve, and determine whether to proceed with
184 any major deliverable project.

185 ~~d.4.~~ Recommend suspension or termination of the project to
186 the Governor, the President of the Senate, and the Speaker of
187 the House of Representatives if the committee determines that
188 the primary business objectives cannot be achieved.

189 ~~4.(d)~~ A project management team shall be appointed by and
190 work under the direction of the executive steering committee.
191 The project management team shall:

192 ~~a.1.~~ Provide planning, management, and oversight of the
193 project.

194 ~~b.2.~~ Submit an operational work plan and provide quarterly
195 updates to the plan to the executive steering committee. The
196 plan must specify project milestones, deliverables, and
197 expenditures.

198 ~~c.3.~~ Submit written monthly project status reports to the
199 executive steering committee.

200 (5) RULES.—The Department of Children and Families shall
201 adopt any rules necessary to carry out its statutory duties
202 under this section for receiving and processing Medicaid
203 applications and determining Medicaid eligibility, and any other

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204 statutory provisions related to responsibility for the
205 determination of Medicaid eligibility.

206 Section 2. This act shall take effect July 1, 2013.