

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #: HB 4031

FINAL HOUSE FLOOR ACTION:

SPONSOR(S): Diaz, J. and others

115 Y's

0 N's

**COMPANION (CS/CS/SB 1094)
BILLS:**

GOVERNOR'S ACTION: Approved

SUMMARY ANALYSIS

HB 4031 passed the House on May 1, 2013 as CS/CS/SB 1094. A home health agency (HHA) is an organization that provides home health services and staffing services. Home health services provided by a home health agency include health and medical services and medical equipment provided to an individual in his or her home, such as nursing care, physical and occupational therapy, and home health aide services. Home health agencies are regulated by the Agency for Health Care Administration (AHCA) pursuant to part III of chapter 400, F.S.

CS/CS/SB 1094 reduces the mandatory fine amount levied against HHAs that fail to file a quarterly report to AHCA from the current fine of \$5,000 to a fine of \$200 per day up to a maximum of \$5,000 per quarter. The bill also exempts HHAs that do not bill Medicare or Medicaid, and are not owned by a health care entity which bills Medicare or Medicaid, from submitting the report and from the imposition of the fine for failing to file the report.

The bill has an indeterminate, but likely insignificant fiscal impact on state government.

The bill was approved by the Governor on June 7, 2013, ch. 2013-133, L.O.F., and will become effective on July 1, 2013.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Home Health Agencies and Regulation

A home health agency is an organization that provides home health services and staffing services.¹ Home health services provided by a home health agency include health and medical services and medical equipment provided to an individual in his or her home, such as nursing care, physical and occupational therapy, and home health aide services.² Home health agencies are regulated by the Agency for Health Care Administration (AHCA) pursuant to part III of chapter 400, F.S.

AHCA is authorized to deny, revoke, or suspend the license of a home health agency.³ AHCA is required to impose a fine against a home health agency that commits certain acts.⁴ One of these acts is the failure of the home health agency to submit a report to AHCA, within 15 days after the end of each calendar quarter, which includes the following information:

- The number of insulin dependent diabetic patients receiving insulin-injection services from the home health agency;
- The number of patients receiving both home health services from the home health agency and hospice services;
- The number of patients receiving home health services from that home health agency; and
- The names and license numbers of nurses whose primary job responsibility is to provide home health services to patients and who received remuneration from the home health agency in excess of \$25,000 during the calendar quarter.⁵

These data items help identify possible fraud, such as billing for a high number of injection visits for insulin-dependent patients who could self-inject insulin, fraudulent billing for patients who did not receive the visits, possible duplicate payment for patients receiving both hospice and home health services, and nurses earning well above the average salary that could indicate false billing. The results of each quarter's reporting are shared with the U.S. Department of Health and Human Services Centers for Medicare and Medicaid Services' Medicare Program Integrity Miami Satellite Division, the AHCA's Medicaid Program Integrity Office, and the Medicare Fraud Investigations Manager at SafeGuard Services, LLC.⁶ The data is also provided to the public in response to public records requests.⁷

The amount of the fine for failing to submit the report to AHCA is \$5,000.⁸ From January 1, 2009 to December 31, 2012, 1,407 fines have been imposed.⁹ For fiscal year 2011-2012, fines totaling \$932,750 were imposed by final order.¹⁰ AHCA has seen a decrease in the number of home health agencies that have failed to submit the report in a timely manner; for the fourth quarter of 2012, 41 of the 2,250 licensed home health agencies, or less than 2 percent, failed to submit the report.¹¹

¹ S. 400.462(12), F.S.

² S. 400.462(14)(a)-(c), F.S.

³ S. 400.474(1), F.S.

⁴ S. 400.474(3)-(6), F.S.

⁵ S. 400.474(6)(f), F.S.

⁶ Agency for Health Care Administration, *2013 Bill Analysis & Economic Impact Statement-HB 4031*, page 1 (on file with Health Innovation Subcommittee staff).

⁷ Id.

⁸ S. 400.474(6), F.S.

⁹ See supra, FN 6.

¹⁰ Id.

¹¹ Id.

Effect of Proposed Changes

The bill reduces the mandatory fine amount levied against HHAs that fail to file a quarterly report to AHCA from the current fine of \$5,000 to a fine of \$200 per day up to a maximum of \$5,000 per quarter. The bill also exempts HHAs that do not bill Medicare or Medicaid, and are not owned by a health care entity which bills Medicare or Medicaid, from submitting the report and from the imposition of the fine for failing to file the report.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The AHCA generated \$932,750 in revenue in Fiscal Year 2011-2012 from imposing the required \$5,000 fines on HHAs that did not file the required reports.¹² The AHCA is likely to experience an indeterminate negative fiscal impact from a reduction in that revenue due to the reduction in the fine amount.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces the fine amount for failing to submit the quarterly report which may have a positive fiscal impact on HHAs due to reduced administrative costs and avoidance of the \$5,000 fine for failing to file the required report.

D. FISCAL COMMENTS:

None.

¹² See supra, FN 6.