

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.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL: CS/SB 896

INTRODUCER: Health Policy Committee; and Senators Garica and Flores

SUBJECT: Prepaid Dental Plans

DATE: April 15, 2013 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	Fav/CS
2.	Brown	Pigott	AHS	Pre-meeting
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

CS/SB 896 postpones the scheduled repeal of a provision that requires the Agency for Health Care Administration (AHCA) to contract separately with prepaid dental health plans on a prepaid or fixed-sum basis for Medicaid recipients. The bill also authorizes the AHCA to provide a Medicaid prepaid dental program in Miami-Dade County on a permanent basis. Provisions requiring the AHCA to allow other qualified dental providers to participate in the Medicaid dental program on a fee-for-service basis are deleted.

The bill also requires the AHCA to provide an annual report to the governor and Legislature that compares utilization, benefit, and cost data from Medicaid dental contractors, as well as reports on compliance and access to care for the state’s overall Medicaid dental population.

The bill has an indeterminate fiscal impact.

The bill has an effective date of June 30, 2013.

This bill substantially amends section 409.912 of the Florida Statutes.

II. Present Situation:

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. Over 3.3 million Floridians are currently enrolled in Medicaid and the program is expected to have more than \$22 billion in expenditures for Fiscal Year 2012-2013.¹ 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. Benefit requirements can vary by eligibility category. For example, more benefits are required for children than for the adult population. Florida's mandatory and optional benefits are prescribed in state law under ss. 409.905, and 409.906 F.S., respectively.

Florida Medicaid recipients receive their benefits through a number of different delivery systems. Florida has at least 15 different managed care models,² including the model being used for the delivery of dental services, licensed, prepaid dental health plans (PDHP). The PDHPs are classified as prepaid ambulatory health plans by 42 CFR Part 438.³

Prepaid Dental Health Plans and Florida Medicaid

Proviso language in the 2001-2002 General Appropriations Act (GAA) authorized the AHCA to initiate a PDHP pilot program in Miami-Dade County.⁴ The 2003 Legislature authorized the AHCA to contract on prepaid or fixed sum basis for dental services for Medicaid-eligible recipients using PDHPs.⁵ Through a competitive process, the AHCA executed its first PDHP contract in 2004 to serve children under age 21 in Miami-Dade County.⁶ Comprehensive dental benefit coverage is a mandatory Medicaid service only for children in Florida. The PDHPs are paid on a capitated basis for all covered dental services, meaning that the plans receive a single rate per individual member for all dental costs associated with that member. Currently, two PDHPs serve Medicaid members in Miami-Dade County.⁷

The Legislature included proviso in the 2010-2011 GAA authorizing the AHCA to contract by competitive procurement with one or more prepaid dental plans on a regional or statewide basis for a period not to exceed two years, in all counties except Miami-Dade, under a fee-for-service or managed care delivery system.⁸ The AHCA did not procure contracts under the 2010-2011

¹ Agency for Health Care Administration, *Statewide Medicaid Managed Care Overview, Presentation to House Health Care Subcommittee*, (Jan. 15, 2013), http://ahca.myflorida.com/Medicaid/recent_presentations/SMMC_Overview_House_HHS_Approps.pdf (last visited Mar. 8, 2013).

² Comm. on Health Regulation, Fla. Senate, *Overview of Medicaid Managed Care Programs in Florida*, p.1, (Issue Brief 2011-221) (November 2010).

³ See Agency for Health Care Administration, *Model Statewide Prepaid Dental Health Plan (SPDHP) Contract, Attachment II-Core Contract Provisions*, p. 17, http://ahca.myflorida.com/medicaid/pdhp/docs/120120_Attachment_II_Core.pdf (last visited Mar. 8, 2013).

⁴ See Specific Proviso 135A, General Appropriations Act 2001-2002 (Conference Report on CS/SB 2C).

⁵ Chapter 2003-405, L.O.F.

⁶ Agency for Health Care Administration, *Senate Bill 896 Bill Analysis and Economic Impact Statement*, (Mar. 11, 2013) (on file with the Senate Health Policy Committee).

⁷ *Ibid.*

⁸ See Specific Proviso 204, General Appropriations Act 2010-2011 (Conference Report on HB 5001).

proviso. In the 2011-2012 GAA, similar proviso language was included to require such a competitive procurement.

The Legislature passed proviso in the 2012-2013 GAA requiring that, for all counties other than Miami-Dade, the AHCA could not limit Medicaid dental services to prepaid plans and must allow qualified dental providers to provide dental services on a fee-for-service basis. Language to that effect was also passed in the 2012-2013 appropriations implementing bill, which included additional language directing the AHCA to terminate existing contracts as needed. The implementing bill provisions have a sunset date of July 1, 2013.

According to the AHCA website, two vendors were selected for the statewide program and it has been implemented statewide⁹ as of December 1, 2012. Under the statewide program, Medicaid recipients may select one of the two PDHPs in their county or opt-out and receive their dental care through Medicaid fee-for-service providers.¹⁰

Statewide Medicaid Managed Care

In 2011, the Legislature also passed HB 7107¹¹ creating the Statewide Medicaid Managed Care (SMMC) program as part IV of ch. 409, F.S. SMMC requires the AHCA 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 dental.¹² Instead of being delivered as a separate benefit under a separate contract, dental services are to be incorporated by and be the responsibility of a managed care organization. Medicaid recipients who are enrolled in the SMMC program will receive their dental services through the fully integrated managed care plans as the program is implemented.¹³

The AHCA began implementing the SMMC in January 2012 and recently released an Invitation to Negotiate (ITN) to competitively procure managed care plans on a statewide basis. Plans can supplement the minimum benefits in their bids and offer enhanced options.¹⁴ Statewide implementation of SMMC is expected to be completed by October 1, 2014. Final approval of the necessary Medicaid waiver by the federal government has not yet been received; however on February 20, 2013, the AHCA and the federal Centers for Medicare and Medicaid Services reached an “Agreement in Principle” on the proposed plan.¹⁵ The integrated Medicaid plans

⁹ Six counties were excluded from the statewide roll-out. Miami-Dade was excluded because of the prepaid dental program that has been in place there since 2004. Baker, Broward, Clay, Duval, and Nassau counties were excluded because the Medicaid Reform Pilot Project has been implemented in those counties since 2006, which requires most Medicaid recipients to enroll in managed care plans that provide dental care as a covered service.

¹⁰ Agency for Health Care Administration, *Statewide Prepaid Dental Program*, <http://ahca.myflorida.com/Medicaid/index.shtml#mc> (last visited: Mar. 7, 2013).

¹¹ See ch. 2011-134, L.O.F.

¹² Health and Human Services Committee, Fla. House of Representatives, *PCB HHSC 11-01 Staff Analysis*, p.25, (Mar. 25, 2011).

¹³ AHCA, *supra* note 6, at 2.

¹⁴ *Ibid.*

¹⁵ See Correspondence between Agency for Health Care Administration and the Centers for Medicare and Medicaid Services, http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/Letter_from_CMS_re_Agreement_in_Principal_2013-02-20.pdf (last visited Mar. 11, 2013).

would cover both children and adults. The current dental plan contracts held by the AHCA cover only Medicaid recipients under age 21.

III. Effect of Proposed Changes:

Section 1 amends s. 409.912, F.S., relating to the cost effective purchasing of health care under the Medicaid program. The bill postpones the scheduled repeal of the provision that currently requires the AHCA to contract on a fixed-sum or prepaid basis with licensed prepaid dental health plans to provide dental services to Medicaid recipients. The modification extends the repeal date from October 1, 2014, to October 1, 2017.

Extending the requirement that the AHCA contract on a fixed-sum or pre-paid basis for dental services to October 1, 2017, may result in the overlap of stand-alone prepaid dental service contracts and those procured under SMMC. Dental benefits are required under the SMMC program.

The bill also deletes the current-law provision authorizing the AHCA to provide a Medicaid prepaid dental program in Miami-Dade County only during the 2012-2013 fiscal year, meaning that the AHCA will be authorized to provide the current program in Miami-Dade County in perpetuity.

The provision requiring a fee-for-service option for dental benefits – scheduled to sunset on July 1, 2013 – is deleted.

The AHCA is directed to provide the governor, president of the Senate, and speaker of the House of Representatives with a report that compares benefits, utilization, and costs of the contracted dental plans and the extent to which the prepaid plans are in compliance with their contract terms, including statistical trends with indicators of good oral health, in comparison to the overall Medicaid dental population. The report is due by January 15 each year.

Section 2 provides an effective date of June 30, 2013.

Other Potential Implications:

The AHCA analysis of the bill indicates that if the sunset provision is removed or postponed and results in changes to dental service delivery under SMMC, there is the possibility of a protest under the Managed Medical Assistance ITN procurement that is currently underway. Dental services are currently incorporated in that ITN.

The AHCA also identifies a potential conflict between the modifications proposed in the bill and the provisions of ss. 409.961 through 409.977, F.S., relating to managed medical assistance and the requirement that managed care plans provide comprehensive Medicaid services, including all Medicaid covered dental services, to their enrollees.¹⁶

¹⁶ AHCA, *supra* note 6, at 1 and 3.

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.

B. Private Sector Impact:

The bill has limited private sector impact. The bill deletes a provision that will sunset July 1, 2013, relating to the fee-for-service reimbursement and extends the authorization of separate PDHP contracts to from October 1, 2014, to October 1, 2017. These contracts cover the same benefits that will be incorporated through those being procured now under the SMMC program. The proposed contract extension period overlaps with those SMMC contracts.

C. Government Sector Impact:

The bill's fiscal impact is indeterminate because it is impossible to know whether directing the AHCA to continue with the statewide prepaid dental program until October 1, 2017, and authorizing the continuation of prepaid dental in Miami-Dade County in perpetuity, might result in more or less cost to the state than the costs that will be incurred for dental services under the SMMC program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The AHCA has released an ITN covering all Medicaid services as part of the SMMC. This ITN includes dental services as part of those comprehensive medical services and requires the managed care organizations to cover all benefits. Extending the time frame for the existing prepaid dental health plan contracts for Medicaid enrollees under the age of 21 would overlap with the dental services proposed under that procurement document and other statutory direction.

Section 409.961, F.S., provides that if any conflict exists between provisions contained in the Medicaid Managed Care part (part IV) and in other parts of the chapter, the provisions of part IV would control.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on March 14, 2013:

CS for SB 896 adds a requirement directing AHCA to provide the Governor, President of the Senate and Speaker of the House of Representatives with a report that compares benefits, utilization and costs of the contracted dental plans and the extent to which the prepaid plans are in compliance with their contract terms, including statistical trends with indicators of good oral health, in comparison to the overall Medicaid dental population. The report is due by January 15, each year. (WITH TITLE AMENDMENT)

- B. **Amendments:**

None.