

**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 Health Policy

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BILL: SB 896

INTRODUCER: Senators Garcia and Flores

SUBJECT: Prepaid Dental Plans

DATE: March 8, 2013

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Pre-meeting</b>
2.			AHS	
3.			AP	
4.				
5.				
6.				

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**I. Summary:**

SB 896 postpones the scheduled repeal of a provision which requires the Agency for Health Care Administration (AHCA) to contract separately with prepaid dental health plans on a pre-paid or fixed sum basis for Medicaid recipients. The bill also permits the AHCA to provide a Medicaid prepaid dental program in Miami-Dade 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 reimbursement basis are removed.

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.<sup>1</sup> 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

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<sup>1</sup> 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\\_HHS\\_Approps.pdf](http://ahca.myflorida.com/Medicaid/recent_presentations/SMMC_Overview_HHS_Approps.pdf) (last visited Mar. 8, 2013).

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,<sup>2</sup> 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.<sup>3</sup> Prepaid plans are further defined in state law under s. 409.962, F.S., as:

A managed care plan that is licensed or certified as a risk-bearing entity, or qualified pursuant to s. 409.912(4)(d), F.S., in the state and is paid a prospective per-member, per-month payment by the agency.

### **Prepaid Dental Health Plans – Florida Medicaid**

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

The AHCA implemented the program in Miami-Dade County in July 2004 to Medicaid children age 21 years of age or younger.<sup>7</sup> In the 2010-2011 General Appropriations Act (GAA), the Legislature directed the AHCA to provide enrollees with a choice of at least two licensed plans in Miami-Dade County and updated this number to three in the 2011-2012 GAA. Currently, two PDHPs serve Medicaid members in Miami-Dade County.<sup>8</sup>

The 2010-2011 GAA proviso directed the AHCA to contract separately on prepaid or fixed sum basis with prepaid dental plans on either a regional or statewide basis to achieve better outcomes for Medicaid recipients.<sup>9</sup> The contract was not to exceed 2 years. The directive excluded Miami-Dade County from this contracting process but did permit the AHCA the option of including the

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

<sup>3</sup> 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](http://ahca.myflorida.com/medicaid/pdhp/docs/120120_Attachment_II_Core.pdf) (last visited Mar. 8, 2013).

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

<sup>5</sup> Chapter 2003-405, s. 18.

<sup>6</sup> 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).

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

<sup>8</sup> Ibid.

<sup>9</sup> See Specific Proviso 204, General Appropriations Act 2010-2011 (Conference Report on HB 5001).

Medicaid reform counties in the procurement.<sup>10</sup> The AHCA elected not to include those counties in the procurement process. Children enrolled in managed care plans in the Reform counties receive their dental benefits through their health care plans and not directly through these PDHPs.<sup>11</sup> The proviso language for the statewide effort was repeated in the 2011-2012 GAA.<sup>12</sup> Additionally, statutory changes made it mandatory, rather than discretionary, for the AHCA to contract on a prepaid or fixed sum basis for dental services.<sup>13</sup> An expiration date on the statutory subsection was added for October 1, 2014, to coincide with other non-managed care related statutory sunset provisions concerning the Medicaid program and to align with the implementation of the Statewide Medicaid Managed Care (SMMC) program.<sup>14</sup>

Changes made during the 2012 Legislative Session as part of the appropriations implementing bill modified the Statewide Prepaid Dental Program to reinstate the fee for service reimbursement option providing Medicaid recipients the option of either a prepaid dental plan or coverage through the traditional fee for service network of providers in all but Miami-Dade County. This subsection has 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 in 61 counties as of December 1, 2012. Medicaid recipients in these counties may select one of the two PDHPs in their county or opt out and receive their dental care through Medicaid fee for service providers.<sup>15</sup>

### **Statewide Medicaid Managed Care**

In 2011, the Legislature also passed HB 7107 creating the SMMC program as part IV of ch. 409, F.S. The 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.<sup>16</sup> Instead of being delivered as a separate benefit under a separate contract, dental services would be incorporated by and be the responsibility of the 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 plans are implemented.<sup>17</sup>

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

<sup>10</sup> In 2005, the Legislature enacted laws to reform the delivery and payment of services through the Medicaid program and directed AHCA to seek a federal waiver for a Medicaid managed care pilot program over five years. The program began in Broward and Duval counties in 2006 and later expanded to Baker, Clay and Nassau counties in 2007, as authorized in statute. The five year waiver was set to expire June 30, 2011, but has been renewed through June 30, 2014.

<sup>11</sup> Agency for Health Care Administration, Capitated Health Plan Contract, Scope of Services, Attachment I, [http://ahca.myflorida.com/mchq/Managed\\_Health\\_Care/MHMO/docs/contract/1215\\_Contract/2012-2015/Sept1-Versions/2012-15\\_HP-ContractAtt-I-CAP-CLEAN-SEPT2012.pdf](http://ahca.myflorida.com/mchq/Managed_Health_Care/MHMO/docs/contract/1215_Contract/2012-2015/Sept1-Versions/2012-15_HP-ContractAtt-I-CAP-CLEAN-SEPT2012.pdf) (last visited: Mar. 7, 2013).

<sup>12</sup> See Chapter 2011-69; Specific Proviso for Line Item 192, General Appropriations Act 2011-2012, (Conference Report on SB 2000).

<sup>13</sup> Chapter 2011-135, s. 17.

<sup>14</sup> Ibid.

<sup>15</sup> Agency for Health Care Administration, *Statewide Prepaid Dental Program*, <http://ahca.myflorida.com/Medicaid/index.shtml#mc> (last visited: Mar. 7, 2013).

<sup>16</sup> Health and Human Services Committee, Fla. House of Representatives, *PCB HHSC 11-01 Staff Analysis*, p.25, (Mar. 25, 2011).

<sup>17</sup> AHCA, *supra* note 6, at 2.

supplement the minimum benefits in their bids and offer enhanced options.<sup>18</sup> 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 Centers for Medicare and Medicaid Services reached an “Agreement in Principle” on the proposed plan.<sup>19</sup> The integrated Medicaid plans would cover both children and adults. The current dental plan contracts held by the AHCA cover only Medicaid recipients under age 21.

Overall, prepaid dental plans operate in 62 counties today and Medicaid recipients have the ability to opt out of the prepaid dental plan in all but Miami-Dade County. In the five Medicaid Reform counties, dental services are delivered through the Medicaid recipient’s managed care health plan.

### **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 amends Subsection (41)(a) to postpone 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, keeping the provision in statute for an additional 3 years.

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 possible overlap of dental services contracts between those contracts executed under this section and those procured under SMMC. Dental benefits are a required benefit under s. 409.973(1)(e), F.S., and the integrated managed care model.

Under Subsection (41)(b), the bill deletes the current fiscal year reference which will become obsolete and authorizes the AHCA to provide a Medicaid prepaid dental program in Miami-Dade County on a permanent basis. This action would allow the AHCA to continue to provide a separate Medicaid prepaid dental plan in Miami-Dade County.

Provisions requiring a fee for service dental benefit reimbursement option are deleted. A reference to a sunset provision of July 1, 2013, for this subsection is also removed.

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

#### **Other Potential Implications:**

Making determinations from year to year whether or not services should be delivered through fee for service or capitated contracts can also be disruptive to the provider network that serves Medicaid recipients and to the private vendors that may or may not participate in the process.

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<sup>18</sup> Ibid.

<sup>19</sup> 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](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).

The AHCA analysis indicates that if the sunset provision is removed and the changes result in modifications to the dental service delivery under the 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 SB 896 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.<sup>20</sup>

#### **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:

SB 896 has limited private sector impact. The bill obsoletes a provision that will sunset July 1, 2014, relating to the fee for service reimbursement and extends the contracts of the separate PDHP contracts to October 1, 2017, from October 1, 2014. 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 extends the length of time that the AHCA would contract separately with private vendors to deliver dental services to Medicaid recipients under prepaid dental contracts rather than through consolidated managed health care contracts that cover all services to Medicaid enrollees.

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<sup>20</sup> AHCA, *supra* note 6, at 1 and 3.

There can be a cost differential between services delivered under the fee for service model that pays claims as services are delivered and enrollment of Medicaid recipients in capitated plans where the health plan assumes the risk for all dental services for a set premium rate per member per month.

The AHCA's fiscal analysis indicates that the impact would be minimal and indeterminate at this time. Any potential savings which might occur if the fee for service option is eliminated would become only a minor component of a capitation rate calculation under SMMC.<sup>21</sup>

**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.)

None.

**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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<sup>21</sup> AHCA, *supra* note 6, at 2.