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 Committee on Health Policy

BILL:	SB 340
INTRODUCER:	Senator Flores
SUBJECT:	Prepaid Dental Plans
DATE:	December 23, 2013
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Pre-meeting**
2.			CA	
3.			AHS	
4.			AP	
5.				
6.				

I. Summary:

SB 340 postpones the scheduled repeal of a provision that requires the Agency for Health Administration (AHCA) to contract separately with prepaid dental health plans on a prepaid or fixed sum basis for Medicaid recipients. The bill requires the AHCA to contract with such prepaid dental health plans notwithstanding certain other statutory provisions.

The AHCA is also authorized to provide a Medicaid prepaid dental program in Miami-Dade County on an indefinite basis. Obsolete 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 AHCA is required 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 population.

The AHCA is directed to seek any necessary revisions or amendments to the Medicaid state plan in order to implement SB 340's provisions.

The bill has an estimated annualized fiscal impact of at least $20 million in lost enhanced adult dental benefits and $138,489 in administrative costs to the AHCA.

The bill has an effective date of July 1, 2014.

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's estimated expenditures for fiscal year 2012-13 were approximately $21 billion.[1] The statutory authority for the Medicaid program is contained in ch. 409, F.S.

Federal law establishes the minimum benefit levels required to receive federal matching funds. Benefit levels 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 statute under ss. 409.905 and 409.906, F.S., respectively. Comprehensive dental benefit coverage is a mandatory Medicaid service only for children in Florida.

Florida Medicaid recipients currently 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] 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 more than 1.4 million pediatric Medicaid members.[4,5]

History of Prepaid Dental Plans

Proviso language in the 2001-2002 General Appropriations Act (GAA) authorized the AHCA to initiate a PDHP pilot program in Miami-Dade County.[6] The 2003 Legislature authorized the AHCA to contract on a prepaid or fixed sum basis for dental services for Medicaid-eligible recipients specifically using PDHPs.[7] Through a competitive bid process, the AHCA executed its first PDHP contract in 2004 to serve children under age 21 in Miami-Dade County.[8]

The Legislature included proviso in the 2010-11 GAA authorizing the AHCA to contract by competitive procurement with one or more prepaid dental plans on a regional or statewide basis

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[1] Agency for Health Care Administration, *Florida Medicaid*, http://ahca.myflorida.com/Medicaid/index.shtml (last visited Nov. 26, 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 November 21, 2013).
[4] *See* Agency for Health Care Administration, *Prepaid Dental Health Plans (PDHPs),* http://ahca.myflorida.com/medicaid/pdhp/index.shtml#Home (last visited November 21, 2013).
[5] *See* Agency for Health Care Administration, *Comprehensive Medicaid Managed Care Enrollment Reports, November 2013*, http://ahca.myflorida.com/mchq/Managed_Health_Care/MHMO/med_data.shtml (last visited Dec. 20, 2013).
[6] *See* Specific Proviso 135A, General Appropriations Act 2001-2002 (Conference Report on CS/SB 2C).
[7] Chapter 2003-405, L.O.F.
[8] Agency for Health Care Administration, *2014 Agency Bill Analysis - HB 27*, p. 2, (Nov. 11, 2013) (on file with the Senate Health Policy Committee).

for a period not to exceed 2 years, in all counties except those participating in Miami-Dade County and Medicaid Reform, under a fee-for-service or managed care delivery system.[9]

In the following year, the Legislature included proviso in the 2012-13 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 services on a fee-for-service basis.[10] Similar language was also passed in the 2012-13 appropriations implementing bill, which included additional directives to AHCA to terminate existing contracts, as needed. The 2012-13 implementing bill provisions became obsolete on July 1, 2013.

According to the AHCA website, two vendors were selected for the statewide program and it has been implemented statewide since December 1, 2012.[11] Under the current statewide program, Medicaid recipients may select one of the two PDHPs in their county for dental services. The existing dental plan contracts cover only Medicaid recipients under age 21. Dental care through Medicaid fee for service providers ended July 1, 2013.

The current PDHP contracts were procured through a competitive process beginning in 2011and contracts under that procurement were most recently renewed through September 30, 2014.[12] The Invitation to Negotiate (ITN) for that procurement limited renewal to no more than a 3 year period.[13]

Statewide Medicaid Managed Care

In 2011, the Legislature passed HB 7107[14] creating the Statewide Medicaid Managed Care (SMMC) program as part IV of ch. 409, F.S. The SMMC program 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 services, under the Managed Medical Assistance component (MMA).[15] Instead of being delivered as a separate benefit under a separate contract, dental services are to be incorporated by and be the responsibility of the managed care organization. Medicaid recipients who are enrolled in the MMA program will receive their dental services through fully integrated managed care plans as the program is implemented.[16]

The AHCA released an ITN to competitively procure managed care plans on a statewide basis in December 2012. Plans could supplement the minimum benefits in their bids and offer enhanced

[9] *See* Specific Proviso 204, General Appropriations Act 2010-2011 (Conference Report on HB 5001).
[10] *See* Specific Proviso 186, General Appropriations Act 2012-2013 (Conference Report on HB 5001).
[11] Six counties were excluded from the statewide roll-out. Miami-Dade was excluded because of the prepaid dental program that has been in existence since 2004. Baker, Broward, Clay, Duval and Nassau counties were excluded because the Medicaid Reform Pilot Project has been implemented in those since counties, which requires most Medicaid recipients to enroll in managed care plans that provide dental care as a covered service.
[12] Agency for Health Care Administration, *supra* note 8 at 5.
[13] Agency for Health Care Administration, *supra* note 8 at 5.
[14] *See* ch. 2011-134, L.O.F.
[15] Health and Human Services Committee, Fla. House of Representatives, *PCS HHSC 11-01 Staff Analysis*, p.25, (Mar. 25, 2011).
[16] Agency for Health Care Administration *supra* note 8, at 2.

options.[17] Of the 14 general, non-specialty plans selected for contracts, all but one elected to include adult dental benefits as an enhanced benefit.[18]

The AHCA has released a draft MMA implementation schedule by region with the first roll-out scheduled for May 1, 2014, and the final group for August 1, 2014.[19] The enabling legislation required the statewide roll-out to be completed by October 2014. Existing PDHP enrollees will be transitioned to dental coverage through their managed care plan as the enrollee's region is implemented under MMA.

Final approval by the federal government of the 1915(b) Medicaid waiver for the MMA component of SMMC program was received on June 14, 2013.[20] The AHCA has recently begun the waiver renewal process for the period of July 1, 2014 through June 30, 2017.[21]

III. Effect of Proposed Changes:

Section 1 amends s. 409.912, F.S., to postpone the scheduled repeal of the requirement that the AHCA contract on a fixed-sum or prepaid basis with licensed prepaid dental health plans to provide dental services to Medicaid recipients. The bill extends the repeal date to October 1, 2017. Existing law repeals this contracting requirement effective October 1, 2014.

The AHCA is directed to contract with such prepaid dental health plans notwithstanding the provisions of s. 409.961, F.S. The referenced statute requires that provisions of part IV of chapter 409, F.S., shall control if a conflict exists between part IV and the other parts of chapter 409. Part IV requires the AHCA to contract with managed care plans for comprehensive health care services, including dental services, for most Medicaid recipients.

The bill also adds language permitting the AHCA to provide a Medicaid prepaid dental health program in Miami-Dade County in perpetuity. Language limiting authorization of the Miami-Dade dental program to the 2012-13 fiscal year is deleted.

Obsolete language requiring a fee-for-service option for dental benefits that expired on July 1, 2013 is also deleted.

The AHCA is required to provide the Governor, the President of the Senate, and Speaker of the House of Representatives with an annual report each January 15, that compares utilization and

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[17] *See* Correspondence between Agency for Health Care Administration and the Centers for Medicare and Medicaid Services, *Special Terms and Conditions - Customized Benefit Packages*, p.17, http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/FL_MMA_STCs_CMS_Approved_06-14-2013.pdf, (last visited Dec. 29, 2013).

[18] *See Correspondence* between Agency for Health Care Administration and Senator Anitere Flores, November 21, 2013 (on file with the Senate Health Policy Committee).

[19] Agency for Health Care Administration, *Implementation Plan - Managed Medical Assistance Program*, p.5, http://ahca.myflorida.com/Medicaid/statewide_mc/pdf/mma/FL_1115_MMA_IP_10-30-2013_Final.pdf (last visited Nov. 21, 2013).

[20] *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/06-14-2013_Appproval_Letter.pdf (last visited Nov. 21, 2013).

[21] Agency for Health Care Administration, *Managed Medical Assistance - Federal Authorities*, http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#FCA (last visited Nov. 21, 2013).

encounter data of all contractors, along with projected and budgeted program costs, each entity's contract compliance, access to care impact for Medicaid recipients and statistical trends related to good oral health compared to the state's population as a whole.

The bill also directs the AHCA to seek any necessary revisions or amendments to the state plan or federal waivers for implementation.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Requiring the AHCA to contract with licensed prepaid dental health plans for Medicaid dental services after October 1, 2014, under this bill could result in a challenge to that law as an unconstitutional impairment of contracts. Authorizing the AHCA to provide a Medicaid dental program in Miami-Dade County on an indefinite basis could raise the same constitutional issue.

Section 409.973, F.S., requires the managed care plans to cover all required benefits which includes dental services. The ITN released for this component of SMMC articulated that managed care plans would be responsible for the full list of minimum benefits, including dental services.[22] The bill's provisions severs the children's dental services from the awarded contracts and directs the AHCA to continue the delivery of these services through separate prepaid dental plans through September 30, 2017. In Miami-Dade County, the bill permits the AHCA to provide a prepaid dental health program on an indefinite basis.

The ITN has concluded and 14 standard MMA contracts have been awarded.[23] According to the AHCA, the anticipated contract execution deadline for managed care plans selected under the ITN is January 31, 2014.[24] For 13 of the 14 plans selected, those contracts will

[22] Agency for Health Care Administration, ITN 017-12/13, Attachment D, p.87, http://www.myflorida.com/apps/vbs/adoc/F25820_AttachmentD_Region1.pdf (last visited Dec. 29, 2013)..
[23] Agency for Health Care Administration, *Florida Medicaid - Managed Medical Assistance*, http://ahca.myflorida.com/Medicaid/statewide_mc/index.shtml#mmahome (last visited Dec. 20, 2013).
[24] Telephone conversation with Ashley James, Agency for Health Care Administration, December 20, 2013.

include the mandatory benefit of comprehensive dental benefits for children and an expanded dental benefit for adults, a benefit enhancement that was a negotiated item during the ITN.[25] Implementation activities have begun and an implementation plan has been filed for approval, as required, with the federal Centers for Medicare and Medicaid Services (CMS) that includes these provisions.

The United States Constitution and the Florida Constitution prohibit the state from passing any law impairing the obligation of contracts.[26] The courts will subject state actions that impact state-held contracts to an elevated form of scrutiny when the Legislature passes laws that impact such contracts. *Cf. Chiles v. United Faculty of Fla.,* 615 So.2d 671 (Fla. 1993). "[T]he first inquiry must be whether the state law has, in fact, operated as a substantial impairment of a contractual relationship. The severity of the impairment measures the height of the hurdle the state legislation must clear."[27]

The estimated annualized value of the 14 MMA contracts at stake is approximately $70 billion over 5 years. Extracting just the value of expanded adult dental benefit in those same contracts is estimated at $100 million over the same 5-year period.[28] The value of these MMA contracts may be deemed substantial if the AHCA must re-negotiate these contracts or re-procure due to severing pediatric dental benefits from the benefits to be provided.

If a law does impair contracts, the courts will assess whether the law is deemed reasonable and necessary to serve an important public purpose.[29] The court will also consider three factors when balancing the impairment of contracts with the important public purpose:

- Whether the law was enacted to deal with a broad economic or social problem;
- Whether the law operates in an area that was already subject to state regulation at the time the contract was entered into; and,
- Whether the effect on the contractual relationship is temporary; not severe, permanent, immediate, and retroactive.[30]

A law that is deemed to be an impairment of contract will be deemed to be invalid as it applies to any contracts entered into prior to the effective date of the act.

The continued availability or the full value to taxpayer and enrollees of this expanded adult dental benefit is no longer assured should the MMA contracts be re-negotiated.

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[25] Agency for Health Care Administration, *supra* note 18.
[26] U.S. Const. art. I, § 10; art. I, s. 10, Fla. Const.
[27] *Pomponio v. Claridge of Pompano Condominium, Inc.,* 378 So. 2d 774 (Fla. 1980). *See also General Motors Corp. v. Romein,* 503 U.S. 181 (1992).
[28] Agency for Health Care Administration, *supra* note 8 at 4.
[29] *Park Benzinger & Co. v. Southern Wine & Spirits, Inc.,* 391 So. 2d 681 (Fla. 1980); *Yellow Cab C., v. Dade County,* 412 So. 2d 395 (Fla. 3rd DCA 1982). *See also Exxon Corp. v. Eagerton,* 462 U.S. 176 (1983).
[30] *Pomponio v. Cladridge of Pompanio Condo., Inc.,* 378 So. 2d 774 (Fla. 1980).

Adults in the Medicaid program could lose the currently bargained for, and now unavailable adult dental benefits, and the state would lose a valuable customized benefit worth over $20 million annually.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

For the majority of adult Medicaid enrollees, current dental benefits are extremely limited. Under MMA, the AHCA negotiated expanded dental benefits with the managed care organizations. The AHCA estimates the value of these additional benefits at $100 million over 5 years, at no additional cost to taxpayers.[31] However, if the pediatric enrollees are carved out of the MMA contracts, the AHCA believes that the managed care organizations will lose leverage with the dental providers and existing dental provider networks resulting in the loss of the expanded benefit for the adults.[32] In all likelihood, adult Medicaid enrollees will lose access to expanded dental benefits, dental providers may lose the opportunity for increased patients and revenue, and taxpayers will not have the benefit of a no-cost $100 million negotiated contract term.

The managed care organizations awarded contracts under MMA may incur business costs to re-negotiate rates with the AHCA and with provider networks that must be re-configured due to the loss of pediatric members. Some vendors may elect to discontinue expanded dental benefits if it is no longer cost effective to do so with reduced enrollment.

If re-procurement is necessary in order to implement the provisions of this bill, the private sector managed care plans will incur the business costs related to participation in re-procurement in addition to the costs of an implementation delay. Private sector managed care plans may also incur business costs for any re-negotiation of rates with their network providers based on delayed implementation.

The PDHPs will also be impacted. Under SB 340, the PDHPs continue to contract separately with the AHCA for pediatric dental benefits. The current PDHP contracts cannot be extended beyond September 30, 2016, per previous statutory direction. An additional procurement would be necessary prior to the October 1, 2017 sunset date in SB 340. Some of the same PDHPs that would compete under that procurement may already be under contract with the managed care organizations under MMA to provide these same services, as well as the adult dental benefits.

[31] Agency for Health Care Administration, *supra* note 8 at 4.
[32] Agency for Health Care Administration, *supra* note 8 at 4.

C. Government Sector Impact:

The AHCA has indicated that it is a "logistical impossibility" to implement the bill's provisions prior to MMA implementation, regardless of resources.[33] The impossibility relates to a number of issues, including timing of current SMMC implementation activities, the deadline for requests of federal authority for such actions, the legality of the change in terms, and the programming needed to effectuate the proposed changes.

Secondly, since pediatric dental coverage was a required benefit, all of the contracts include this benefit; therefore, a re-negotiation with all managed care plans will be required to carve this benefit and the associated premium out of their contracts. The CMS will not permit the state to pay twice for the same benefit.

In addition, the AHCA will need to renegotiate rates with those managed care plans that incorporated the expanded adult dental benefit in their rate calculations. It may also become necessary to re-procure statewide without dental benefits. There would be a cost to the AHCA to conduct both of these contract negotiations or a second procurement. While the AHCA has not specifically identified a fiscal impact for an implementation delay, the agency has indicated that a delay results in lost savings to taxpayers for each month that MMA is not implemented.[34]

System change costs to implement the carve-out would also be incurred by the AHCA. The AHCA also requests two additional staff and associated costs for contract monitoring to oversee the PDHP contracts for SFY 2014-15.

Agency for Health Care Administration:

Total Costs for 2 FTEs:	**$131,489**
General Revenue	$65,744.50
Medical Care TF	$65,744.50
Travel Costs for 2 FTEs:	**$7,000**
General Revenue	$3,500
Medical Care TF	$3,500
Total - Agency for Health Care Admin.:	**$138,489**
General Revenue	$69,245
Medical Care TF	$69,245

In addition, as noted above in the Private Sector Impact, the AHCA estimates the value of these additional benefits at $100 million over 5 years, at no additional cost to taxpayers.[35] However, if the pediatric enrollees are carved out of the current MMA contracts, the AHCA believes that the managed care organizations will lose leverage with the dental

[33] Agency for Health Care Administration, *supra* note 8 at 4.
[34] *See Correspondence* between Agency for Health Care Administration and Senator Anitere Flores, November 21, 2013 (on file with the Senate Health Policy Committee).
[35] Agency for Health Care Administration, *supra* note 8 at 4.

providers and existing dental provider networks resulting in the complete loss of the expanded dental benefit for adults.[36]

The AHCA also loses the anticipated savings from the MMA contracts if implementation is delayed. Based on the projected 5 percent aggregate savings per year contemplated in s. 409.966(3)(d), F.S., and the estimated contract value of $70 billion over 5 years, the minimum impact for a 1 year delay is $736 million in lost savings.

An alternative valuation of this benefit by an actuary retained by the Florida Association of Health Plans has estimated the value of the expanded adult dental benefit at full program implementation at $5,765,125 per month or an annualized value of over $69 million.[37] The valuation was based on responses by five of the 13 plans currently participating in Medicaid and awarded contracts under the MMA program component. These plans represent over 58 percent of the November 2013 managed care enrollment.[38]

VI. Technical Deficiencies:

Both paragraph (a) and (b) of 409.912(41), F.S., in the bill begin with the word, "notwithstanding." In the latter paragraph, the notwithstanding reference acts to ignore the statutory provisions of paragraph (a). However, the use of two negatives with a cross-reference by one paragraph to another acts as a double-negative. This incorporation may be viewed as negating the effect of both provisions or, at a minimum, creating ambiguity about the validity of one or both of the provisions.

Additionally, paragraph (b) of ch. 409.912(41), F.S., in the bill references paragraph (a), and indicates that "Notwithstanding paragraph (a), the agency may…" Paragraph (a) includes a sunset provision of October 1, 2017. Without paragraph (a) and its cross reference to s. 409.961, F.S., the provisions of paragraph (b) are in conflict with the requirements of s. 409.961, F.S., which provide that if there is any conflict in the provisions of part IV of chapter 409 and any other parts of this chapter, then the provisions of part IV will control. Once paragraph (a) becomes obsolete after October 1, 2017, then the provisions of paragraph (b) no longer have a cross reference that cures any purported conflict in statutory construction. Section 409.912, F.S., is not part of Part IV of Chapter 409; this section of law is referenced under Part III of Chapter 409. The cross reference in paragraph (a) is needed to cure the conflict.

In addition, paragraph (b) of 409.912(41), F.S., refers to a dental program in Miami-Dade County. Unlike the use of the term "licensed prepaid dental health plan" in paragraph (a), the language in paragraph (b) more broadly permits the provision of a "prepaid dental health program." A "prepaid dental health program" could be achieved through a variety of mechanisms that are pre-paid and not necessarily be the same type of licensed, contractual relationship described in paragraph (a).

[36] Agency for Health Care Administration, *supra* note 8 at 4.
[37] Wakely Consulting Group, *Valuation of Medicaid Managed Medical Assistance Expanded Adult Dental Benefit,* p. 1, December 10, 2013 (on file with the Senate Health Policy Committee).
[38] Wakely Consulting Group, *supra* note 36 at 1.

The language in paragraph (b) grants discretion to the AHCA as to whether or not to provide a prepaid dental health program in Miami-Dade County. The AHCA is not required to implement or continue any dental health program in Miami-Dade County by use of the word "may."

VII. Related Issues:

The AHCA's analysis of the companion House legislation identifies several areas of concern for the implementation of the proposed bill. Carving out the children's dental services component from the MMA program could result in the loss of the expanded dental benefit for adults valued at over $100 million over the life of the 5 year contract.[39] Without the inclusion of the pediatric dental benefit, the agency opines that the adult dental network may no longer be cost effective for the managed care plans jeopardizing the benefit for adult enrollees and undermining the overall dental networks.[40]Adult dental benefits that are not currently covered were negotiated and incorporated as an expanded benefit in the majority of the managed care contracts as part of the recently concluded ITN.[41] A separate analysis of the adult dental benefit by the Florida Association of Health Plans placed the value at over $69 million annually, assuming full implementation.[42]

Carving out the pediatric dental benefit will impact the negotiated rates under MMA because the capitated rate covers all services, including the dental. The CMS will not allow double payment for dental services. With the possibility of invalid rates, the AHCA raises the question of whether or not the agency could engage in rate re-negotiation with the existing winning managed care organizations or if a complete re-procurement must be conducted.[43]

The AHCA's preliminary legal analysis pertaining to re-negotiated rates or re-procurement concern scoring during the bid process since consideration was given for the inclusion of the mandatory pediatric dental benefit as well as the expanded adult benefit. Non-winning vendors who had not included comparable dental benefits might challenge the change in terms and argue a different approach would have been taken if they had known that dental would be carved out later.[44] Similarly, some vendors that chose not to compete due to an inadequate dental network might challenge a re-negotiation. A total re-procurement for the MMA component, seen by the AHCA as the cleanest route, could delay the implementation by more than a year.[45]

The Agency states that it cannot logistically carve dental services out prior to implementation.[46] The Agency cites the proposed, staggered roll-out schedule for SMMC, the statutory implementation completion date of October 1, 2014, the timeline for choice counseling by mid-February for the first region, and the time needed to re-program enrollment and data systems.[47]

[39] Agency for Health Care Administration, *supra* note 8 at 4.
[40] Agency for Health Care Administration, *supra* note 8 at 4.
[41] Agency for Health Care Administration, *supra* note 8 at 3.
[42] Wakely Consulting Group, *supra* note 36 at 1.
[43] Agency for Health Care Administration, *supra* note 8 at 4.
[44] Agency for Health Care Administration, *supra* note 8 at 3-4.
[45] Agency for Health Care Administration, *supra* note 8 at 4.
[46] Agency for Health Care Administration, *supra* note 8 at 4.
[47] Agency for Health Care Administration, *supra* note 8 at 4.

Implementation of the carve-out is identified to be a "logistical impossibility" prior to roll-out, regardless of the amount of additional resources.[48]

Carving out this benefit from the MMA program could also set a precedent for other services that have been integrated in the managed medical assistance contracts with the managed care organizations, such as behavioral health care, transportation and pharmacy. If one service is successful in achieving a carve-out, this action could be seen as a slippery slope for other benefits seeking the same consideration.

The AHCA also indicates that federal approval would be required before implementation of the dental carve-out.[49] The current waiver that includes prepaid dental plans expires January 31, 2014 and the existing 1915(b) waiver incorporates dental services into the managed care contracts.[50] There are deadlines for seeking waivers and the deadline for seeking renewal of this particular waiver has passed as the AHCA anticipated the inclusion of these benefits under the managed care contracts.[51] The Agency would need to seek a new 1915(b) waiver, or request an amendment to the 1115 waiver that carves dental services out.[52] Under either scenario, the AHCA indicates that there would not be sufficient time to receive approval prior to the rollout of the SMMC.[53]

VIII. Statutes Affected:

The bill substantially amends section 409.912 of the Florida Statutes.

IX. 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.

[48] Agency for Health Care Administration, *supra* note 8, at 4.
[49] Agency for Health Care Administration, *supra* note 8 at 4.
[50] Agency for Health Care Administration, *supra* note 8 at 4.
[51] Agency for Health Care Administration, *supra* note 8 at 4.
[52] Agency for Health Care Administration, *supra* note 8 at 4.
[53] Agency for Health Care Administration, *supra* note 8 at 4.