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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2015	.	
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The Committee on Fiscal Policy (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete lines 64 - 100

and insert:

(e)1. As used in this paragraph, the term:

a. "Appropriation made by law" has the same meaning as provided in s. 11.066.

b. "Reimbursement rate" means the audited hospital cost-based per diem reimbursement rate for inpatient or outpatient care established by the agency.



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11 2. Pursuant to chapter 120, the agency shall furnish
12 written notice of a reimbursement rate to providers. The written
13 notice constitutes final agency action. A substantially affected
14 provider seeking to correct or adjust the calculation of a
15 reimbursement rate, based on a challenge other than a challenge
16 to a methodology used to calculate a reimbursement rate as
17 described in subparagraph 3., may request an administrative
18 hearing by filing a petition with the agency within 180 days
19 after receipt of the written notice by the provider. The failure
20 to timely file a petition in compliance with this subparagraph
21 is deemed conclusive acceptance of the reimbursement rate.

22 3. An administrative proceeding pursuant to:

23 a. Section 120.569 or s. 120.57 which challenges a
24 methodology that is specified in an agency rule or in a
25 reimbursement plan incorporated by reference in such rule and
26 that is used to calculate a reimbursement rate may not result in
27 a correction or an adjustment of a reimbursement rate for a rate
28 period that occurred more than 5 years before the date the
29 petition initiating the proceeding was filed.

30 b. Section 120.56 or s. 120.57(1)(e) which challenges the
31 validity of an agency rule or an unadopted rule that governs the
32 calculation of a reimbursement rate may not have a retroactive
33 effect on a reimbursement rate for a rate period before the date
34 the petition initiating the proceeding was filed.

35 4. This paragraph applies to any challenge described in
36 subparagraph 2. or subparagraph 3., including a right to
37 challenge which arose before July 1, 2015. A correction or
38 adjustment of a reimbursement rate which is required by an
39 administrative order or appellate decision:



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40 a. Must be reconciled in the first rate period after the
41 order or decision becomes final; and

42 b. May not serve as the basis for a challenge to correct or
43 adjust hospital rates required to be paid by a Medicaid managed
44 care provider pursuant to part IV of chapter 409.

45 5. The agency may not be compelled by an administrative
46 body or a court to pay compensation that exceeds \$5 million to a
47 hospital relating to the establishment of reimbursement rates by
48 the agency or for remedies relating to such rates, unless an
49 appropriation made by law is enacted for the exclusive, specific
50 purpose of paying such additional compensation.

51 6. A period of time specified in this paragraph is not
52 tolled by the pendency of an administrative or appellate
53 proceeding.

54 7. An administrative proceeding pursuant to chapter 120 is
55 the exclusive means to challenge a reimbursement rate as
56 described under subparagraph 2. before, on, or after July 1,
57 2015, and to challenge a methodology used to calculate a
58 reimbursement rate as described under subparagraph 3.

59 Section 2. For the purpose of incorporating the amendment
60 made by this act to section 409.908, Florida Statutes, in a
61 reference thereto, section 383.18, Florida Statutes, is
62 reenacted to read:

63 383.18 Contracts; conditions.—Participation in the regional
64 perinatal intensive care centers program under ss. 383.15–383.19
65 is contingent upon the department entering into a contract with
66 a provider. The contract shall provide that patients will
67 receive services from the center and that parents or guardians
68 of patients who participate in the program and who are in



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69 compliance with Medicaid eligibility requirements as determined
70 by the department are not additionally charged for treatment and
71 care which has been contracted for by the department. Financial
72 eligibility for the program is based on the Medicaid income
73 guidelines for pregnant women and for children under 1 year of
74 age. Funding shall be provided in accordance with ss. 383.19 and
75 409.908.

76 Section 3. For the purpose of incorporating the amendment
77 made by this act to section 409.908, Florida Statutes, in a
78 reference thereto, subsection (4) of section 409.8132, Florida
79 Statutes, is reenacted to read:

80 409.8132 Medikids program component.—

81 (4) APPLICABILITY OF LAWS RELATING TO MEDICAID.—The
82 provisions of ss. 409.902, 409.905, 409.906, 409.907, 409.908,
83 409.912, 409.9121, 409.9122, 409.9123, 409.9124, 409.9127,
84 409.9128, 409.913, 409.916, 409.919, 409.920, and 409.9205 apply
85 to the administration of the Medikids program component of the
86 Florida Kidcare program, except that s. 409.9122 applies to
87 Medikids as modified by the provisions of subsection (7).

88 Section 4. For the purpose of incorporating the amendment
89 made by this act to section 409.908, Florida Statutes, in
90 references thereto, paragraph (c) of subsection (5) and
91 paragraph (b) of subsection (6) of section 409.905, Florida
92 Statutes, are reenacted to read:

93 409.905 Mandatory Medicaid services.—The agency may make
94 payments for the following services, which are required of the
95 state by Title XIX of the Social Security Act, furnished by
96 Medicaid providers to recipients who are determined to be
97 eligible on the dates on which the services were provided. Any



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98 service under this section shall be provided only when medically
99 necessary and in accordance with state and federal law.

100 Mandatory services rendered by providers in mobile units to
101 Medicaid recipients may be restricted by the agency. Nothing in
102 this section shall be construed to prevent or limit the agency
103 from adjusting fees, reimbursement rates, lengths of stay,
104 number of visits, number of services, or any other adjustments
105 necessary to comply with the availability of moneys and any
106 limitations or directions provided for in the General
107 Appropriations Act or chapter 216.

108 (5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for
109 all covered services provided for the medical care and treatment
110 of a recipient who is admitted as an inpatient by a licensed
111 physician or dentist to a hospital licensed under part I of
112 chapter 395. However, the agency shall limit the payment for
113 inpatient hospital services for a Medicaid recipient 21 years of
114 age or older to 45 days or the number of days necessary to
115 comply with the General Appropriations Act. Effective August 1,
116 2012, the agency shall limit payment for hospital emergency
117 department visits for a nonpregnant Medicaid recipient 21 years
118 of age or older to six visits per fiscal year.

119 (c) The agency shall implement a prospective payment
120 methodology for establishing reimbursement rates for inpatient
121 hospital services. Rates shall be calculated annually and take
122 effect July 1 of each year. The methodology shall categorize
123 each inpatient admission into a diagnosis-related group and
124 assign a relative payment weight to the base rate according to
125 the average relative amount of hospital resources used to treat
126 a patient in a specific diagnosis-related group category. The



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127 agency may adopt the most recent relative weights calculated and
128 made available by the Nationwide Inpatient Sample maintained by
129 the Agency for Healthcare Research and Quality or may adopt
130 alternative weights if the agency finds that Florida-specific
131 weights deviate with statistical significance from national
132 weights for high-volume diagnosis-related groups. The agency
133 shall establish a single, uniform base rate for all hospitals
134 unless specifically exempt pursuant to s. 409.908(1).

135 1. Adjustments may not be made to the rates after October
136 31 of the state fiscal year in which the rates take effect,
137 except for cases of insufficient collections of
138 intergovernmental transfers authorized under s. 409.908(1) or
139 the General Appropriations Act. In such cases, the agency shall
140 submit a budget amendment or amendments under chapter 216
141 requesting approval of rate reductions by amounts necessary for
142 the aggregate reduction to equal the dollar amount of
143 intergovernmental transfers not collected and the corresponding
144 federal match. Notwithstanding the \$1 million limitation on
145 increases to an approved operating budget contained in ss.
146 216.181(11) and 216.292(3), a budget amendment exceeding that
147 dollar amount is subject to notice and objection procedures set
148 forth in s. 216.177.

149 2. Errors in source data or calculations discovered after
150 October 31 must be reconciled in a subsequent rate period.
151 However, the agency may not make any adjustment to a hospital's
152 reimbursement more than 5 years after a hospital is notified of
153 an audited rate established by the agency. The prohibition
154 against adjustments more than 5 years after notification is
155 remedial and applies to actions by providers involving Medicaid



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156 claims for hospital services. Hospital reimbursement is subject
157 to such limits or ceilings as may be established in law or
158 described in the agency's hospital reimbursement plan. Specific
159 exemptions to the limits or ceilings may be provided in the
160 General Appropriations Act.

161 (6) HOSPITAL OUTPATIENT SERVICES.—

162 (b) The agency shall implement a methodology for
163 establishing base reimbursement rates for outpatient services
164 for each hospital based on allowable costs, as defined by the
165 agency. Rates shall be calculated annually and take effect July
166 1 of each year based on the most recent complete and accurate
167 cost report submitted by each hospital.

168 1. Adjustments may not be made to the rates after October
169 31 of the state fiscal year in which the rates take effect,
170 except for cases of insufficient collections of
171 intergovernmental transfers authorized under s. 409.908(1) or
172 the General Appropriations Act. In such cases, the agency shall
173 submit a budget amendment or amendments under chapter 216
174 requesting approval of rate reductions by amounts necessary for
175 the aggregate reduction to equal the dollar amount of
176 intergovernmental transfers not collected and the corresponding
177 federal match. Notwithstanding the \$1 million limitation on
178 increases to an approved operating budget under ss. 216.181(11)
179 and 216.292(3), a budget amendment exceeding that dollar amount
180 is subject to notice and objection procedures set forth in s.
181 216.177.

182 2. Errors in source data or calculations discovered after
183 October 31 must be reconciled in a subsequent rate period.
184 However, the agency may not make any adjustment to a hospital's



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185 reimbursement more than 5 years after a hospital is notified of
186 an audited rate established by the agency. The prohibition
187 against adjustments more than 5 years after notification is
188 remedial and applies to actions by providers involving Medicaid
189 claims for hospital services. Hospital reimbursement is subject
190 to such limits or ceilings as may be established in law or
191 described in the agency's hospital reimbursement plan. Specific
192 exemptions to the limits or ceilings may be provided in the
193 General Appropriations Act.

194 Section 5. The amendment made by this act to s. 409.908,
195 Florida Statutes, is remedial in nature, confirms and clarifies
196 existing law, and applies to all proceedings pending on or
197 commenced after this act takes effect.

198
199 ===== T I T L E A M E N D M E N T =====

200 And the title is amended as follows:

201 Delete lines 3 - 27

202 and insert:

203 providers; amending s. 409.908, F.S.; defining terms;
204 requiring the Agency for Health Care Administration to
205 provide written notice, pursuant to ch. 120, F.S., of
206 reimbursement rates to providers; specifying
207 procedures and requirements to challenge the
208 calculation of or the methodology used to calculate
209 such rates; providing that the failure to timely file
210 a certain challenge constitutes acceptance of the
211 rates; specifying limits on and procedures for the
212 correction or adjustment of the rates; providing
213 applicability; prohibiting the agency from being



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214 compelled by an administrative body or a court to pay
215 additional compensation that exceeds a certain amount
216 to a hospital for specified matters unless an
217 appropriation is made by law; prohibiting certain
218 periods of time from being tolled under specified
219 circumstances; specifying that an administrative
220 proceeding is the exclusive means for challenging
221 certain issues; reenacting ss. 383.18, 409.8132(4),
222 and 409.905(5)(c) and (6)(b), F.S., relating to
223 contracts for the regional perinatal intensive care
224 centers program, the Medikids program component, and
225 mandatory Medicaid services, respectively, to
226 incorporate the amendment made to s. 409.908, F.S., in
227 references thereto; providing that the act is
228 remedial, intended to confirm and clarify law, and
229 applies to proceedings pending on or commenced after
230 the effective date; providing an effective date.