

**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 Appropriations

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**BILL:** CS/SB 580

**INTRODUCER:** Health Policy Committee and Senator Grimsley

**SUBJECT:** Reimbursement to Health Access Settings for Dental Hygiene Services for Children

**DATE:** February 17, 2016      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	<b>Fav/CS</b>
2.	Brown	Pigott	AHS	<b>Recommend: Favorable</b>
3.	Brown	Kynoch	AP	<b>Favorable</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 580 authorizes the Agency for Health Care Administration (AHCA) to reimburse a health access setting under the Medicaid program for remedial dental services (remedial tasks) delivered by a dental hygienist when provided to a Medicaid recipient younger than 21 years of age. Remedial tasks are defined as intra-oral tasks that do not create unalterable changes in the mouth or contiguous structures, are reversible, and do not expose the patient to increased risks.

This bill has no fiscal impact.

The effective date of the bill is July 1, 2016.

**II. Present Situation:**

**Florida Medicaid Program**

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. Florida has an estimated monthly caseload of over 4 million Floridians enrolled in Medicaid for

Fiscal Year 2015-2016.<sup>1</sup> Of those enrollees, more than 2.1 million are children.<sup>2</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 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. Children's dental benefits and authorization for reimbursement and treatment levels are specifically covered under s. 409.906(6), F.S., and provided in more detail in the Medicaid Dental Services Coverage and Limitations Handbook.<sup>3</sup>

Comprehensive dental benefits are required for children under Florida Medicaid's Managed Medical Assistance (MMA) component of the Statewide Medicaid Managed Care (SMMC) program and may be offered by MMA health plans as an expanded benefit for adults. Dental may also be offered as an expanded benefit under the Long Term Care Managed Care (LTCMC) component of SMMC.<sup>4</sup> Dental services delivered through the MMA and LTCMC health plans must comply with the Medicaid Dental Services Coverage and Limitations Handbook as must services delivered through the Medicaid fee-for-service system.

Florida Medicaid currently reimburses dental services provided to Medicaid recipients by a registered dental hygienist who is employed by or in a contractual agreement with a health access setting, as defined under s. 466.003(14), F.S., and is under the general supervision of a dentist as defined under s. 466.003(10), F.S.<sup>5,6</sup> The supervising dentist at the facility where the registered dental hygienist is employed or is under contract, is listed as the treating provider for these services.

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<sup>1</sup> Agency for Health Care Administration, *Florida Medicaid - Presentation to Senate Health and Human Services Appropriations Subcommittee* (October 20, 2015), available at:

[http://ahca.myflorida.com/medicaid/recent\\_presentations/Florida Medicaid to Senate HHS Appropriations 2015-10-20.pdf](http://ahca.myflorida.com/medicaid/recent_presentations/Florida_Medicaid_to_Senate_HHS_Appropriations_2015-10-20.pdf) (last visited Oct. 28, 2015).

<sup>2</sup> Agency for Health Care Administration, *Florida KidCare Enrollment Report, October 2015* (on file with the Senate Committee on Health Policy).

<sup>3</sup> Agency for Health Care Administration, *Florida Medicaid Dental Services Coverage and Limitations Handbook* (November 2011) available at:

[http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/Dental\\_Services\\_November\\_2011\\_Final\\_Handbook.pdf](http://portal.flmmis.com/FLPublic/Portals/0/StaticContent/Public/HANDBOOKS/Dental_Services_November_2011_Final_Handbook.pdf) (last viewed Oct. 28, 2015).

<sup>4</sup> See Agency for Health Care Administration, *Statewide Medicaid Managed Care Plans - Model Contract, Attachment I: Scope of Services* (November 1, 2015) available at: [http://ahca.myflorida.com/Medicaid/statewide\\_mc/plans.shtml](http://ahca.myflorida.com/Medicaid/statewide_mc/plans.shtml) (last visited Nov. 23, 2015).

<sup>5</sup> A health access setting is defined under the statute as a program or an institution of the Department of Children and Family Services, the Department of Health, the Department of Juvenile Justice, a nonprofit community health center, a Head Start center, a federally qualified health center or look-alike as defined by federal law, a school-based prevention program, a clinic operated by an accredited college of dentistry, or an accredited dental hygiene program in this state if such community service program or institution immediately reports to the Board of Dentistry all violations of ss. [466.027](#), and [466.028](#), or other practice act or standard of care violations related to the actions or inactions of a dentist, dental hygienist, or dental assistant engaged in the delivery of dental care in such setting.

<sup>6</sup> "General Supervision" means a dentist authorizes the procedures that are being carried out but is not required to be present when those authorized procedures are being performed under the statutory definition.

## Practice of Dentistry

Chapter 466, F.S., addresses the practice of dentistry and dental hygiene. Section 466.024(2), F.S., identifies the specific services that dental hygienists are permitted to perform under specified parameters, including dental cleanings and applications of topical fluoride and sealants.

Legislation to expand the scope of practice of dental hygienists was enacted in 2011, which permitted licensed dental hygienists to perform certain functions without the physical presence, prior examination, or authorization of a dentist, in health access settings.<sup>7</sup> The MMA plans provide health care services through certain health access setting providers as part of their contract obligations with the AHCA, including contracting with county health departments and federally qualified health centers.<sup>8</sup>

However, while the scope of services that could be performed without supervision was expanded for dental hygienists, the 2011 legislation did not specifically permit the health access setting provider to bill Medicaid for these expanded services unless the services are performed under the general supervision of a dentist. Statutory authorization for Medicaid dental reimbursement delivered at a health care access setting by a dental hygienist is addressed separately under s. 409.906(6), F.S.

The administrative rules under Chapter 64B5-16, F.A.C., provide additional guidance as to the level of supervision required for dental hygienists and the tasks that may be delegated or performed at those levels. Under Rule 64B5-16.001, F.A.C., remedial tasks are defined as those intra-oral tasks that do not create unalterable changes in the mouth or contiguous structures, are reversible, and do not expose the patient to increased risks. The rule permits a dentist to delegate any task to a dental hygienist that meets this criteria and where the training and supervision requirements of the rule have also been achieved.

### III. Effect of Proposed Changes:

**Section 1** amends s. 409.906(6), F.S., to authorize the AHCA to reimburse a health access setting<sup>9</sup> for remedial tasks that a licensed dental hygienist is authorized to perform on a Medicaid recipient under the age of 21. These reimbursable services are provided by a licensed dental hygienist on a Medicaid recipient under an appropriate statutory delegation of duties by a licensed dentist.

**Section 2** provides an effective date of July 1, 2016.

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<sup>7</sup> See Chapter Law 2011-95, ss. 4-8, L.O.F., and s. 466.024(2), F.S.

<sup>8</sup> Agency for Health Care Administration, Statewide Medicaid Managed Care Contract - Attachment II-A: Core Contract Provisions/Managed Medical Assistance Provisions (11/1/2015), available at: [http://ahca.myflorida.com/medicaid/statewide\\_mc/pdf/Contracts/2015-11-01/Exhibit\\_II-A-Managed\\_Medical\\_Assistance\\_MMA\\_Program\\_2015-11-01.pdf](http://ahca.myflorida.com/medicaid/statewide_mc/pdf/Contracts/2015-11-01/Exhibit_II-A-Managed_Medical_Assistance_MMA_Program_2015-11-01.pdf) (last visited Nov. 23, 2015).

<sup>9</sup> See *supra* note 5.

**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:

Under CS/SB 580, additional health access settings may benefit from increased revenue resources from the newly reimbursable services. These health access settings may also be able to provide services in a more cost efficient manner through the expanded use of dental hygienists, thereby improving access to certain dental services.

## C. Government Sector Impact:

The AHCA indicates that the bill has no fiscal impact.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 409.906 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.)

**CS by Health Policy on December 1, 2015**

The CS clarifies that the AHCA may reimburse the health access setting rather than the

dental hygienist for remedial tasks that the licensed dental hygienist is authorized to perform.

**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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