

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: CS/SB 190

INTRODUCER: Health Policy Committee; and Senators Montford, Harrell, Berman, and others

SUBJECT: Medicaid School-based Services

DATE: February 12, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brick</u>	<u>Sikes</u>	<u>ED</u>	Favorable
2.	<u>Kibbey</u>	<u>Brown</u>	<u>HP</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 190 authorizes school districts, private schools, and charter schools to certify for reimbursement eligible school-based health services provided to any student enrolled in Medicaid, regardless of whether that student qualifies for Part B or H of the IDEA, the exceptional student education program, or has an individualized education plan. The bill aligns Florida law with updated federal guidance that authorizes the federal reimbursement of Medicaid-eligible, school-based health services for all students enrolled in Medicaid.

The bill removes the current-law requirement for health care practitioners who are employed by or contracted with a private or charter school to independently enroll in Florida Medicaid as credentialed providers to deliver Medicaid-covered, school-based services.

It is unclear what fiscal impact this bill will have on state and local governments. This bill is likely to result in an indeterminate increase in federal Medicaid expenditures.

The bill provides an effective date of July 1, 2020.

II. Present Situation:

The Medicaid Program

Florida Medicaid is the health care safety net for low-income Floridians. The national Medicaid program is a partnership of federal and state governments established to provide coverage for health services for eligible persons. Florida's program is administered by the Agency for Health Care Administration (AHCA) and financed through state and federal funds.¹

A Medicaid state plan is an agreement between a state and the federal government describing how the state administers its Medicaid programs. The state plan establishes groups of individuals covered under the Medicaid program, services that are provided, payment methodologies, and other administrative and organizational requirements.² In order to participate in Medicaid, federal law requires states to cover certain population groups (mandatory eligibility groups) and gives them the flexibility to cover other population groups (optional eligibility groups).³ States set individual eligibility criteria within federal minimum standards. The AHCA may seek an amendment to the state plan as necessary to comply with federal or state laws or to implement program changes.

Eligibility for Medicaid is based on a person's income relative to the federal poverty level. Medicaid provides coverage to infants from birth to age 1 who are at or below 200 percent of the federal poverty level and children ages 1 through age 18 who are at or below 133 percent of the federal poverty level.⁴ Federal Medicaid spending grew three percent to \$597.4 billion in 2018.⁵ According to the most recently published estimates, approximately 3.8 million Floridians are currently enrolled in Medicaid, and the program's projected expenditures for the 2020-2021 fiscal year are \$29.2 billion,⁶ and approximately 2.1 million enrollees are children.⁷

Florida Medicaid Certified School Match Program

Certified Public Expenditures

The Florida Medicaid Certified School Match Program governs the Medicaid reimbursement process for school districts.⁸ Each school district is authorized to provide students with a category of required Medicaid services termed "school-based services," which are reimbursable

¹ Section 20.42, F.S.

² Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

³ *Id.*

⁴ Florida Healthy Kids, *Florida Kidcare Health and Dental Insurance 2019 General Annual Income Guidelines*, (effective April 2019) available at https://www.healthykids.org/kidcare/eligibility/Florida_KidCare_Income_Guidelines.pdf (last visited Feb. 9, 2020).

⁵ CMS.gov, *NHE Fact Sheet*, (last modified December 5, 2019) available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NHE-Fact-Sheet> (last visited Feb. 7, 2020).

⁶ See Social Services Estimating Conference, Medicaid Caseloads and Expenditures, December 20, 2019, and January 7, 2020, respectively, available at <http://edr.state.fl.us/Content/conferences/medicaid/index.cfm> (last visited Jan. 22, 2020).

⁷ AHCA, *Florida Statewide Medicaid Monthly Enrollment Report*, https://ahca.myflorida.com/Medicaid/Finance/data_analytics/enrollment_report/index.shtml, follow hyperlink "December" (2019) (last visited Feb. 7, 2020).

⁸ Rule 59G.4.035, F.A.C.

under the federal Medicaid program.⁹ To qualify for reimbursement, school districts must provide a certified public expenditure to AHCA. The certified public expenditure certifies that state or local funds were expended for eligible school-based services.¹⁰ Medicaid then reimburses school districts at the federal Medicaid matching percentage rate, which is 61 percent for the fiscal year 2020.¹¹

Eligible Services

Florida law requires any state or local funds certified by school districts to be expended for children with specified disabilities who are eligible for Medicaid and either part B¹² or part H¹³ of the Individuals with Disabilities Education Act (IDEA),¹⁴ the exceptional student education program, or an individualized educational plan (IEP).¹⁵

Eligible services include physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, administrative outreach for the purpose of determining eligibility for exceptional student education, and any other such services.¹⁶ Eligible services do not include family planning, immunizations, or prenatal care.¹⁷

All 67 school districts participate in the Certified School Match Program.¹⁸ The Legislature allocated approximately \$98 million from the Medical Care Trust Fund for Medicaid school refinancing for the 2019-2020 fiscal year.¹⁹

Private and Charter School Providers

In 2016, the Florida Legislature created s. 409.9072, F.S., to authorize the AHCA to reimburse private schools for providing Medicaid school-based services identical to those offered under the Medicaid certified school match program and under the same eligibility criteria as children eligible for services under that program.²⁰ This reimbursement is subject to a specific appropriation by the Legislature.²¹ Unlike school districts, however, private and charter schools do not use certified public expenditures or other local funds as a match to draw down federal Medicaid funding. Instead, the Legislature has appropriated state general revenue to serve as

⁹ Section 1011.70, F.S. Formerly s. 236.0812, F.S., until renumbered in s. 662, ch. 2002-387, L.O.F.

¹⁰ Section 1011.70, F.S.

¹¹ Medicaid and CHIP Payment and Access Commission, *EXHIBIT 6. Federal Medical Assistance Percentages (FMAPs) and Enhanced FMAPs (E-FMAPs) by State*, <https://www.macpac.gov/publication/federal-medical-assistance-percentages-fmaps-and-enhanced-fmaps-e-fmaps-by-state-selected-periods/> (last visited Feb 7, 2020).

¹² 20 U.S.C. s. 1411, et seq. Part B applies to children of the ages three through 21 with disabilities.

¹³ 20 U.S.C. s. 1431, et seq. Part H applies to infants and toddlers under the age of three with disabilities.

¹⁴ 20 U.S.C. s. 1400, et seq.

¹⁵ The individualized education plan is the primary vehicle for communicating the school district's commitment to addressing the unique educational needs of a student with a disability. Florida Department of Education, *Developing Quality Individual Education Plans* (2015), available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/0070122-qualityieps.pdf>, at 9.

¹⁶ Section 1011.70, F.S.

¹⁷ Section 1011.70, F.S.

¹⁸ Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

¹⁹ Specific Appropriation 216, s. 3, ch. 2019-115, L.O.F.

²⁰ House of Representatives, Health Care Appropriations Subcommittee, *Final Bill Analysis: HB 5101* (March 23, 2016), available at <http://www.flsenate.gov/Session/Bill/2016/5101/Analyses/h5101z.HCAS.PDF> (last visited Jan. 31, 2020).

²¹ Section 409.9072(1), F.S.

matching funds.²² Currently, one charter school is enrolled and delivering services in the Florida Medicaid program.²³

The Legislature appropriated \$10.3 million for the 2019-2020 fiscal year for eligible school-based services provided by private schools or charter schools that are not participating in the school district's certified match program.²⁴

Centers for Medicare and Medicaid Services Policy

The federal CMS historically had a policy that precluded school districts from seeking payment for services not detailed on an IEP or an individualized family support plan (IFSP).²⁵ In December 2014, the federal CMS updated its policy.²⁶ The updated guidance clarified that a school-based health service delivered to any student enrolled in Medicaid is eligible for reimbursement.²⁷

In response to this updated federal CMS guidance, the AHCA received federal approval for a state plan amendment in October 2016 that authorizes reimbursement for eligible school-based services provided to any Medicaid recipients, regardless of whether the recipient has an IEP or IFSP.²⁸

III. Effect of Proposed Changes:

Section 1 amends s. 409.9071, F.S., to authorize school districts to certify for reimbursement eligible health services provided to any student enrolled in Medicaid, regardless of whether the student qualifies for Part B or H of the IDEA or has an individualized education plan. The bill also deletes the requirement for school districts to develop and maintain student records relating to individual education plans, updates a statutory citation, and deletes an obsolete provision.

Section 2 amends s. 409.9072, F.S., to authorize public schools and charter schools to certify for reimbursement eligible health services provided to any student enrolled in Medicaid, regardless of whether the student qualifies for Part B or H of the IDEA or has an individualized education plan. The bill also deletes the requirement for private or charter schools to develop and maintain student records relating to individual education plans.

²² See Chapter 2016-65, s. 18, L.O.F., available at <http://laws.flrules.org/2016/65> (last visited Jan. 31, 2020).

²³ Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

²⁴ Specific Appropriation 216, s. 3, ch. 2019-115, L.O.F. \$4 million was appropriated from general revenue, and \$6.3 million was appropriated from the Medical Care Trust Fund.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Centers for Medicare & Medicaid Services (CMS), U.S. Department of Health and Human Services. *Letter from Cindy Mann to state Medicaid directors regarding "Medicaid payment for services provided without charge (free care)"*. (Dec. 2014), available at <https://www.medicaid.gov/sites/default/files/federal-policy-guidance/downloads/smd-medicaid-payment-for-services-provided-without-charge-free-care.pdf>. See also Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

²⁸ Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

The bill also removes the requirement that health care practitioners who are employed by or contracted with a private or charter school under s. 409.9072, F.S., to independently enroll in Florida Medicaid to deliver Medicaid-covered school-based services. Under the bill, health care practitioners providing services in private and charter schools must meet the qualifications outlined in Medicaid policy, but those practitioners need not be enrolled as providers in the Medicaid program.²⁹ This aligns the requirements for health care practitioners who deliver Medicaid-covered, school-based services in private and charter schools under s. 409.9072, F.S., with those that are in place for health care practitioners delivering those services in public school districts under s. 409.9071, F.S.

Section 3 amends s. 409.908, F.S., to update the name of the federal agency authorized to waive qualifications for Medicaid providers as the U.S. Department of Health and Human Services.

Section 4 provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²⁹ Agency for Health Care Administration, *Senate Bill 1650 Summary Analysis & Economic Impact Statement* (January 30, 2020) (on file with the Senate Committee on Health Policy).

B. Private Sector Impact:

Individuals who are providing or who will seek to provide covered services in a private or charter school under the program will be relieved of the duty to enroll in Florida Medicaid as providers.

C. Government Sector Impact:

CS/SB 190 enables all children who are eligible for Medicaid to receive certain school-based services. It is likely that more children will begin to receive school based-services in public, private, and charter schools. The AHCA may experience an increase in fee-for-service reimbursements, using a combination of general revenue and federal match, to private and charter schools for additional services for children.³⁰ This bill is likely to result in an indeterminate increase in federal Medicaid expenditures.³¹

Under the bill and in certain cases, funding that has already been appropriated for providing certain health-related services to students enrolled in public, private, and charter schools could be leveraged to draw down matching federal funding. This would be the case only if:

- The school district, private school, or charter school has enrolled as a Medicaid provider pursuant to ss. 409.9071 or 409.9072, F.S.;
- The child receiving services is eligible for Medicaid; and
- The funding was appropriated for a service that is an eligible school-based service.

For example, under the “Marjory Stoneman Douglas High School Public Safety Act” enacted by the Legislature in 2018, a recurring Mental Health Assistance Allocation is required to be annually allocated in the General Appropriations Act or in another law.³² This funding is allocated to school districts and eligible charter schools for the purpose of assisting schools in establishing or expanding school-based mental health care. Certain behavioral and mental health services are considered to be eligible school-based services. The eligible school-based services provided to children enrolled in Medicaid could, under the bill, be leveraged to draw down federal funding. This would stretch the value of money already appropriated by the state and school districts.

Funding used for services that are already provided in public, private, and charter schools would be eligible to draw down federal funding. Inversely, it is likely that more children will receive school based-services, which may require additional funding (public expenditures and local funds for school districts or a general revenue appropriation for private and charter schools) in order to leverage federal funding. For these reasons, it is unclear what fiscal impact this bill will have on state and local governments.

³⁰ Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

³¹ *Id.*

³² Chapter 2018-03, ss. 29 and 36, Laws of Fla.

This bill will have a minor operational impact to the AHCA as it finalizes changes to a proposed rule relating to the Medicaid Certified School Match Coverage Policy. The AHCA can complete this task within existing resources.³³

To implement the changes made to s. 409.9072(5), F.S., the AHCA will need to modify the Florida Medicaid Management Information System to undo programming that has been put in place to implement the current law.³⁴ The AHCA can complete this task within existing resources.³⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 409.9071, 409.9072, and 409.908 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Health Policy on February 11, 2020:

The CS removes the current-law requirement for health care practitioners who are employed by or contracted with a private or charter school under s. 409.9072, F.S., to independently enroll in Florida Medicaid as credentialed providers to deliver Medicaid-covered, school-based services.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

³³ Agency for Health Care Administration, *Senate Bill 190 Analysis* (October 21, 2019) (on file with the Senate Committee on Health Policy).

³⁴ Agency for Health Care Administration, *Senate Bill 1650 Analysis & Economic Impact Statement* (January 30, 2020) (on file with the Senate Committee on Health Policy).

³⁵ *Id.*