

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 Appropriations

BILL: CS/SB 190

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

SUBJECT: Medicaid School-based Services

DATE: March 2, 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>McKnight</u>	<u>Kynoch</u>	<u>AP</u>	Pre-meeting

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 Individuals with Disabilities Education Act, 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.

The bill has an indeterminate, yet likely significant negative, fiscal impact on the Florida Medicaid program and an indeterminate fiscal impact on state and local governments. See Section V.

The bill takes effect 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 (FPL). Medicaid provides coverage to infants from birth to age 1 who are at or below 200 percent of the FPL and children ages 1 through age 18 who are at or below 133 percent of the FPL.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, of which approximately 2.1 million are children,⁶ and the program's projected expenditures for Fiscal Year 2020-2021 are \$29.2 billion.⁷

Florida Medicaid Certified School Match Program

The Florida Medicaid Certified School Match Program (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-

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 U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services, *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 Agency for Health Care Administration, *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).

⁷ 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).

⁸ Rule 59G-4.035, F.A.C.

based services,” which are reimbursable under the federal Medicaid program.⁹ Medicaid recipients who receive services through the Certified School Match Program must be Medicaid-eligible on date of service and be under the age of 21. Students Health services provided must be both educationally relevant and medically necessary and tailored to meet the recipient’s individual needs.¹⁰

The Certified School Match Program is reimbursed through the fee-for-service delivery system.¹¹ Statewide Medicaid Managed Care health plans do not administer this benefit, although students enrolled in Medicaid health plans can receive services from schools through the program. To prevent duplication of services and enhanced coordination of care, the AHCA requires health plans to enter into memoranda of agreement with enrolled schools and school districts to coordinate care.¹²

Certified Public Expenditures

To qualify for reimbursement, school districts must provide a certified public expenditure to the AHCA. The certified public expenditure certifies that state or local funds were expended for eligible school-based services.¹³ Medicaid then reimburses school districts at the federal Medicaid matching percentage rate, which is 61.84 percent for the 2020-2021 fiscal year.¹⁴

In addition to providing the federal match portion for health services, the Certified School Match Program also reimburses the federal share for administrative work associated with delivering care to recipients. Examples of this work includes making a referral to a medical service.¹⁵

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 B¹⁶ or part H¹⁷ of the Individuals with Disabilities Education Act (IDEA),¹⁸ the exceptional student education program, or an individualized educational plan (IEP).¹⁹

Eligible services include physical, occupational, and speech therapy services, behavioral health services, mental health services, transportation services, administrative outreach for the purpose

⁹ Section 1011.70, F.S.

¹⁰ *Supra* note 2.

¹¹ Rule 59G-4.002, F.A.C.

¹² *Supra* note 2.

¹³ *Supra* note 9.

¹⁴ Social Services Estimating Conference, Federal Medical Assistance Percentage (FMAP), December 20, 2019, *available at* <http://edr.state.fl.us/Content/conferences/fmap/fmap.pdf> (last visited Feb. 21, 2020).

¹⁵ *Supra* note 2.

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

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

¹⁸ 20 U.S.C. s. 1400, et seq.

¹⁹ 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 (last visited Feb. 21, 2020).

of determining eligibility for exceptional student education, and any other such services.²⁰ Eligible services do not include family planning, immunizations, or prenatal care.²¹

All 67 school districts participate in the Certified School Match Program.²² The Legislature appropriated approximately \$98 million to school districts from the Medical Care Trust Fund for Fiscal Year 2019-2020.²³

Centers for Medicare and Medicaid Services Policy

The federal Centers for Medicare and Medicaid Services (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).²⁴ In December 2014, the federal CMS updated its policy. The updated policy clarified that a school-based health service delivered to any student enrolled in Medicaid is eligible for reimbursement.²⁵

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.²⁶

Private and Charter School Providers

In 2016, the Florida Legislature created s. 409.9072, F.S., to authorize the AHCA to reimburse private and charter schools for providing Medicaid school-based services identical to those offered under the Certified School Match Program and under the same eligibility criteria as children eligible for services under that program.²⁷ This reimbursement is subject to a specific appropriation by the Legislature.²⁸ 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 matching funds.²⁹ Currently, one charter school is enrolled and delivering services in the Florida Medicaid program.³⁰

The Legislature appropriated \$10.3 million for Fiscal Year 2019-2020, of which \$4 million is general revenue funding for the state match and \$6.3 million is federal match, for eligible school-

²⁰ *Supra* note 9.

²¹ *Id.*

²² *Supra* note 2.

²³ Specific Appropriation 216, ch. 2019-115, s. 3, Laws of Fla.

²⁴ *Supra* note 2.

²⁵ U.S. Department of Health and Human Services, Centers for Medicare & Medicaid 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> (last visited Feb. 20, 2020).

²⁶ *Supra* note 2.

²⁷ Florida 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).

²⁸ Section 409.9072(1), F.S.

²⁹ Chapter 2016-65, s. 18, Laws of Fla.

³⁰ *Supra* note 2.

based services provided by private or charter schools that are not participating in the school district's certified match program.³¹

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 IEP. The bill also deletes the requirement for school districts to develop and maintain student records relating to IEPs, 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 IEP. The bill also deletes the requirement for private or charter schools to develop and maintain student records relating to IEPs.

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.³² 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.

³¹ *Supra* note 23.

³² 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).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

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:

The bill 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.³³ This bill is likely to result in an indeterminate yet negative fiscal impact on the Florida Medicaid program and an indeterminate fiscal impact on state and local governments.³⁴

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.³⁵ 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.

³³ *Supra* note 2.

³⁴ *Id.*

³⁵ Chapter 2018-03, ss. 29 and 36, Laws of Fla.

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 additional federal funding. For these reasons, the bill has an indeterminate yet likely negative fiscal impact on the Florida Medicaid program and an indeterminate fiscal impact on state and local governments.

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 with existing resources.³⁶

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.³⁷ The AHCA can also complete this task with existing resources.³⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

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 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.

³⁶ *Supra* note 2.

³⁷ *Supra* note 32.

³⁸ *Id.*

B. Amendments:

None.

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