

**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 Education

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BILL: SB 190

INTRODUCER: Senators Montford and Harrell

SUBJECT: Medicaid School-based Services

DATE: January 24, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brick	Sikes	ED	<b>Pre-meeting</b>
2.			HP	
3.			AP	

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**I. Summary:**

SB 190 expands the eligible student population that qualifies for Medicaid eligible school-based health services from school districts and private and charter schools. The bill authorizes 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, the exceptional student education program, or has an individualized education plan. The bill aligns Florida law with federal regulations authorizing federal reimbursement of Medicaid-eligible school-based health services to students enrolled in Medicaid.

The bill does not require the additional appropriation of state funds.

The bill takes effect July 1, 2020.

**II. Present Situation:**

**The Medicaid Program**

Florida Medicaid is administered by the Agency for Health Care Administration (AHCA) and financed with federal and state funds.<sup>1</sup> AHCA establishes and maintains a Medicaid state plan, which is approved by the Centers for Medicare & Medicaid Services (CMS) within the U.S. Department of Health and Human Services.<sup>2</sup> The state plan outlines Medicaid eligibility standards, policies, and reimbursement methodologies.

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<sup>1</sup> Section 409.902, F.S.

<sup>2</sup> See 42 U.S.C. s. 1396a.

Eligibility for Medicaid is based on a person's income relative to the federal poverty level.<sup>3</sup> Eligibility for children in Florida varies depending on age, from family incomes of 133 to 206 percent of the federal poverty level.<sup>4</sup> Federal Medicaid spending grew 3 percent to \$597.4 billion in 2018.<sup>5</sup> Over 3.7 million Floridians are currently enrolled in Medicaid, and approximately 2.1 million are children.<sup>6</sup>

## Florida Medicaid Certified School Match Program

### *Certified Public Expenditures*

The Florida Medicaid Certified School Match Program governs the Medicaid reimbursement process for school districts.<sup>7</sup> Each school district is authorized to provide students with a category of required Medicaid services termed "school-based services," which are reimbursable under the federal Medicaid program.<sup>8</sup> 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.<sup>9</sup> Medicaid then reimburses school districts at the federal Medicaid matching percentage rate, which is 61 percent for the fiscal year 2020.<sup>10</sup>

### *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 B<sup>11</sup> or part H<sup>12</sup> of the Individuals with Disabilities Education Act (IDEA),<sup>13</sup> the exceptional student education program, or an individualized educational plan (IEP).<sup>14</sup>

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

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<sup>3</sup> CMS, Medicaid.gov, *Florida*, <http://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-eligibility-levels/index.html> (last visited Jan. 17, 2020). For calendar year 2019, the federal poverty level (FPL) is \$25,750 for a family of 4 residing in Florida. Healthcare.gov, <https://www.healthcare.gov/glossary/federal-poverty-level-fpl/> (last visited Jan. 17, 2020).

<sup>4</sup> *Id.*

<sup>5</sup> CMS.gov, *NHE Fact Sheet*, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/NHE-Fact-Sheet> (last visited Jan. 18, 2020).

<sup>6</sup> AHCA, *Florida Statewide Medicaid Monthly Enrollment Report*, [https://ahca.myflorida.com/Medicaid/Finance/data\\_analytics/enrollment\\_report/index.shtml](https://ahca.myflorida.com/Medicaid/Finance/data_analytics/enrollment_report/index.shtml), follow hyperlink "December" (2019) (last visited Jan. 17, 2020).

<sup>7</sup> Rule 59G.4.035, F.A.C.

<sup>8</sup> Section 1011.70, F.S. Formerly s. 236.0812, F.S., until renumbered in s. 662, ch. 2002-387, L.O.F.

<sup>9</sup> Section 1011.70, F.S.

<sup>10</sup> 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 Jan. 17, 2020).

<sup>11</sup> 20 U.S.C. s. 1411, et seq. Part B applies to children of the ages three through 21 with disabilities.

<sup>12</sup> 20 U.S.C. s. 1431, et seq. Part H applies to infants and toddlers under the age of three with disabilities.

<sup>13</sup> 20 U.S.C. s. 1400, et seq.

<sup>14</sup> 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.

of determining eligibility for exceptional student education, and any other such services.<sup>15</sup> Eligible services do not include family planning, immunizations, or prenatal care.<sup>16</sup>

All 67 school districts participate in the Certified School Match Program.<sup>17</sup> The Legislature allocated approximately \$98 million from the Medical Care Trust Fund for Medicaid school refinancing for the 2019-2020 fiscal year.<sup>18</sup>

### **Private and Charter School Providers**

In 2016, the Legislature passed ch. 2016-65, L.O.F., which directed AHCA to enroll private and charter schools as Medicaid providers.<sup>19</sup> Unlike school districts, 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 appropriates state general revenue funding to serve as matching funds. In every other respect, the program is the same for enrolled private and charter schools.<sup>20</sup> One charter school is currently enrolled and delivering services in the Florida Medicaid program.<sup>21</sup>

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.<sup>22</sup>

### **Centers for Medicare and Medicaid Services Policy**

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).<sup>23</sup> In December 2014, CMS clarified its policy through a State Medicaid Director letter.<sup>24</sup> The updated guidance clarified that school-based health services delivered to any students enrolled in Medicaid are eligible for reimbursement.<sup>25</sup>

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<sup>15</sup> Section 1011.70, F.S.

<sup>16</sup> Section 1011.70, F.S.

<sup>17</sup> Florida Agency for Health Care Administration, *Legislative Bill Analysis for SB 190* (2020).

<sup>18</sup> Specific Appropriation 216, s. 3, ch. 2019-115, L.O.F.

<sup>19</sup> Section 409.9072, F.S.

<sup>20</sup> Florida Agency for Health Care Administration, *Legislative Bill Analysis for SB 190* (2020).

<sup>21</sup> Florida Agency for Health Care Administration, *Legislative Bill Analysis for SB 190* (2020). Medicaid and CHIP Payment and Access Commission, *Issue Brief: Medicaid in Schools* (April 2018), available at <https://www.macpac.gov/wp-content/uploads/2018/04/Medicaid-in-Schools.pdf>, at 4.

<sup>22</sup> 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.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> 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.medicare.gov/sites/default/files/federal-policy-guidance/downloads/smd-medicare-payment-for-services-provided-without-charge-free-care.pdf>. See also Florida Agency for Health Care Administration, *Legislative Bill Analysis for SB 190* (2020).

In response to this updated CMS guidance, 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.<sup>26</sup>

### **III. Effect of Proposed Changes:**

SB 190 expands the eligible student population that qualifies for Medicaid eligible school-based health services from school districts and private and charter schools. The bill authorizes 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, the exceptional student education program, or has an individualized education plan. The bill aligns Florida law with federal regulations authorizing federal reimbursement of Medicaid-eligible school-based health services to students enrolled in Medicaid.

The bill also modifies s. 409.908, F.S., to update the name of the federal agency authorized to waive qualifications for Medicaid providers as the United States Department of Health and Human Services.

The bill takes effect 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.

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<sup>26</sup> Florida Agency for Health Care Administration, *Legislative Bill Analysis for SB 190* (2020).

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill does not require the additional appropriation of state funds. School districts may increase expenditures toward providing eligible school-based health services in order to generate additional federal Medicaid matching funds. This may result in an increase in federal Medicaid expenditures. The fiscal impact of the bill on Florida Medicaid is indeterminate.<sup>27</sup>

**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.)

None.

**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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<sup>27</sup> Florida Agency for Health Care Administration, *Legislative Bill Analysis for SB 190* (2020).