

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 81 Medicaid School-based Services  
**SPONSOR(S):** Health & Human Services Committee, Andrade  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 190

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Market Reform Subcommittee	12 Y, 0 N	Grabowski	Calamas
2) Health Care Appropriations Subcommittee	10 Y, 0 N	Nobles	Clark
3) Health & Human Services Committee	14 Y, 0 N, As CS	Grabowski	Calamas

### SUMMARY ANALYSIS

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

The Florida Medicaid Certified School Match Program (program) authorizes Medicaid coverage for certain school health services in public and private schools for students that are Medicaid recipients. Under the program, schools and school districts use state and local funds to pay for covered health services provided to students who are Medicaid recipients for which AHCA then reimburses them with matching federal Medicaid funds. Current law allows public school districts, charter schools, and private schools to enroll as Medicaid providers, but also requires practitioners providing services in charter and private schools to individually enroll as Medicaid providers.

Medicaid recipients who receive services through the program must be under the age of 21 and qualify for Part B or H of the Individuals with Disabilities Education Act (IDEA) or for exceptional student services, or must have an individualized education plan (IEP) or individualized family service plan (IFSP). Health services provided must be both educationally relevant and medically necessary and tailored to meet the recipient's individual needs.

Until 2014, the federal Centers for Medicare and Medicaid Services (CMS) prohibited reimbursement for the services covered by the program provided to Medicaid recipients who did not have an IEP or IFSP. In December 2014, the CMS issued guidance which permits reimbursement of covered services provided to Medicaid recipients who do not have an IEP or IFSP.

The bill aligns Florida law with the 2014 CMS guidance by eliminating the requirement that Medicaid recipients receiving services through the Florida Medicaid Certified School Match Program qualify for Part B or H of the IDEA, or for exceptional student services, or have an IEP or IFSP.

The bill also aligns Medicaid provider enrollment requirements for charter and private schools with those in place for public school districts. Under the bill, practitioners providing services in charter and private schools will not be required to directly enroll as Medicaid providers, so long as the charter or private school in which services occur is enrolled as a Medicaid provider.

The bill has an indeterminate fiscal impact on state government, but existing spending authority will be sufficient to absorb any impact. The bill will have no fiscal impact on local governments.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Florida Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families (DCF), the Department of Health, the Agency for Persons with Disabilities, and the Department of Elderly Affairs (DOEA).

The structure of each state's Medicaid program varies and what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.<sup>1</sup> Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. These federal requirements create an entitlement that comes with constitutional due process protections. The entitlement means that two parts of the Medicaid cost equation – people and utilization – are largely predetermined for the states. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include physician services, hospital services, home health services, and family planning.<sup>2</sup> States can add benefits, with federal approval. Florida has added many optional benefits, including prescription drugs, ambulatory surgical center services, and dialysis.<sup>3</sup>

Florida Medicaid does not cover all low-income Floridians. The maximum income limits for programs are illustrated below as a percentage of the federal poverty level (FPL).

Current Medicaid and CHIP Eligibility Levels in Florida <sup>4</sup> (With Income Disregards and Modified Adjusted Gross Income)						
Children's Medicaid			CHIP (KidCare) Age 0-18	Pregnant Women	Parents Caretaker Relatives	Childless Adults (non-disabled)
Age 0-1	Age 1-5	Age 6-18				
206% FPL	140% FPL	133% FPL	210% FPL	191% FPL	28% FPL	0% FPL

Applicants for Medicaid must be United States citizens or qualified noncitizens, must be Florida residents, and must provide social security numbers for data matching. While self-attestation is permitted for a number of data elements on the application, most components are matched through the Federal Data Services Hub.<sup>5</sup> Applicants must also agree to cooperate with Child Support Enforcement during the application process.<sup>6</sup>

<sup>1</sup> Title 42 U.S.C. §§ 1396-1396w-5; Title 42 C.F.R. Part 430-456 (§§ 430.0-456.725) (2016).

<sup>2</sup> S. 409.905, F.S.

<sup>3</sup> S. 409.906, F.S.

<sup>4</sup> U.S. Centers for Medicare and Medicaid Services, Medicaid.gov, Florida, <http://www.medicaid.gov/medicaid/program-information/medicaid-and-chip-eligibility-levels/index.html> (last visited November 4, 2019). For calendar year 2019, the federal poverty level (FPL) is \$25,750 for a family of 4 residing in Florida.

<sup>5</sup> Florida Dep't of Children and Families, *Family-Related Medicaid Programs Fact Sheet*, p. 3, <http://www.dcf.state.fl.us/programs/access/docs/Family-RelatedMedicaidFactSheet.pdf> (last visited November 4, 2019).

<sup>6</sup> Id.

The Florida Medicaid program covers approximately 3.8 million low-income individuals.<sup>7</sup> Medicaid is the second largest single program in the state, behind public education, representing approximately one-third of the total FY 2019-2020 state budget.<sup>8</sup>

### Florida Medicaid Certified School Match Program

The Florida Medicaid Certified School Match Program (program) provides school districts and charter and private schools the opportunity to enroll in Medicaid in order to have Medicaid share in the cost of providing school health services to students that are Medicaid recipients.<sup>9</sup> Under the program, schools and school districts use state and local funds to pay for covered health services provided to students who are Medicaid recipients for which AHCA then reimburses them with matching federal Medicaid funds.<sup>10</sup> Schools and school districts participating in the program can either employ or contract directly with licensed health care providers. The following types of health services covered by the program<sup>11</sup>:

- Physical therapy;
- Occupational therapy;
- Speech therapy services;
- Behavioral health services;
- Mental health services; and
- Transportation services.

In addition to the health services listed above, the program also reimburses the federal share for administrative work associated with delivering care to recipients, such as making a referral to a medical service.<sup>12</sup>

Medicaid recipients who receive services through the program must be under the age of 21 and qualify for Part B or H of the Individuals with Disabilities Education Act (IDEA), or for exceptional student services, or have an individualized education plan (IEP) or individualized family service plan (IFSP).<sup>13</sup> Health services provided must be both educationally relevant and medically necessary and tailored to meet the recipient's individual needs.<sup>14</sup>

In December 2014, the Centers for Medicare and Medicaid Services (CMS) issued guidance which allows for reimbursement of covered services provided to Medicaid recipients who do not have an IEP or IFSP.<sup>15</sup> The federal guidance clarified that school health services delivered to the general student population, not just students enrolled in IEPs, are eligible for Medicaid reimbursement.<sup>16</sup>

Current law permits public school districts to be enrolled as Medicaid providers for purposes of the program. Once enrolled, districts may contract with any licensed health care practitioner for the provision of covered services, regardless of whether that provider is directly enrolled in Medicaid. Although current law also permits charter and private schools to enroll as Medicaid providers for purposes of the program, statute requires that practitioners providing Medicaid services in charter and

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<sup>7</sup> Agency for Health Care Administration, *Florida Statewide Medicaid Monthly Enrollment Report*, September 2019, available at [https://ahca.myflorida.com/medicaid/Finance/data\\_analytics/enrollment\\_report/index.shtml](https://ahca.myflorida.com/medicaid/Finance/data_analytics/enrollment_report/index.shtml) (last accessed November 11, 2019).

<sup>8</sup> Ch. 2019-115, L.O.F. See also *Fiscal Analysis in Brief: 2019 Legislative Session*, available at [http://flsenate.gov/UserContent/Committees/Publications/FiscalAnalysisInBrief/2019\\_Fiscal\\_Analysis\\_In\\_Brief.pdf](http://flsenate.gov/UserContent/Committees/Publications/FiscalAnalysisInBrief/2019_Fiscal_Analysis_In_Brief.pdf) (last accessed November 4, 2019).

<sup>9</sup> Ss. 409.9071 and 409.9072, F.S.

<sup>10</sup> Agency for Health Care Administration, *House Bill 81 Analysis* (October 21, 2019) (on file with the Health and Human Services Committee).

<sup>11</sup> S. 1011.70, F.S.

<sup>12</sup> Supra FN 10.

<sup>13</sup> Supra FN 9

<sup>14</sup> Supra FN 10

<sup>15</sup> U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services, *State Medicaid Director Letter #14-006: Medicaid Payment for Services Provided without Charge*, December 15, 2014. Available at <https://www.medicaid.gov/federal-policy-guidance/downloads/smd-medicaid-payment-for-services-provided-without-charge-free-care.pdf> (last accessed November 4, 2019).

<sup>16</sup> Supra FN 10.

private schools be individually enrolled as Medicaid providers.<sup>17</sup> This additional requirement may be viewed as onerous by practitioners, and may make it more difficult for charter and private schools to participate in the program. At present, only one charter school in Florida is enrolled as a Medicaid provider.<sup>18</sup>

### **Effect of the Bill**

The bill removes the requirement that Medicaid recipients receiving services through the Florida Medicaid Certified School Match Program qualify for Part B or H of the IDEA, or for exceptional student services, or have an IEP or IFSP. The change to Florida law reflects federal regulations allowing the provision of Medicaid school health services to the general population of Medicaid-eligible students.

The bill also aligns Medicaid provider enrollment requirements for charter and private schools with those in place for public school districts. Under the bill, practitioners providing covered services in charter and private schools will not be required to directly enroll as Medicaid providers, so long as the charter or private school in which services are furnished is enrolled as a Medicaid provider. This change allows charter and private schools to contract with any licensed practitioner for the provision of covered services, equivalent to the flexibility currently available to public school districts.

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

### **B. SECTION DIRECTORY:**

- Section 1:** Amends s. 409.9071, F.S., relating to Medicaid provider agreements for school districts certifying state match.
- Section 2:** Amends s. 409.9072, F.S., relating to Medicaid provider agreements for charter schools and private schools.
- Section 3:** Amends s. 409.908, F.S., relating to reimbursement of Medicaid providers.
- Section 4:** Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The amount of matching federal Medicaid funds for services provided by the program may increase as the amount of students eligible to receive services increases.

#### **2. Expenditures:**

The bill has an indeterminate fiscal impact on state government and existing spending authority will be sufficient to absorb any impact.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

This bill may increase the reimbursement that school districts and charter schools receive for Medicaid services provided for eligible students who no longer need an IEP or IFSP.

#### **2. Expenditures:**

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<sup>17</sup> Supra FN 9.

<sup>18</sup> Supra FN 10.

The bill is not anticipated to impact state spending; however school districts may have to reallocate existing state and local funds in order to receive matching federal Medicaid funds.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

AHCA has sufficient rulemaking authority to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 30, 2020, the Health and Human Services Committee adopted an amendment to the bill. The amendment aligns practitioner participation requirements for charter and private schools with those in place for public school districts. It allows charter and private schools to contract with any licensed practitioner for the provision of covered services, regardless of whether that provider is enrolled in the Medicaid program.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute as passed by the Health and Human Services Committee.