

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** CS/HB 81 Health Care for Children  
**SPONSOR(S):** Health & Human Services Committee, Andrade and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/CS/SB 190

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**FINAL HOUSE FLOOR ACTION:** 113 Y's 0 N's **GOVERNOR'S ACTION:** Approved

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### SUMMARY ANALYSIS

CS/HB 81 passed the House on February 20, 2020. The bill was amended in the Senate on March 10, 2020 and returned to the House. The House concurred in the Senate amendment and passed the bill as amended on March 12, 2020. The bill includes portions of HB 5101 and CS/SB 46.

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. 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 requires the Florida Department of Health (DOH) to create and make available electronically an informational pamphlet with information on the screening for, and treatment of, preventable infant and childhood eye and vision disorders. Hospitals, birth centers, and health care practitioners attending out-of-hospital births must provide the pamphlet to the parents of a newborn child.

The bill also amends the statutory definition of an auditory-oral education program to indicate that such a program must use faculty and supervisors certified as listening and spoken language specialists each day a participating child is in attendance. An auditory-oral education program is a program that develops and relies solely on listening skills and uses an implant or assistive hearing device for the purpose of relying on speech and spoken language skills as the method of communication. Students in public and private schools may enroll in such a program if they meet certain criteria. The bill stipulates that a certified listening and spoken language specialist be included as a member of family support plan team and play a role in determining the level of services provided to each enrolled child.

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 was approved by the Governor on June 23, 2020, ch. 2020-79, L.O.F., and takes effect on July 1, 2020.

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF 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).

<b>Current Medicaid and CHIP Eligibility Levels in Florida<sup>4</sup></b> (With Income Disregards and Modified Adjusted Gross Income)						
<b>Children's Medicaid</b>			<b>CHIP (KidCare) Age 0-18</b>	<b>Pregnant Women</b>	<b>Parents Caretaker Relatives</b>	<b>Childless Adults (non-disabled)</b>
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 March 12, 2020). For calendar year 2020, the federal poverty level (FPL) is \$26,200 for a family of 4.

<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 as Medicaid providers in order to obtain Medicaid coverage for 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>

Currently, in Florida, 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 educationally relevant, 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 coverage for Medicaid recipients without an IEP or IFSP.<sup>15</sup> The federal guidance clarified that school health services delivered to the general Medicaid student population, not just students with IEPs or IFSPs, are eligible for Medicaid reimbursement.<sup>16</sup>

### Infant and Childhood Eye and Vision Disorders

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<sup>7</sup> Agency for Health Care Administration, *Florida Statewide Medicaid Monthly Enrollment Report*, January 2020, 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 March 12, 2020).

<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 March 12, 2020).

<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).

<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 March 12, 2020).

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

Numerous eye conditions and diseases can affect a child's vision. According to the American Academy of Ophthalmology (AAO), early diagnosis and treatment are critical to maintaining the health of a child's eyes.<sup>17</sup> The AAO states that it is essential to check a child's vision when they are first born and again during infancy, preschool and school years. Screening can be performed by a pediatrician, family physician or other properly trained health care provider. It is also often offered at schools, community health centers or community events.<sup>18</sup>

The AAO recommends that an ophthalmologist, pediatrician, family doctor or other trained health professional examine a newborn baby's eyes and perform a red reflex test (a basic indicator that the eyes are normal). An ophthalmologist should perform a comprehensive exam if the baby is premature or at high risk for medical problems for other reasons, has signs of abnormalities, or has a family history of serious vision disorders in childhood.<sup>19</sup>

### *Amblyopia*

Amblyopia, also referred to as "lazy eye," is the most common cause of vision impairment in children. Amblyopia is the medical term used when the vision in one of the eyes is reduced because the eye and the brain are not working together properly. The eye itself looks normal, but it is not being used normally because the brain is favoring the other eye. Unless it is successfully treated in early childhood amblyopia usually persists into adulthood, and is the most common cause of permanent one-eye vision impairment among children and young and middle-aged adults. An estimated 2–3% of the population suffer from amblyopia.<sup>20</sup>

### *Retinoblastoma*

Retinoblastoma is a rare type of eye cancer that usually develops in early childhood, typically before the age of five. This form of cancer develops in the retina, which is the specialized light-sensitive tissue at the back of the eye that detects light and color. The condition may be hereditary or non-hereditary in nature, and approximately sixty percent of those diagnosed have the non-hereditary form of the disease.

In children with retinoblastoma, the disease often affects only one eye. However, one out of three children with retinoblastoma develops cancer in both eyes.<sup>21</sup> If the tumor is contained within the eye (one or both eyes), more than 95 percent of treated patients can be cured. For children with retinoblastoma in both eyes, about 70 to 80 percent of the eyes can be saved.<sup>22</sup>

Retinoblastoma is diagnosed in 250 to 350 children per year in the United States. It accounts for about 4 percent of all cancers in children younger than 15 years.<sup>23</sup>

### Auditory-Oral Education Programs

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<sup>17</sup> American Academy of Ophthalmology, *Childhood Eye Diseases and Conditions*, available at <https://www.aao.org/eye-health/tips-prevention/common-childhood-diseases-conditions> (last accessed March 12, 2020).

<sup>18</sup> American Academy of Ophthalmology, *Eye Screening for Children*, available at <https://www.aao.org/eye-health/tips-prevention/children-eye-screening> (last accessed March 12, 2020).

<sup>19</sup> Id.

<sup>20</sup> U.S. Centers for Disease Control and Prevention, *Common Eye Disorders*, available at <https://www.cdc.gov/visionhealth/basics/ced/index.html#a7> (last accessed March 12, 2020).

<sup>21</sup> U.S. National Institutes of Health – U.S. National Library of Medicine, *Retinoblastoma*, available at <https://ghr.nlm.nih.gov/condition/retinoblastoma#statistics> (last accessed March 12, 2020).

<sup>22</sup> St. Jude Children's Research Hospital, *Retinoblastoma*, available at <https://www.stjude.org/disease/retinoblastoma.html> (last accessed March 12, 2020).

<sup>23</sup> Supra FN 21.

An auditory-oral education program develops and relies solely on listening skills and uses an implant or assistive hearing device to rely on speech and spoken language skills as the method of communication.<sup>24</sup> A student who is deaf or hard of hearing is a student who has a hearing loss aided or unaided that affects the processing of linguistic information and adversely affects performance in the educational environment.<sup>25</sup>

The Department of Education developed the Matrix of Services Handbook to provide school districts, schools, and teachers information about services required for individuals eligible to enroll in an exceptional student education program.<sup>26</sup> The matrix is designed with five domains and a student is evaluated within each of these five domains to determine the appropriate level of service required. Level 1 represents the lowest level of service and Level 5 represents the highest level of service.

## **Effect of the Bill**

### Florida Medicaid Certified School Match Program

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 revised federal regulations and allows public schools districts to be reimbursed for services provided to the general population of Medicaid-eligible students.

### Infant and Childhood Eye and Vision Disorders

The bill requires the Florida Department of Health (DOH) to create and make available electronically an informational pamphlet with information on the screening for, and treatment of, preventable infant and childhood eye and vision disorders including, but not limited to, retinoblastoma and amblyopia. Hospitals, birth centers, and health care practitioners attending out-of-hospital births must provide the pamphlet to the parents of a newborn child.

### Auditory-Oral Education Programs

The bill amends the statutory definition of an auditory-oral education program to require such a program to use faculty and supervisors certified as listening and spoken language specialists each day a participating child is in attendance. The bill also requires that a certified listening and spoken language specialist be included as a member of a child's individual education plan team or family support plan team and play a role in determining the level of services provided to an enrolled child.

Subject to the Governor's veto powers, the bill takes effect on July 1, 2020.

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

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

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<sup>24</sup> S. 1002.391(1)(a), F.S.

<sup>25</sup> S. 1002.391(1)(b), F.S.

<sup>26</sup> Florida Department of Education, *Exceptional Student Education / Florida Education Finance Program – Matrix of Services Handbook*, 2015 Edition, available at <http://www.fldoe.org/core/fileparse.php/7690/urlt/2015MatrixServices.pdf> (last accessed March 19, 2020).

1. Revenues:

The amount of federal matching Medicaid funds for services provided by the Certified School Match 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. The DOH may incur insignificant costs in order to develop the informational pamphlet required by the bill.

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:

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.