



224896

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/26/2023	.	
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The Committee on Fiscal Policy (Trumbull) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 409.9855, Florida Statutes, is created
to read:

409.9855 Pilot program for individuals with developmental
disabilities.—

(1) PILOT PROGRAM IMPLEMENTATION.—

(a) Using a managed care model, the agency shall implement



11 a pilot program for individuals with developmental disabilities
12 in Statewide Medicaid Managed Care Regions D and I to provide
13 coverage of comprehensive services.

14 (b) The agency may seek federal approval through a state
15 plan amendment or Medicaid waiver as necessary to implement the
16 pilot program. The agency shall submit a request for any federal
17 approval needed to implement the pilot program by September 1,
18 2023.

19 (c) Pursuant to s. 409.963, the agency shall administer the
20 pilot program but shall delegate specific duties and
21 responsibilities for the pilot program to the Agency for Persons
22 with Disabilities.

23 (d) The agency shall make payments for comprehensive
24 services, including community-based services described in s.
25 393.066(3) and approved through the state's home and community-
26 based services Medicaid waiver program for individuals with
27 developmental disabilities, using a managed care model. Unless
28 otherwise specified, ss. 409.961-409.969 apply to the pilot
29 program.

30 (e) The agency shall evaluate the feasibility of statewide
31 implementation of the capitated managed care model used by the
32 pilot program to serve individuals with developmental
33 disabilities.

34 (2) ELIGIBILITY; VOLUNTARY ENROLLMENT; DISENROLLMENT.—

35 (a) Participation in the pilot program is voluntary and
36 limited to the maximum number of enrollees specified in the
37 General Appropriations Act. Enrollment in the pilot program does
38 not automatically entitle individuals to any other services
39 under chapter 393.



40 (b) The Agency for Persons with Disabilities shall approve
41 a needs assessment methodology to determine functional,
42 behavioral, and physical needs of prospective enrollees. This
43 assessment methodology may be administered by persons who have
44 completed such training as may be offered by the agency.
45 Eligibility to participate in the pilot program is determined
46 based on the following criteria:

- 47 1. Whether the individual is eligible for Medicaid.
48 2. Whether the individual is 18 years of age or older and
49 is on the waiting list for iBudget waiver services under chapter
50 393 and assigned to one of categories 1 through 6 as specified
51 in s. 393.065(5); and
52 3. Whether the individual resides in a pilot program
53 region.

54 (c) Notwithstanding any provisions of s. 393.065 to the
55 contrary and subject to the availability of funds, the agency,
56 in consultation with the Agency for Persons with Disabilities,
57 shall make offers for enrollment to eligible individuals. Before
58 making enrollment offers, the agency shall determine that
59 sufficient funds exist to support additional enrollment into
60 plans. The agency, in consultation with the Agency for Persons
61 with Disabilities, shall ensure that a statistically valid
62 population is sampled to participate in the pilot program. The
63 agency shall make enrollment offers and use clinical eligibility
64 criteria that ensure that pilot program sites have sufficient
65 diversity of enrollment to conduct a statistically valid test of
66 the managed care pilot program within a 3-year timeframe.

67 (d) Notwithstanding any provisions of s. 393.065 to the
68 contrary, an enrollee must be afforded an opportunity to enroll



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69 in any appropriate existing Medicaid waiver program if any of
70 the following conditions occur:

71 1. At any point during the operation of the pilot program,
72 an enrollee declares an intent to voluntarily disenroll,
73 provided that he or she has been covered for the entire previous
74 plan year by the pilot program.

75 2. At any point during the operation of the pilot program,
76 the plan does not have sufficient enrollees to appropriately
77 provide adequate services to its enrollees.

78 3. Cessation of the pilot program.

79
80 The Agency for Persons with Disabilities shall develop rules to
81 implement this subsection to ensure that an enrollee receives an
82 individualized transition plan to assist him or her in accessing
83 sufficient services and supports for the enrollee's safety,
84 well-being, and continuity of care.

85 (3) PILOT PROGRAM BENEFITS.—

86 (a) Plans participating in the pilot program must, at a
87 minimum, cover the following:

88 1. All benefits included in s. 409.973.

89 2. All benefits included in s. 409.98.

90 3. All benefits included in s. 393.066(3), and all of the
91 following:

92 a. Adult day training.

93 b. Behavior analysis services.

94 c. Behavior assistant services.

95 d. Companion services.

96 e. Consumable medical supplies.

97 f. Dietitian services.



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- 98 g. Durable medical equipment and supplies.
99 h. Environmental accessibility adaptations.
100 i. Occupational therapy.
101 j. Personal emergency response systems.
102 k. Personal supports.
103 l. Physical therapy.
104 m. Prevocational services.
105 n. Private duty nursing.
106 o. Residential habilitation, including the following
107 levels:
108 (I) Standard level.
109 (II) Behavior-focused level.
110 (III) Intensive-behavior level.
111 (IV) Enhanced intensive-behavior level.
112 p. Residential nursing services.
113 q. Respiratory therapy.
114 r. Respite care.
115 s. Skilled nursing.
116 t. Specialized medical home care.
117 u. Specialized mental health counseling.
118 v. Speech therapy.
119 w. Support coordination.
120 x. Supported employment.
121 y. Supported living coaching.
122 z. Transportation.
123 (b) All providers of the services listed under paragraph
124 (a) must meet the provider qualifications outlined in the
125 Florida Medicaid Developmental Disabilities Individual Budgeting
126 Waiver Services Coverage and Limitations Handbook as adopted by



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127 reference in rule 59G-13.070, Florida Administrative Code.

128 (c) Support coordination services must maximize the use of
129 natural supports and community partnerships.

130 (d) The plans participating in the pilot program must
131 provide all categories of benefits through a single, integrated
132 model of care.

133 (e) Services must be provided to enrollees in accordance
134 with an individualized care plan in consultation with the Agency
135 for Persons with Disabilities which is evaluated and updated at
136 least quarterly and as warranted by changes in an enrollee's
137 circumstances.

138 (4) ELIGIBLE PLANS; PLAN SELECTION.—

139 (a) To be eligible to participate in the pilot program, a
140 plan must have been awarded a contract to provide long-term care
141 services pursuant to s. 409.981 as a result of an invitation to
142 negotiate.

143 (b) The agency shall select, as provided in s. 287.057(1),
144 one plan to participate in the pilot program for each of the two
145 regions. The director of the Agency for Persons with
146 Disabilities or his or her designee must be a member of the
147 negotiating team.

148 1. The invitation to negotiate must specify the criteria
149 and the relative weight assigned to each criterion that will be
150 used for determining the acceptability of submitted responses
151 and guiding the selection of the plans with which the agency and
152 the Agency for Persons with Disabilities negotiate. In addition
153 to any other criteria established by the agency, in consultation
154 with the Agency for Persons with Disabilities, the agency shall
155 consider the following factors in the selection of eligible



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156 plans:

157 a. Experience serving similar populations, including the
158 plan's record in achieving specific quality standards with
159 similar populations.

160 b. Establishment of community partnerships with providers
161 which create opportunities for reinvestment in community-based
162 services.

163 c. Provision of additional benefits, particularly
164 behavioral health services, the coordination of dental care, and
165 other initiatives that improve overall well-being.

166 d. Provision of and capacity to provide mental health
167 therapies and analysis designed to meet the needs of individuals
168 with developmental disabilities.

169 e. Evidence that an eligible plan has written agreements or
170 signed contracts or has made substantial progress in
171 establishing relationships with providers before submitting its
172 response.

173 f. Experience in the provision of person-centered planning
174 as described in 42 C.F.R. s. 441.301(c)(1).

175 g. Experience in robust provider development programs that
176 result in increased availability of Medicaid providers to serve
177 the developmental disabilities community.

178 2. After negotiations are conducted, the agency shall
179 select the eligible plans that are determined to be responsive
180 and provide the best value to the state. Preference must be
181 given to plans that:

182 a. Have signed contracts in sufficient numbers to meet the
183 specific standards established under s. 409.967(2)(c), including
184 contracts for personal supports, skilled nursing, residential



185 habilitation, adult day training, mental health services,
186 respite care, companion services, and supported employment, as
187 those services are defined in the Florida Medicaid Developmental
188 Disabilities Individual Budgeting Waiver Services Coverage and
189 Limitations Handbook as adopted by reference in rule 59G-13.070,
190 Florida Administrative Code.

191 b. Have well-defined programs for recognizing patient-
192 centered medical homes and providing increased compensation to
193 recognized medical homes, as defined by the plan.

194 c. Have well-defined programs related to person-centered
195 planning as described in 42 C.F.R. s. 441.301(c) (1).

196 d. Have robust and innovative programs for provider
197 development and collaboration with the Agency for Persons with
198 Disabilities.

199 (5) PAYMENT.—

200 (a) The selected plans must receive a per-member, per-month
201 payment based on a rate developed specifically for the unique
202 needs of the developmentally disabled population.

203 (b) The agency must ensure that the rate for the integrated
204 system is actuarially sound.

205 (c) The revenues and expenditures of the selected plan
206 which are associated with the implementation of the pilot
207 program must be included in the reporting and regulatory
208 requirements established in s. 409.967(3).

209 (6) PROGRAM IMPLEMENTATION AND EVALUATION.—

210 (a) Full implementation of the pilot program shall occur
211 concurrent to the contracts awarded, pursuant to s. 409.966, for
212 the provision of managed medical assistance and long-term care
213 services.



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214 (b) Upon implementation of the program, the agency, in
215 consultation with the Agency for Persons with Disabilities,
216 shall conduct audits of the selected plans' implementation of
217 person-centered planning.

218 (c) The agency, in consultation with the Agency for Persons
219 with Disabilities, shall submit progress reports to the
220 Governor, the President of the Senate, and the Speaker of the
221 House of Representatives upon the federal approval,
222 implementation, and operation of the pilot program, as follows:

223 1. By December 31, 2023, a status report on progress made
224 toward federal approval of the waiver or waiver amendment needed
225 to implement the pilot program.

226 2. By December 31, 2024, a status report on progress made
227 toward full implementation of the pilot program.

228 3. By December 31, 2025, and annually thereafter, a status
229 report on the operation of the pilot program, including, but not
230 limited to, all of the following:

231 a. Program enrollment, including the number and
232 demographics of enrollees, statistically reflecting the
233 diversity of enrollees.

234 b. Any complaints received.

235 c. Access to approved services.

236 (d) The agency, in consultation with the Agency for Persons
237 with Disabilities, shall establish specific measures of access,
238 quality, and costs of the pilot program. The agency may contract
239 with an independent evaluator to conduct such evaluation. The
240 evaluation must include assessments of cost savings; consumer
241 education, choice, and access to services; plans for future
242 capacity and the enrollment of new Medicaid providers;



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243 coordination of care; person-centered planning and person-
244 centered well-being outcomes; health and quality-of-life
245 outcomes; and quality of care by each eligibility category and
246 managed care plan in each pilot program site. The evaluation
247 must describe any administrative or legal barriers to the
248 implementation and operation of the pilot program in each
249 region.

250 1. The agency, in consultation with the Agency for Persons
251 with Disabilities, shall conduct quality assurance monitoring of
252 the pilot program to include client satisfaction with services,
253 client health and safety outcomes, client well-being outcomes,
254 and service delivery in accordance with the client's care plan.

255 2. The agency shall submit the results of the evaluation to
256 the Governor, the President of the Senate, and the Speaker of
257 the House of Representatives by October 1, 2029.

258 (7) MANAGED CARE PLAN ACCOUNTABILITY.-

259 (a) In addition to the requirements of ss. 409.967,
260 409.975, and 409.982, plans participating in the pilot program
261 must have provider capacity within a maximum travel distance for
262 clients to services for specialized therapies, adult day
263 training, and prevocational training, for clients, as follows:

264 1. For urban areas, 15 miles travel distance for clients;
265 and

266 2. For rural areas, 30 miles travel distance for clients.

267 (b) Plans participating in the pilot program must consult
268 with the Agency for Persons with Disabilities before placing an
269 enrollee of the pilot program in a group home licensed by the
270 Agency for Persons with Disabilities.

271 (8) REPEAL.-This section shall be repealed October 2, 2029,



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272 after submission of the evaluation pursuant to paragraph (6) (d),
273 unless reviewed and saved from repeal through reenactment by the
274 Legislature.

275 Section 2. Section 409.961, Florida Statutes, is amended to
276 read:

277 409.961 Statutory construction; applicability; rules.—It is
278 the intent of the Legislature that if any conflict exists
279 between the provisions contained in this part and in other parts
280 of this chapter, the provisions in this part control. Sections
281 409.961-409.9855 ~~409.961-409.985~~ apply only to the Medicaid
282 managed medical assistance program, the ~~and~~ long-term care
283 managed care program, and the pilot program for individuals with
284 developmental disabilities, as provided in this part. The agency
285 shall adopt any rules necessary to comply with or administer
286 this part and all rules necessary to comply with federal
287 requirements. In addition, the department shall adopt and accept
288 the transfer of any rules necessary to carry out the
289 department's responsibilities for receiving and processing
290 Medicaid applications and determining Medicaid eligibility and
291 for ensuring compliance with and administering this part, as
292 those rules relate to the department's responsibilities, and any
293 other provisions related to the department's responsibility for
294 the determination of Medicaid eligibility. Contracts with the
295 agency and a person or entity, including Medicaid providers and
296 managed care plans, necessary to administer the Medicaid program
297 are not rules and are not subject to chapter 120.

298 Section 3. (1) For a plan to be selected to participate in
299 the pilot program for individuals with developmental
300 disabilities pursuant to s. 409.9855, Florida Statutes, as



301 created by this act, the plan must have been awarded a contract
302 as a result of the invitation to negotiate, ITN-04836, for
303 Statewide Medicaid Managed Care Program which was issued on
304 April 11, 2023.

305 (2) The pilot program for individuals with developmental
306 disabilities pursuant to s. 409.9855, Florida Statutes, as
307 created by this act, shall be implemented in Statewide Medicaid
308 Managed Care Regions D and I.

309 Section 4. This act shall take effect upon becoming a law.
310

311 ===== T I T L E A M E N D M E N T =====

312 And the title is amended as follows:

313 Delete everything before the enacting clause
314 and insert:

315 A bill to be entitled
316 An act relating to the pilot program for individuals
317 with developmental disabilities; creating s. 409.9855,
318 F.S.; requiring the Agency for Health Care
319 Administration to implement a pilot program for
320 individuals with developmental disabilities in
321 specified Statewide Medicaid Managed Care regions to
322 provide coverage of comprehensive services;
323 authorizing the agency to seek federal approval as
324 needed to implement the program; requiring the agency
325 to submit such request by a specified date; requiring
326 the agency to administer the pilot program but
327 delegate specified duties to the Agency for Persons
328 with Disabilities; requiring the Agency for Health
329 Care Administration to make payments for comprehensive



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330 services under the pilot program using a managed care
331 model; providing applicability; requiring the Agency
332 for Health Care Administration to evaluate the
333 feasibility of implementing the pilot program
334 statewide; providing that participation in the pilot
335 program is voluntary and subject to specific
336 appropriation; providing construction; requiring the
337 Agency for Persons with Disabilities to approve a
338 needs assessment methodology for prospective
339 enrollees; providing enrollment eligibility
340 requirements; requiring the Agency for Health Care
341 Administration, in consultation with the Agency for
342 Persons with Disabilities, to make offers for
343 enrollment to eligible individuals within specified
344 parameters; requiring that enrollees be afforded an
345 opportunity to enroll in any appropriate existing
346 Medicaid waiver program under certain circumstances;
347 requiring the Agency for Persons with Disabilities to
348 adopt certain rules; requiring participating plans to
349 cover specified benefits; providing additional
350 requirements for the provision of benefits by
351 participating plans under the pilot program; providing
352 eligibility requirements for plans; providing a
353 selection process; requiring the Agency for Health
354 Care Administration to give preference to certain
355 plans; requiring that plan payments be based on rates
356 specifically developed for a certain population;
357 requiring the Agency for Health Care Administration to
358 ensure that the rate be actuarially sound; requiring



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359 that the revenues and expenditures of the selected
360 plan be included in specified reporting and regulatory
361 requirements; providing that implementation of the
362 program shall occur concurrently with other specified
363 services; requiring the Agency for Health Care
364 Administration, in consultation with the Agency for
365 Persons with Disabilities, to conduct certain audits
366 of the selected plans and submit specified progress
367 reports to the Governor and the Legislature by
368 specified dates throughout the program approval and
369 implementation process; providing requirements for the
370 respective reports; requiring the Agency for Health
371 Care Administration, in consultation with the Agency
372 for Persons with Disabilities, to conduct an
373 evaluation of the pilot program; authorizing the
374 Agency for Health Care Administration to contract with
375 an independent evaluator to conduct such evaluation;
376 providing requirements for the evaluation; requiring
377 the Agency for Health Care Administration, in
378 consultation with the Agency for Persons with
379 Disabilities, to conduct quality assurance monitoring
380 of the pilot program; requiring the Agency for Health
381 Care Administration to submit the results of the
382 evaluation to the Governor and the Legislature by a
383 specified date; requiring participating plans to
384 maintain specified provider capacity limits; requiring
385 participating plans to consult with the Agency for
386 Persons with Disabilities before placing a pilot
387 program enrollee in certain group homes; providing for



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388 the future repeal of the pilot program; amending s.
389 409.961, F.S.; conforming a provision to changes made
390 by the act; requiring that plans selected to
391 participate in the pilot program be plans awarded a
392 contract as a result of a specified invitation to
393 negotiate; requiring that the pilot program be
394 implemented in specified Statewide Medicaid Managed
395 Care regions; providing an effective date.

396
397 WHEREAS, the mission of the Agency for Persons with
398 Disabilities is developing community-based programs and services
399 for individuals with developmental disabilities and working with
400 private businesses, not-for-profit corporations, units of local
401 government, and other organizations capable of providing needed
402 services to clients to promote their living, learning, and
403 working as part of their communities, and

404 WHEREAS, the Agency for Persons with Disabilities advances
405 that mission through the iBudget waiver, which is designed to
406 promote and maintain the health of eligible individuals with
407 developmental disabilities, to provide medically necessary
408 supports and services to delay or prevent institutionalization,
409 and to foster the principles and appreciation of self-
410 determination, and

411 WHEREAS, the Legislature intends for a comprehensive and
412 coordinated service delivery system for individuals with
413 developmental disabilities which includes all services specified
414 in ss. 393.066(3), 409.973, and 409.98, Florida Statutes, and
415 the state's home and community-based services Medicaid waiver
416 program, and



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417 WHEREAS, the Legislature further intends that such service
418 delivery system ensure consumer education and choice, including
419 choice of provider, location of living setting, location of
420 services, and scheduling of services and supports; access to
421 care coordination services; local access to medically necessary
422 services; coordination of preventative, acute, and long-term
423 care and home and community-based services; reduction in
424 unnecessary service utilization; provision of habilitative and
425 rehabilitative services; and adherence to person-centered
426 planning as described in 42 C.F.R. s. 441.301(c)(1), and

427 WHEREAS, Florida continues to look for multiple innovative
428 pathways to serve individuals with developmental disabilities
429 and their families, including expanding the continuum of care to
430 provide a robust and stable system that is a reliable provider
431 of services for individuals with developmental disabilities to
432 promote a comprehensive state of thriving in daily living,
433 community integration, and goal-based achievement, NOW,
434 THEREFORE,