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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2023	.	
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The Appropriations Committee on Health and Human Services
(Trumbull and Harrell) 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



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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, including community-based
14 services described in s. 393.066(3) and services currently
15 included in the state's federally approved home and community-
16 based services Medicaid waiver program for individuals with
17 developmental disabilities.

18 (b) The agency may seek federal approval through an
19 experimental, pilot, or demonstration project state plan
20 amendment or Medicaid waiver as necessary to implement the pilot
21 program, which is intended to provide an additional service
22 delivery system for individuals with developmental disabilities
23 in the state Medicaid program using an integrated-care
24 management model designed to serve Medicaid recipients in the
25 community. The agency shall submit a request for any federal
26 approval needed to implement the pilot program by September 1,
27 2023.

28 (c) Pursuant to s. 409.963, the agency shall administer the
29 pilot program, but shall delegate specific duties and
30 responsibilities for the pilot program to the Agency for Persons
31 with Disabilities. At a minimum, the Agency for Persons with
32 Disabilities shall perform the duties specified in this section
33 and in chapter 393 as they relate to individuals being served by
34 the community-based services Medicaid waiver program.

35 (d) The agency shall make payments for comprehensive
36 services, including community-based services described in s.
37 393.066(3) and approved through the state's home and community-
38 based services Medicaid waiver program for individuals with
39 developmental disabilities, using a managed care model. Unless



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40 otherwise specified, ss. 409.961-409.969 apply to the pilot
41 program.

42 (e) The agency shall evaluate the feasibility of statewide
43 implementation of the capitated managed care model used by the
44 pilot program to serve individuals with developmental
45 disabilities.

46 (2) ELIGIBILITY; VOLUNTARY ENROLLMENT.-

47 (a) Participation in the pilot program is voluntary and
48 limited to the maximum number of enrollees specified in the
49 General Appropriations Act. Eligibility for the pilot program
50 does not automatically entitle individuals to any other services
51 under chapter 393.

52 (b) The Agency for Persons with Disabilities shall conduct
53 a needs assessment to determine functional, behavioral, and
54 physical needs of prospective enrollees. Medicaid recipients
55 identified as meeting all of the following criteria may receive
56 offers of enrollment into the pilot program:

57 1. Are 21 years of age or older and are on the waiting list
58 for iBudget waiver services under chapter 393;

59 2. Have been assigned to category 3, category 4, category
60 5, or category 6 as specified in s. 393.065(5); and

61 3. Reside in a pilot program region.

62 (c) Notwithstanding any provisions of s. 393.065 to the
63 contrary and subject to the availability of funds, the Agency
64 for Persons with Disabilities shall make offers for enrollment
65 to eligible individuals. Before making enrollment offers, the
66 agency and the Agency for Persons with Disabilities shall
67 determine that sufficient funds exist to support additional
68 enrollment into plans. The Agency for Persons with Disabilities



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69 shall ensure that a statistically valid population is sampled to
70 participate in the pilot program. The agency shall make
71 enrollment offers and use clinical eligibility criteria that
72 ensure that pilot program sites have sufficient diversity of
73 enrollment to conduct a statistically valid test of the managed
74 care pilot program within a 3-year timeframe.

75 (d) Notwithstanding any provisions of s. 393.065 to the
76 contrary, upon the cessation of the pilot program, individuals
77 enrolled in the pilot program must be afforded an opportunity to
78 enroll in any appropriate existing Medicaid waiver program. The
79 Agency for Persons with Disabilities shall develop rules to
80 implement this subsection.

81 (3) PILOT PROGRAM BENEFITS.—

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

84 1. All benefits included in s. 409.973.

85 2. All benefits included in s. 409.98.

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

88 a. Adult day training.

89 b. Behavior analysis services.

90 c. Behavior assistant services.

91 d. Companion services.

92 e. Consumable medical supplies.

93 f. Dietitian services.

94 g. Durable medical equipment and supplies.

95 h. Environmental accessibility adaptations.

96 i. Occupational therapy.

97 j. Personal emergency response systems.



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- 98 k. Personal supports.
- 99 l. Physical therapy.
- 100 m. Prevocational services.
- 101 n. Private duty nursing.
- 102 o. Residential habilitation, including the following
- 103 levels:
- 104 (I) Standard level.
- 105 (II) Behavior-focused level.
- 106 (III) Intensive-behavior level.
- 107 (IV) Enhanced intensive-behavior level.
- 108 p. Residential nursing services.
- 109 q. Respiratory therapy.
- 110 r. Respite care.
- 111 s. Skilled nursing.
- 112 t. Specialized medical home care.
- 113 u. Specialized mental health counseling.
- 114 v. Speech therapy.
- 115 w. Support coordination.
- 116 x. Supported employment.
- 117 y. Supported living coaching.
- 118 z. Transportation.
- 119 (b) All providers of the services listed under paragraph
- 120 (a) must meet the provider qualifications outlined in the
- 121 Florida Medicaid Developmental Disabilities Individual Budgeting
- 122 Waiver Services Coverage and Limitations Handbook as adopted by
- 123 reference in rule 59G-13.070, Florida Administrative Code.
- 124 (c) Support coordination services must maximize the use of
- 125 natural supports and community services before using state
- 126 resources.



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

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

135 (4) ELIGIBLE PLANS; PLAN SELECTION.—

136 (a) To be eligible to participate in the pilot program, a
137 plan must have been awarded a contract to provide long-term care
138 services pursuant to s. 409.966 as a result of an invitation to
139 negotiate.

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

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

153 a. Experience serving similar populations, including the
154 plan's record in achieving specific quality standards with
155 similar populations.



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156 b. Establishment of community partnerships with providers
157 which create opportunities for reinvestment in community-based
158 services.

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

162 d. Provision of and capacity to provide mental health
163 therapies and analysis designed to meet the needs of individuals
164 with developmental disabilities.

165 e. Evidence that an eligible plan has written agreements or
166 signed contracts or has made substantial progress in
167 establishing relationships with providers before submitting its
168 response.

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

171 g. Experience in robust provider development programs that
172 result in increased availability of Medicaid providers to serve
173 the developmental disabilities community.

174 2. After negotiations are conducted, the agency shall
175 select the eligible plans that are determined to be responsive
176 and provide the best value to the state. Preference must be
177 given to plans that:

178 a. Have signed contracts in sufficient numbers to meet the
179 specific standards established under s. 409.967(2)(c), including
180 contracts for personal supports, skilled nursing, residential
181 habilitation, adult day training, mental health services,
182 respite care, companion services, and supported employment, as
183 those services are defined in the Florida Medicaid Developmental
184 Disabilities Individual Budgeting Waiver Services Coverage and



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185 Limitations Handbook as adopted by reference in rule 59G-13.070,
186 Florida Administrative Code.

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

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

192 d. Have robust and innovative programs for provider
193 development and collaboration with the Agency for Persons with
194 Disabilities.

195 (5) CAPITATED PAYMENT.—

196 (a) The selected plans shall receive capitated per-member,
197 per-month payments based on a rate-setting methodology developed
198 specifically for the unique needs of the developmentally
199 disabled population.

200 (b) The agency, in coordination with the Agency for Persons
201 with Disabilities, must ensure that the capitation-rate-setting
202 methodology for the integrated system is actuarially sound and
203 reflects the intent to provide individualized, quality care in
204 the least-restrictive setting.

205 (c) The agency must include in the dental capitation-rate-
206 setting methodology for the prepaid dental health program
207 established pursuant to s. 409.973(5) the inclusion of serving
208 individuals in this population.

209 (d) The selected plan must comply with s. 409.967(3).

210 (6) PROGRAM IMPLEMENTATION AND EVALUATION.—

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



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214 services.

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

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



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

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

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

259 (7) MANAGED CARE PLAN ACCOUNTABILITY.-

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

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

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

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



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272 (8) REPEAL.—This section shall be repealed on October 2,
273 2029, after submission of the evaluation pursuant to paragraph
274 (6) (d), unless reviewed and saved from repeal through
275 reenactment by the Legislature.

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

278 409.961 Statutory construction; applicability; rules.—It is
279 the intent of the Legislature that if any conflict exists
280 between the provisions contained in this part and in other parts
281 of this chapter, the provisions in this part control. Sections
282 409.961-9855 ~~409.961-409.985~~ apply only to the Medicaid managed
283 medical assistance program, the ~~and~~ long-term care managed care
284 program, and the pilot program for individuals with
285 developmental disabilities, as provided in this part. The agency
286 shall adopt any rules necessary to comply with or administer
287 this part and all rules necessary to comply with federal
288 requirements. In addition, the department shall adopt and accept
289 the transfer of any rules necessary to carry out the
290 department's responsibilities for receiving and processing
291 Medicaid applications and determining Medicaid eligibility and
292 for ensuring compliance with and administering this part, as
293 those rules relate to the department's responsibilities, and any
294 other provisions related to the department's responsibility for
295 the determination of Medicaid eligibility. Contracts with the
296 agency and a person or entity, including Medicaid providers and
297 managed care plans, necessary to administer the Medicaid program
298 are not rules and are not subject to chapter 120.

299 Section 3. (1) For a plan to be selected to participate in
300 the pilot program for individuals with developmental



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301 disabilities pursuant to s. 409.9855, Florida Statutes, as
302 created by this act, the plan must have been awarded a contract
303 as a result of the invitation to negotiate, ITN-04836, for
304 Statewide Medicaid Managed Care Program which was issued on
305 April 11, 2023.

306 (2) The pilot program for individuals with developmental
307 disabilities pursuant to s. 409.9855, Florida Statutes, as
308 created by this act, shall be implemented in Statewide Medicaid
309 Managed Care Regions D and I, as established by chapter 2022-42,
310 Laws of Florida.

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

312

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

314 And the title is amended as follows:

315 Delete everything before the enacting clause
316 and insert:

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



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



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359 requiring that the selected plan comply with specified
360 provisions; providing that implementation of the
361 program shall occur concurrently with other specified
362 services; requiring the Agency for Persons with
363 Disabilities to conduct certain audits of the selected
364 plans and, in consultation with the agency, to submit
365 specified progress reports to the Governor and the
366 Legislature by specified dates throughout the program
367 approval and implementation process; providing
368 requirements for the respective reports; requiring the
369 Agency for Persons with Disabilities, in consultation
370 with the Agency for Health Care Administration, to
371 conduct an evaluation of the pilot program;
372 authorizing the Agency for Persons with Disabilities
373 to contract with an independent evaluator to conduct
374 such evaluation; providing requirements for the
375 evaluation; requiring the Agency for Persons with
376 Disabilities to conduct quality assurance monitoring
377 of the pilot program; requiring the agencies to submit
378 the results of the evaluation to the Governor and the
379 Legislature by a specified date; requiring
380 participating plans to maintain specified provider
381 capacity limits; requiring participating plans to
382 consult with the Agency for Persons with Disabilities
383 before placing a pilot program enrollee in certain
384 facilities; providing for the future repeal of the
385 pilot program; amending s. 409.961, F.S.; conforming a
386 provision to changes made by the act; requiring that
387 plans selected to participate in the pilot program be



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388 plans awarded a contract as a result of a specified
389 invitation to negotiate; requiring that the pilot
390 program be implemented in specified Statewide Medicaid
391 Managed Care regions; providing an effective date.
392

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

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

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

413 WHEREAS, the Legislature further intends that such service
414 delivery system ensure consumer education and choice, including
415 choice of provider, location of living setting, location of
416 services, and scheduling of services and supports; access to



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417 care coordination services; local access to medically necessary
418 services; coordination of preventative, acute, and long-term
419 care and home and community-based services; reduction in
420 unnecessary service utilization; provision of habilitative and
421 rehabilitative services; and adherence to person-centered
422 planning as described in 42 C.F.R. s. 441.301(c)(1), and

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