

By the Appropriations Committee on Health and Human Services;
and Senator Trumbull

603-03939-23

20231084c1

1 A bill to be entitled
2 An act relating to the pilot program for individuals
3 with developmental disabilities; creating s. 409.9855,
4 F.S.; requiring the Agency for Health Care
5 Administration to implement a pilot program for
6 individuals with developmental disabilities in
7 specified Statewide Medicaid Managed Care regions to
8 provide coverage of comprehensive services;
9 authorizing the agency to seek any federal approval
10 needed to implement the program; requiring the agency
11 to submit such request by a specified date; requiring
12 the agency to administer the pilot program but
13 delegate specified duties to the Agency for Persons
14 with Disabilities; requiring the Agency for Health
15 Care Administration to make payments for comprehensive
16 services under the pilot program using a managed care
17 model; providing applicability; requiring the Agency
18 for Health Care Administration to evaluate the
19 feasibility of implementing the pilot program
20 statewide; providing that participation in the pilot
21 program is voluntary and subject to specific
22 appropriation; providing construction; requiring the
23 Agency for Persons with Disabilities to conduct needs
24 assessments of prospective enrollees; providing
25 enrollment eligibility requirements; requiring the
26 Agency for Persons with Disabilities to make offers
27 for enrollment to eligible individuals within
28 specified parameters; requiring that individuals
29 enrolled in the pilot program be afforded an

603-03939-23

20231084c1

30 opportunity to enroll in any appropriate existing
31 Medicaid waiver program upon cessation of the pilot
32 program; requiring the Agency for Persons with
33 Disabilities to adopt rules; requiring participating
34 plans to cover specified benefits; providing
35 additional requirements for the provision of benefits
36 by participating plans under the pilot program;
37 providing eligibility requirements for plans;
38 providing a selection process; requiring the agency to
39 give preference to certain plans; requiring capitated
40 payments based on a specified methodology; requiring
41 that the agencies ensure that the methodology be
42 actuarially sound and reflect specified intent;
43 requiring that the selected plan comply with specified
44 provisions; providing that implementation of the
45 program shall occur concurrently with other specified
46 services; requiring the Agency for Persons with
47 Disabilities to conduct certain audits of the selected
48 plans and, in consultation with the agency, to submit
49 specified progress reports to the Governor and the
50 Legislature by specified dates throughout the program
51 approval and implementation process; providing
52 requirements for the respective reports; requiring the
53 Agency for Persons with Disabilities, in consultation
54 with the Agency for Health Care Administration, to
55 conduct an evaluation of the pilot program;
56 authorizing the Agency for Persons with Disabilities
57 to contract with an independent evaluator to conduct
58 such evaluation; providing requirements for the

603-03939-23

20231084c1

59 evaluation; requiring the Agency for Persons with
60 Disabilities to conduct quality assurance monitoring
61 of the pilot program; requiring the agencies to submit
62 the results of the evaluation to the Governor and the
63 Legislature by a specified date; requiring
64 participating plans to maintain specified provider
65 capacity limits; requiring participating plans to
66 consult with the Agency for Persons with Disabilities
67 before placing a pilot program enrollee in certain
68 facilities; providing for the future repeal of the
69 pilot program; amending s. 409.961, F.S.; conforming a
70 provision to changes made by the act; requiring that
71 plans selected to participate in the pilot program be
72 plans awarded a contract as a result of a specified
73 invitation to negotiate; requiring that the pilot
74 program be implemented in specified Statewide Medicaid
75 Managed Care regions; providing an effective date.

76
77 WHEREAS, the mission of the Agency for Persons with
78 Disabilities is developing community-based programs and services
79 for individuals with developmental disabilities and working with
80 private businesses, not-for-profit corporations, units of local
81 government, and other organizations capable of providing needed
82 services to clients to promote their living, learning, and
83 working as part of their communities, and

84 WHEREAS, the Agency for Persons with Disabilities advances
85 that mission through the iBudget waiver, which is designed to
86 promote and maintain the health of eligible individuals with
87 developmental disabilities, to provide medically necessary

603-03939-23

20231084c1

88 supports and services to delay or prevent institutionalization,
89 and to foster the principles and appreciation of self-
90 determination, and

91 WHEREAS, the Legislature intends for a comprehensive and
92 coordinated service delivery system for individuals with
93 developmental disabilities which includes all services specified
94 in ss. 393.066(3), 409.973, and 409.98, Florida Statutes, and
95 the state's home and community-based services Medicaid waiver
96 program, and

97 WHEREAS, the Legislature further intends that such service
98 delivery system ensure consumer education and choice, including
99 choice of provider, location of living setting, location of
100 services, and scheduling of services and supports; access to
101 care coordination services; local access to medically necessary
102 services; coordination of preventative, acute, and long-term
103 care and home and community-based services; reduction in
104 unnecessary service utilization; provision of habilitative and
105 rehabilitative services; and adherence to person-centered
106 planning as described in 42 C.F.R. s. 441.301(c)(1), and

107 WHEREAS, Florida continues to look for multiple innovative
108 pathways to serve individuals with developmental disabilities
109 and their families, including expanding the continuum of care to
110 provide a robust and stable system that is a reliable provider
111 of services for individuals with developmental disabilities to
112 promote a comprehensive state of thriving in daily living,
113 community integration, and goal-based achievement, NOW,
114 THEREFORE,

115
116 Be It Enacted by the Legislature of the State of Florida:

603-03939-23

20231084c1

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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 a pilot program for individuals with developmental disabilities in Statewide Medicaid Managed Care Regions D and I to provide coverage of comprehensive services, including community-based services described in s. 393.066(3) and services currently included in the state's federally approved home and community-based services Medicaid waiver program for individuals with developmental disabilities.

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

(c) Pursuant to s. 409.963, the agency shall administer the pilot program, but shall delegate specific duties and responsibilities for the pilot program to the Agency for Persons with Disabilities. At a minimum, the Agency for Persons with Disabilities shall perform the duties specified in this section

603-03939-23

20231084c1

146 and in chapter 393 as they relate to individuals being served by
147 the community-based services Medicaid waiver program.

148 (d) The agency shall make payments for comprehensive
149 services, including community-based services described in s.
150 393.066(3) and approved through the state's home and community-
151 based services Medicaid waiver program for individuals with
152 developmental disabilities, using a managed care model. Unless
153 otherwise specified, ss. 409.961-409.969 apply to the pilot
154 program.

155 (e) The agency shall evaluate the feasibility of statewide
156 implementation of the capitated managed care model used by the
157 pilot program to serve individuals with developmental
158 disabilities.

159 (2) ELIGIBILITY; VOLUNTARY ENROLLMENT.-

160 (a) Participation in the pilot program is voluntary and
161 limited to the maximum number of enrollees specified in the
162 General Appropriations Act. Eligibility for the pilot program
163 does not automatically entitle individuals to any other services
164 under chapter 393.

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

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

172 2. Have been assigned to category 3, category 4, category
173 5, or category 6 as specified in s. 393.065(5); and

174 3. Reside in a pilot program region.

603-03939-23

20231084c1

175 (c) Notwithstanding any provisions of s. 393.065 to the
176 contrary and subject to the availability of funds, the Agency
177 for Persons with Disabilities shall make offers for enrollment
178 to eligible individuals. Before making enrollment offers, the
179 agency and the Agency for Persons with Disabilities shall
180 determine that sufficient funds exist to support additional
181 enrollment into plans. The Agency for Persons with Disabilities
182 shall ensure that a statistically valid population is sampled to
183 participate in the pilot program. The agency shall make
184 enrollment offers and use clinical eligibility criteria that
185 ensure that pilot program sites have sufficient diversity of
186 enrollment to conduct a statistically valid test of the managed
187 care pilot program within a 3-year timeframe.

188 (d) Notwithstanding any provisions of s. 393.065 to the
189 contrary, upon the cessation of the pilot program, individuals
190 enrolled in the pilot program must be afforded an opportunity to
191 enroll in any appropriate existing Medicaid waiver program. The
192 Agency for Persons with Disabilities shall develop rules to
193 implement this subsection.

194 (3) PILOT PROGRAM BENEFITS.—

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

- 197 1. All benefits included in s. 409.973.
198 2. All benefits included in s. 409.98.
199 3. All benefits included in s. 393.066(3), and all of the
200 following:
201 a. Adult day training.
202 b. Behavior analysis services.
203 c. Behavior assistant services.

603-03939-23

20231084c1

- 204 d. Companion services.
- 205 e. Consumable medical supplies.
- 206 f. Dietitian services.
- 207 g. Durable medical equipment and supplies.
- 208 h. Environmental accessibility adaptations.
- 209 i. Occupational therapy.
- 210 j. Personal emergency response systems.
- 211 k. Personal supports.
- 212 l. Physical therapy.
- 213 m. Prevocational services.
- 214 n. Private duty nursing.
- 215 o. Residential habilitation, including the following
- 216 levels:
- 217 (I) Standard level.
- 218 (II) Behavior-focused level.
- 219 (III) Intensive-behavior level.
- 220 (IV) Enhanced intensive-behavior level.
- 221 p. Residential nursing services.
- 222 q. Respiratory therapy.
- 223 r. Respite care.
- 224 s. Skilled nursing.
- 225 t. Specialized medical home care.
- 226 u. Specialized mental health counseling.
- 227 v. Speech therapy.
- 228 w. Support coordination.
- 229 x. Supported employment.
- 230 y. Supported living coaching.
- 231 z. Transportation.
- 232 (b) All providers of the services listed under paragraph

603-03939-23

20231084c1

233 (a) must meet the provider qualifications outlined in the
234 Florida Medicaid Developmental Disabilities Individual Budgeting
235 Waiver Services Coverage and Limitations Handbook as adopted by
236 reference in rule 59G-13.070, Florida Administrative Code.

237 (c) Support coordination services must maximize the use of
238 natural supports and community services before using state
239 resources.

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

243 (e) Services must be provided to enrollees in accordance
244 with an individualized care plan in conjunction with the Agency
245 for Persons with Disabilities which is evaluated and updated at
246 least quarterly and as warranted by changes in an enrollee's
247 circumstances.

248 (4) ELIGIBLE PLANS; PLAN SELECTION.—

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

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

258 1. The invitation to negotiate must specify the criteria
259 and the relative weight assigned to each criterion that will be
260 used for determining the acceptability of submitted responses
261 and guiding the selection of the plans with which the agency and

603-03939-23

20231084c1

262 the Agency for Persons with Disabilities negotiate. In addition
263 to any other criteria established by the agency and the Agency
264 for Persons with Disabilities, the agencies shall consider the
265 following factors in the selection of eligible plans:

266 a. Experience serving similar populations, including the
267 plan's record in achieving specific quality standards with
268 similar populations.

269 b. Establishment of community partnerships with providers
270 which create opportunities for reinvestment in community-based
271 services.

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

275 d. Provision of and capacity to provide mental health
276 therapies and analysis designed to meet the needs of individuals
277 with developmental disabilities.

278 e. Evidence that an eligible plan has written agreements or
279 signed contracts or has made substantial progress in
280 establishing relationships with providers before submitting its
281 response.

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

284 g. Experience in robust provider development programs that
285 result in increased availability of Medicaid providers to serve
286 the developmental disabilities community.

287 2. After negotiations are conducted, the agency shall
288 select the eligible plans that are determined to be responsive
289 and provide the best value to the state. Preference must be
290 given to plans that:

603-03939-23

20231084c1

291 a. Have signed contracts in sufficient numbers to meet the
292 specific standards established under s. 409.967(2)(c), including
293 contracts for personal supports, skilled nursing, residential
294 habilitation, adult day training, mental health services,
295 respite care, companion services, and supported employment, as
296 those services are defined in the Florida Medicaid Developmental
297 Disabilities Individual Budgeting Waiver Services Coverage and
298 Limitations Handbook as adopted by reference in rule 59G-13.070,
299 Florida Administrative Code.

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

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

305 d. Have robust and innovative programs for provider
306 development and collaboration with the Agency for Persons with
307 Disabilities.

308 (5) CAPITATED PAYMENT.—

309 (a) The selected plans shall receive capitated per-member,
310 per-month payments based on a rate-setting methodology developed
311 specifically for the unique needs of the developmentally
312 disabled population.

313 (b) The agency, in coordination with the Agency for Persons
314 with Disabilities, must ensure that the capitation-rate-setting
315 methodology for the integrated system is actuarially sound and
316 reflects the intent to provide individualized, quality care in
317 the least-restrictive setting.

318 (c) The agency must include in the dental capitation-rate-
319 setting methodology for the prepaid dental health program

603-03939-23

20231084c1

320 established pursuant to s. 409.973(5) the inclusion of serving
321 individuals in this population.

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

323 (6) PROGRAM IMPLEMENTATION AND EVALUATION.-

324 (a) Full implementation of the pilot program shall occur
325 concurrent to the contracts awarded, pursuant to s. 409.966, for
326 the provision of managed medical assistance and long-term care
327 services.

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

331 (c) The Agency for Persons with Disabilities shall, in
332 consultation with the agency, submit progress reports to the
333 Governor, the President of the Senate, and the Speaker of the
334 House of Representatives upon the federal approval,
335 implementation, and operation of the pilot program, as follows:

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

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

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

344 a. Program enrollment, including the number and
345 demographics of enrollees, statistically reflecting the
346 diversity of enrollees.

347 b. Any complaints received.

348 c. Access to approved services.

603-03939-23

20231084c1

349 (d) The Agency for Persons with Disabilities shall, in
350 consultation with the agency, conduct an evaluation of specific
351 measures of access, quality, and costs of the pilot program. The
352 Agency for Persons with Disabilities may contract with an
353 independent evaluator to conduct such evaluation. The evaluation
354 must include assessments of cost savings; consumer education,
355 choice, and access to services; plans for future capacity and
356 the enrollment of new Medicaid providers; coordination of care;
357 person-centered planning and person-centered well-being
358 outcomes; health and quality-of-life outcomes; and quality of
359 care by each eligibility category and managed care plan in each
360 pilot program site. The evaluation must describe any
361 administrative or legal barriers to the implementation and
362 operation of the pilot program in each region.

363 1. The Agency for Persons with Disabilities shall conduct
364 quality assurance monitoring of the pilot program to include
365 client satisfaction with services, client health and safety
366 outcomes, client well-being outcomes, and service delivery in
367 accordance with the client's care plan.

368 2. The Agency for Persons with Disabilities and the agency
369 shall submit the results of the evaluation to the Governor, the
370 President of the Senate, and the Speaker of the House of
371 Representatives by October 1, 2029.

372 (7) MANAGED CARE PLAN ACCOUNTABILITY.—

373 (a) In addition to the requirements of ss. 409.967,
374 409.975, and 409.982, plans participating in the pilot program
375 must have provider capacity within a maximum travel distance for
376 clients to services for specialized therapies, adult day
377 training, and prevocational training, for clients, as follows:

603-03939-23

20231084c1

378 1. For urban areas, 15 miles travel distance for clients;
379 and

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

381 (b) Plans participating in the pilot program must consult
382 with the Agency for Persons with Disabilities before placing an
383 enrollee of the pilot program in a facility licensed by the
384 Agency for Persons with Disabilities.

385 (8) REPEAL.—This section shall be repealed October 2, 2029,
386 after submission of the evaluation pursuant to paragraph (6) (d),
387 unless reviewed and saved from repeal through reenactment by the
388 Legislature.

389 Section 2. Section 409.961, Florida Statutes, is amended to
390 read:

391 409.961 Statutory construction; applicability; rules.—It is
392 the intent of the Legislature that if any conflict exists
393 between the provisions contained in this part and in other parts
394 of this chapter, the provisions in this part control. Sections
395 409.961-9855 ~~409.961-409.985~~ apply only to the Medicaid managed
396 medical assistance program, the ~~and~~ long-term care managed care
397 program, and the pilot program for individuals with
398 developmental disabilities, as provided in this part. The agency
399 shall adopt any rules necessary to comply with or administer
400 this part and all rules necessary to comply with federal
401 requirements. In addition, the department shall adopt and accept
402 the transfer of any rules necessary to carry out the
403 department's responsibilities for receiving and processing
404 Medicaid applications and determining Medicaid eligibility and
405 for ensuring compliance with and administering this part, as
406 those rules relate to the department's responsibilities, and any

603-03939-23

20231084c1

407 other provisions related to the department's responsibility for
408 the determination of Medicaid eligibility. Contracts with the
409 agency and a person or entity, including Medicaid providers and
410 managed care plans, necessary to administer the Medicaid program
411 are not rules and are not subject to chapter 120.

412 Section 3. (1) For a plan to be selected to participate in
413 the pilot program for individuals with developmental
414 disabilities pursuant to s. 409.9855, Florida Statutes, as
415 created by this act, the plan must have been awarded a contract
416 as a result of the invitation to negotiate, ITN-04836, for
417 Statewide Medicaid Managed Care Program which was issued on
418 April 11, 2023.

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

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