

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

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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 residing
7 in specified Statewide Medicaid Managed Care regions
8 to provide coverage of comprehensive services;
9 authorizing the agency to seek federal approval as
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 approve a
24 needs assessment methodology for prospective
25 enrollees; providing enrollment eligibility
26 requirements; requiring the Agency for Health Care
27 Administration, in consultation with the Agency for
28 Persons with Disabilities, to make offers for
29 enrollment to eligible individuals within specified

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30 parameters; requiring that enrollees be afforded an
31 opportunity to enroll in any appropriate existing
32 Medicaid waiver program under certain circumstances;
33 requiring the Agency for Persons with Disabilities to
34 adopt certain rules; requiring participating plans to
35 cover specified benefits; providing additional
36 requirements for the provision of benefits by
37 participating plans under the pilot program; providing
38 eligibility requirements for plans; providing a
39 selection process; requiring the Agency for Health
40 Care Administration to give preference to certain
41 plans; requiring that plan payments be based on rates
42 specifically developed for a certain population;
43 requiring the Agency for Health Care Administration to
44 ensure that the rate be actuarially sound; requiring
45 that the revenues and expenditures of the selected
46 plan be included in specified reporting and regulatory
47 requirements; providing that implementation of the
48 program shall occur concurrently with other specified
49 services; requiring the Agency for Health Care
50 Administration, in consultation with the Agency for
51 Persons with Disabilities, to conduct certain audits
52 of the selected plans and submit specified progress
53 reports to the Governor and the Legislature by
54 specified dates throughout the program approval and
55 implementation process; providing requirements for the
56 respective reports; requiring the Agency for Health
57 Care Administration, in consultation with the Agency
58 for Persons with Disabilities, to conduct an

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

82
83
84 WHEREAS, the mission of the Agency for Persons with
85 Disabilities is developing community-based programs and services
86 for individuals with developmental disabilities and working with
87 private businesses, not-for-profit corporations, units of local

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88 government, and other organizations capable of providing needed
89 services to clients to promote their living, learning, and
90 working as part of their communities, and

91 WHEREAS, the Agency for Persons with Disabilities advances
92 that mission through the iBudget waiver, which is designed to
93 promote and maintain the health of eligible individuals with
94 developmental disabilities, to provide medically necessary
95 supports and services to delay or prevent institutionalization,
96 and to foster the principles and appreciation of self-
97 determination, and

98 WHEREAS, the Legislature intends for a comprehensive and
99 coordinated service delivery system for individuals with
100 developmental disabilities which includes all services specified
101 in ss. 393.066(3), 409.973, and 409.98, Florida Statutes, and
102 the state's home and community-based services Medicaid waiver
103 program, and

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

114 WHEREAS, Florida continues to look for multiple innovative
115 pathways to serve individuals with developmental disabilities
116 and their families, including expanding the continuum of care to

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117 provide a robust and stable system that is a reliable provider
118 of services for individuals with developmental disabilities to
119 promote a comprehensive state of thriving in daily living,
120 community integration, and goal-based achievement, NOW,
121 THEREFORE,

122
123 Be It Enacted by the Legislature of the State of Florida:

124
125 Section 1. Section 409.9855, Florida Statutes, is created
126 to read:

127 409.9855 Pilot program for individuals with developmental
128 disabilities.—

129 (1) PILOT PROGRAM IMPLEMENTATION.—

130 (a) Using a managed care model, the agency shall implement
131 a pilot program for individuals with developmental disabilities
132 residing in Statewide Medicaid Managed Care Regions D and I to
133 provide coverage of comprehensive services.

134 (b) The agency may seek federal approval through a state
135 plan amendment or Medicaid waiver as necessary to implement the
136 pilot program. The agency shall submit a request for any federal
137 approval needed to implement the pilot program by September 1,
138 2023.

139 (c) Pursuant to s. 409.963, the agency shall administer the
140 pilot program but shall delegate specific duties and
141 responsibilities for the pilot program to the Agency for Persons
142 with Disabilities.

143 (d) The agency shall make payments for comprehensive
144 services, including community-based services described in s.
145 393.066(3) and approved through the state's home and community-

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146 based services Medicaid waiver program for individuals with
147 developmental disabilities, using a managed care model. Unless
148 otherwise specified, ss. 409.961-409.969 apply to the pilot
149 program.

150 (e) The agency shall evaluate the feasibility of statewide
151 implementation of the capitated managed care model used by the
152 pilot program to serve individuals with developmental
153 disabilities.

154 (2) ELIGIBILITY; VOLUNTARY ENROLLMENT; DISENROLLMENT.-

155 (a) Participation in the pilot program is voluntary and
156 limited to the maximum number of enrollees specified in the
157 General Appropriations Act. Enrollment in the pilot program does
158 not automatically entitle individuals to any other services
159 under chapter 393.

160 (b) The Agency for Persons with Disabilities shall approve
161 a needs assessment methodology to determine functional,
162 behavioral, and physical needs of prospective enrollees. This
163 assessment methodology may be administered by persons who have
164 completed such training as may be offered by the agency.
165 Eligibility to participate in the pilot program is determined
166 based on all of the following criteria:

167 1. Whether the individual is eligible for Medicaid.

168 2. Whether the individual is 18 years of age or older and
169 is on the waiting list for iBudget waiver services under chapter
170 393 and assigned to one of categories 1 through 6 as specified
171 in s. 393.065(5).

172 3. Whether the individual resides in a pilot program
173 region.

174 (c) Notwithstanding any provisions of s. 393.065 to the

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

187 (d) Notwithstanding any provisions of s. 393.065 to the
188 contrary, an enrollee must be afforded an opportunity to enroll
189 in any appropriate existing Medicaid waiver program if any of
190 the following conditions occur:

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

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

198 3. The pilot program ceases to operate.

199
200 The Agency for Persons with Disabilities shall develop rules to
201 implement this subsection to ensure that an enrollee receives an
202 individualized transition plan to assist him or her in accessing
203 sufficient services and supports for the enrollee's safety,

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- 204 well-being, and continuity of care.
- 205 (3) PILOT PROGRAM BENEFITS.-
- 206 (a) Plans participating in the pilot program must, at a
- 207 minimum, cover the following:
- 208 1. All benefits included in s. 409.973.
- 209 2. All benefits included in s. 409.98.
- 210 3. All benefits included in s. 393.066(3), and all of the
- 211 following:
- 212 a. Adult day training.
- 213 b. Behavior analysis services.
- 214 c. Behavior assistant services.
- 215 d. Companion services.
- 216 e. Consumable medical supplies.
- 217 f. Dietitian services.
- 218 g. Durable medical equipment and supplies.
- 219 h. Environmental accessibility adaptations.
- 220 i. Occupational therapy.
- 221 j. Personal emergency response systems.
- 222 k. Personal supports.
- 223 l. Physical therapy.
- 224 m. Prevocational services.
- 225 n. Private duty nursing.
- 226 o. Residential habilitation, including the following
- 227 levels:
- 228 (I) Standard level.
- 229 (II) Behavior-focused level.
- 230 (III) Intensive-behavior level.
- 231 (IV) Enhanced intensive-behavior level.
- 232 p. Residential nursing services.

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- 233 q. Respiratory therapy.
- 234 r. Respite care.
- 235 s. Skilled nursing.
- 236 t. Specialized medical home care.
- 237 u. Specialized mental health counseling.
- 238 v. Speech therapy.
- 239 w. Support coordination.
- 240 x. Supported employment.
- 241 y. Supported living coaching.
- 242 z. Transportation.
- 243 (b) All providers of the services listed under paragraph
- 244 (a) must meet the provider qualifications outlined in the
- 245 Florida Medicaid Developmental Disabilities Individual Budgeting
- 246 Waiver Services Coverage and Limitations Handbook as adopted by
- 247 reference in rule 59G-13.070, Florida Administrative Code.
- 248 (c) Support coordination services must maximize the use of
- 249 natural supports and community partnerships.
- 250 (d) The plans participating in the pilot program must
- 251 provide all categories of benefits through a single, integrated
- 252 model of care.
- 253 (e) Services must be provided to enrollees in accordance
- 254 with an individualized care plan in consultation with the Agency
- 255 for Persons with Disabilities which is evaluated and updated at
- 256 least quarterly and as warranted by changes in an enrollee's
- 257 circumstances.
- 258 (4) ELIGIBLE PLANS; PLAN SELECTION.—
- 259 (a) To be eligible to participate in the pilot program, a
- 260 plan must have been awarded a contract to provide long-term care
- 261 services pursuant to s. 409.981 as a result of an invitation to

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262 negotiate.

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

268 1. The invitation to negotiate must specify the criteria
269 and the relative weight assigned to each criterion that will be
270 used for determining the acceptability of submitted responses
271 and guiding the selection of the plans with which the agency and
272 the Agency for Persons with Disabilities negotiate. In addition
273 to any other criteria established by the agency, in consultation
274 with the Agency for Persons with Disabilities, the agency shall
275 consider the following factors in the selection of eligible
276 plans:

277 a. Experience serving similar populations, including the
278 plan's record of achieving specific quality standards with
279 similar populations.

280 b. Establishment of community partnerships with providers
281 which create opportunities for reinvestment in community-based
282 services.

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

286 d. Provision of and capacity to provide mental health
287 therapies and analysis designed to meet the needs of individuals
288 with developmental disabilities.

289 e. Evidence that an eligible plan has written agreements or
290 signed contracts or has made substantial progress in

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291 establishing relationships with providers before submitting its
292 response.

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

295 g. Experience in robust provider development programs that
296 result in increased availability of Medicaid providers to serve
297 the developmental disabilities community.

298 2. After negotiations are conducted, the agency shall
299 select the eligible plans that are determined to be responsive
300 and provide the best value to the state. Preference must be
301 given to plans that:

302 a. Have signed contracts in sufficient numbers to meet the
303 specific standards established under s. 409.967(2)(c), including
304 contracts for personal supports, skilled nursing, residential
305 habilitation, adult day training, mental health services,
306 respite care, companion services, and supported employment, as
307 those services are defined in the Florida Medicaid Developmental
308 Disabilities Individual Budgeting Waiver Services Coverage and
309 Limitations Handbook as adopted by reference in rule 59G-13.070,
310 Florida Administrative Code.

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

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

316 d. Have robust and innovative programs for provider
317 development and collaboration with the Agency for Persons with
318 Disabilities.

319 (5) PAYMENT.-

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

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

325 (c) The revenues and expenditures of the selected plan
326 which are associated with the implementation of the pilot
327 program must be included in the reporting and regulatory
328 requirements established in s. 409.967(3).

329 (6) PROGRAM IMPLEMENTATION AND EVALUATION.-

330 (a) Full implementation of the pilot program shall occur
331 concurrent to the contracts awarded, pursuant to s. 409.966, for
332 the provision of managed medical assistance and long-term care
333 services.

334 (b) Upon implementation of the program, the agency, in
335 consultation with the Agency for Persons with Disabilities,
336 shall conduct audits of the selected plans' implementation of
337 person-centered planning.

338 (c) The agency, in consultation with the Agency for Persons
339 with Disabilities, shall submit progress reports to the
340 Governor, the President of the Senate, and the Speaker of the
341 House of Representatives upon the federal approval,
342 implementation, and operation of the pilot program, as follows:

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

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

348 3. By December 31, 2025, and annually thereafter, a status

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349 report on the operation of the pilot program, including, but not
350 limited to, all of the following:

351 a. Program enrollment, including the number and
352 demographics of enrollees, statistically reflecting the
353 diversity of enrollees.

354 b. Any complaints received.

355 c. Access to approved services.

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

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

375 2. The agency shall submit the results of the evaluation to
376 the Governor, the President of the Senate, and the Speaker of
377 the House of Representatives by October 1, 2029.

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(7) MANAGED CARE PLAN ACCOUNTABILITY.-

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

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

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

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

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

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

409.961 Statutory construction; applicability; rules.-It is the intent of the Legislature that if any conflict exists between the provisions contained in this part and in other parts of this chapter, the provisions in this part control. Sections 409.961-409.9855 ~~409.961-409.985~~ apply only to the Medicaid managed medical assistance program, the and long-term care managed care program, and the pilot program for individuals with developmental disabilities, as provided in this part. The agency shall adopt any rules necessary to comply with or administer this part and all rules necessary to comply with federal

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407 requirements. In addition, the department shall adopt and accept
408 the transfer of any rules necessary to carry out the
409 department's responsibilities for receiving and processing
410 Medicaid applications and determining Medicaid eligibility and
411 for ensuring compliance with and administering this part, as
412 those rules relate to the department's responsibilities, and any
413 other provisions related to the department's responsibility for
414 the determination of Medicaid eligibility. Contracts with the
415 agency and a person or entity, including Medicaid providers and
416 managed care plans, necessary to administer the Medicaid program
417 are not rules and are not subject to chapter 120.

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

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

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