

By Senator Calatayud

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1 A bill to be entitled
2 An act relating to assisted care communities; amending
3 s. 409.908, F.S.; authorizing the Agency for Health
4 Care Administration to reimburse adult day care
5 services on a fee-for-service basis under the Medicaid
6 program; amending s. 429.41, F.S.; specifying
7 requirements for certain standards for assisted living
8 facilities the agency is required to adopt by rule;
9 creating s. 429.932, F.S.; providing a purpose;
10 requiring operators of adult day care centers to
11 annually complete specified continuing education;
12 providing requirements for the content and approval of
13 such continuing education courses; authorizing
14 approved courses to be offered in person and online;
15 providing requirements for courses completed online;
16 providing additional methods to satisfy the continuing
17 education requirements; providing that compliance with
18 the continuing education requirements is a condition
19 precedent for licensure; authorizing the Department of
20 Elderly Affairs to grant an extension, not to exceed 1
21 year, for completion of the continuing education under
22 certain circumstances; requiring persons or entities
23 offering continuing education courses to submit
24 certain information to the department within a
25 specified timeframe; providing applicability;
26 authorizing certain operators to request a waiver from
27 the continuing education requirements; prohibiting the
28 department from renewing the license of an adult day
29 care center under certain circumstances; providing an

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30 exception; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Present paragraphs (a) through (u) of subsection
35 (3) of section 409.908, Florida Statutes, are redesignated as
36 paragraphs (b) through (v), respectively, a new paragraph (a) is
37 added to that subsection, and subsection (8) of that section is
38 amended, to read:

39 409.908 Reimbursement of Medicaid providers.—Subject to
40 specific appropriations, the agency shall reimburse Medicaid
41 providers, in accordance with state and federal law, according
42 to methodologies set forth in the rules of the agency and in
43 policy manuals and handbooks incorporated by reference therein.
44 These methodologies may include fee schedules, reimbursement
45 methods based on cost reporting, negotiated fees, competitive
46 bidding pursuant to s. 287.057, and other mechanisms the agency
47 considers efficient and effective for purchasing services or
48 goods on behalf of recipients. If a provider is reimbursed based
49 on cost reporting and submits a cost report late and that cost
50 report would have been used to set a lower reimbursement rate
51 for a rate semester, then the provider's rate for that semester
52 shall be retroactively calculated using the new cost report, and
53 full payment at the recalculated rate shall be effected
54 retroactively. Medicare-granted extensions for filing cost
55 reports, if applicable, shall also apply to Medicaid cost
56 reports. Payment for Medicaid compensable services made on
57 behalf of Medicaid-eligible persons is subject to the
58 availability of moneys and any limitations or directions

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59 provided for in the General Appropriations Act or chapter 216.
60 Further, nothing in this section shall be construed to prevent
61 or limit the agency from adjusting fees, reimbursement rates,
62 lengths of stay, number of visits, or number of services, or
63 making any other adjustments necessary to comply with the
64 availability of moneys and any limitations or directions
65 provided for in the General Appropriations Act, provided the
66 adjustment is consistent with legislative intent.

67 (3) Subject to any limitations or directions provided for
68 in the General Appropriations Act, the following Medicaid
69 services and goods may be reimbursed on a fee-for-service basis.
70 For each allowable service or goods furnished in accordance with
71 Medicaid rules, policy manuals, handbooks, and state and federal
72 law, the payment shall be the amount billed by the provider, the
73 provider's usual and customary charge, or the maximum allowable
74 fee established by the agency, whichever amount is less, with
75 the exception of those services or goods for which the agency
76 makes payment using a methodology based on capitation rates,
77 average costs, or negotiated fees.

78 (a) Adult day care services.

79 (8) A provider of home-based or community-based services
80 rendered pursuant to a federally approved waiver shall be
81 reimbursed based on an established or negotiated rate for each
82 service, except that adult day care services shall be reimbursed
83 on a fee-for-service basis as provided in subsection (3). These
84 rates shall be established according to an analysis of the
85 expenditure history and prospective budget developed by each
86 contract provider participating in the waiver program, or under
87 any other methodology adopted by the agency and approved by the

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88 Federal Government in accordance with the waiver. Privately
89 owned and operated community-based residential facilities which
90 meet agency requirements and which formerly received Medicaid
91 reimbursement for the optional intermediate care facility for
92 the intellectually disabled service may participate in the
93 developmental services waiver as part of a home-and-community-
94 based continuum of care for Medicaid recipients who receive
95 waiver services.

96 Section 2. Subsection (2) of section 429.41, Florida
97 Statutes, is amended to read:

98 429.41 Rules establishing standards.—

99 (2) In adopting any rules pursuant to this part, the agency
100 shall make distinct standards for facilities based upon facility
101 size; the types of care provided; the physical and mental
102 capabilities and needs of residents; the type, frequency, and
103 amount of services and care offered; and the staffing
104 characteristics of the facility. Rules developed pursuant to
105 this section may not restrict the use of shared staffing and
106 shared programming in facilities that are part of retirement
107 communities that provide multiple levels of care and otherwise
108 meet the requirements of law and rule. If a continuing care
109 facility licensed under chapter 651 or a retirement community
110 offering multiple levels of care licenses a building or part of
111 a building designated for independent living for assisted
112 living, staffing requirements established in rule apply only to
113 residents who receive personal, limited nursing, or extended
114 congregate care services under this part. Such facilities shall
115 retain a log listing the names and unit number for residents
116 receiving these services. The log must be available to surveyors

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117 upon request. The agency shall adopt by rule separate and
118 distinct standards for facilities with 16 or fewer beds and for
119 facilities with 17 or more beds; however, minimum staffing
120 standards for facilities with 6 or fewer beds may not exceed 168
121 hours per week. The standards for facilities with 16 or fewer
122 beds must be appropriate for a noninstitutional residential
123 environment; however, the structure may not be more than two
124 stories in height and all persons who cannot exit the facility
125 unassisted in an emergency must reside on the first floor. The
126 agency may make other distinctions among types of facilities as
127 necessary to enforce this part. When ~~Where~~ appropriate, the
128 agency shall offer alternate solutions for complying with
129 established standards, based on distinctions made by the agency
130 relative to the physical characteristics of facilities and the
131 types of care offered.

132 Section 3. Section 429.932, Florida Statutes, is created to
133 read:

134 429.932 Continuing education requirements.-

135 (1) The purpose of this section is to establish
136 requirements and standards for continuing education courses for
137 an operator handling the day-to-day operations of an adult day
138 care center licensed under this part.

139 (2) In addition to any existing adult day care center staff
140 training requirements required under this part or by department
141 rule, each operator must complete at least 8 hours of continuing
142 education each calendar year, which must include 1 hour of
143 training in each of the following topic areas:

144 (a) Compliance with requirements of the Agency for Health
145 Care Administration.

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- 146 (b) Alzheimer's disease and related disorders.
- 147 (c) State and local comprehensive emergency management
148 plans.
- 149 (d) Anti-fraud laws and regulations.
- 150 (e) Nonemergency medical transportation.
- 151 (f) Daily management of facility operations.
- 152 (g) Staff compliance.
- 153 (h) The Health Insurance Portability and Accountability Act
154 and related requirements.
- 155 (3) The continuing education courses must be developed and
156 offered by the Florida Adult Day Services Association and
157 approved by the department. Courses may also be provided by any
158 other educational provider approved by the department.
- 159 (4) Approved courses may be offered in person or online.
160 Upon completion of an online course, an operator must pass an
161 online department-approved exam with a minimum score of 80
162 percent or higher. An operator attending an in-person course is
163 exempt from the exam requirement. An individual teaching an
164 approved course or lecturing at an approved seminar and
165 attending the entire course or seminar qualifies for the same
166 number of classroom hours as would be granted to a person taking
167 and successfully completing such course or seminar. Such credit
168 is limited to the number of hours actually taught by the
169 individual unless he or she attends the entire course or
170 seminar.
- 171 (5) Compliance with the continuing education requirements
172 of this section is a condition precedent to the issuance,
173 continuation, reinstatement, or renewal of an operator's adult
174 day care center license subject to this part. However, for good

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175 cause shown, the department may grant the operator an extension
176 of time, not to exceed 1 year, to complete the continuing
177 education required under this section.

178 (6) Each person or entity offering a course for continuing
179 education credit under this section must submit to the
180 department, within 30 days after completion of the course, in a
181 form satisfactory to the department or its designee, a roster
182 including the adult day care license number and the name of the
183 operator who successfully completed such course and is
184 requesting credit.

185 (7) Except as otherwise provided in this section, this
186 section applies to all operators handling the day-to-day
187 operations of adult day care centers licensed under this part.
188 Operators who are unable to comply with the continuing education
189 requirements due to active duty in the military may submit a
190 written request for a waiver to the department.

191 (8) Unless the operator has been granted an extension or a
192 waiver by the department, the department may not renew the
193 license of an adult day care center whose operator has failed to
194 complete the continuing education required under this section
195 until such time as the operator completes such continuing
196 education.

197 Section 4. This act shall take effect July 1, 2023.