

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/CS/SB 1156

INTRODUCER: Fiscal Policy Committee; Health Policy Committee; and Senator Harrell

SUBJECT: Home Health Aide for Medically Fragile Children Program

DATE: April 23, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Brown</u>	<u>HP</u>	<b>Fav/CS</b>
2.	<u>Barr</u>	<u>McKnight</u>	<u>AHS</u>	<b>Favorable</b>
3.	<u>Looke</u>	<u>Siples</u>	<u>FP</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1156 amends laws relating to the Home Health Aide for Medically Fragile Children (HHAMFC) program. Specifically, the bill:

- Specifies that the HHAMFC must complete an approved training program and the employing home health agency must provide validation of the HHAMFC prior to providing services to an eligible relative. The employing home health agency must also provide training on HIV/AIDS and ensure that the HHAMFC holds and maintains a certification in cardiopulmonary resuscitation (CPR).
- Eliminates current specified topics and required hours of training for HHAMFCs and specifies that training must include supervised practical training that is tailored to the child's care needs.
- Increases the Medicaid utilization cap from eight hours per day to 12 hours per day.
- Provides that the \$25 per hour Medicaid reimbursement rate is a minimum rate.
- Requires the Agency for Health Care Administration (AHCA) to seek federal approval to allow providers to receive reimbursement under the program and to disregard the income earned by a HHAMFC from the program when calculating eligibility for Medicaid.
- Requires managed care plans to provide the AHCA with data necessary to assess the rate and extent of hospitalizations for children attended by HHAMFCs compared with those attended by a registered nurse (RN) or licensed practical nurse (LPN).
- Requires home health agencies to report adverse incidents within 48 hours of the incident, defines the term "adverse incident," and requires the AHCA to include data on adverse incidents occurring under the care of a HHAMFC in the assessment.

- Requires the AHCA to make all necessary requests and submissions to obtain federal approval and initiate any necessary rulemaking within 60 days of the act becoming law.

The bill has a significant negative fiscal impact to the Florida Medicaid program. **See Section V., Fiscal Impact Statement.**

The bill takes effect upon becoming a law.

## **II. Present Situation:**

### **Home Health Aide for Medically Fragile Children Program**

The Home Health Aide for Medically Fragile Children (HHAMFC) Program was created by the Legislature in 2023, in response to the national health care provider shortage and its impact on medically fragile children and their family caregivers, to provide an opportunity for family caregivers to receive training and gainful employment.<sup>1</sup> While other Medicaid programs exist that compensate a family member who provides home health services to a Medicaid enrollee, the HHAMFC Program is the only one that compensates a family member who is not a licensed nurse, specifically for the provision of home health services to a medically fragile child.

The program allows a family caregiver to be reimbursed by Medicaid as an HHAMFC. To qualify, the care must be provided to a relative who is 21 years old or younger with an underlying physical, mental, or cognitive impairment that prevents him or her from safely living independently. The relative must also be eligible to receive skilled care or respite care services under the Medicaid program.<sup>2</sup> The family caregiver must be at least 18 years old, demonstrate a minimum ability to read and write, and successfully pass background screening requirements. The family caregiver must also complete an approved training program or have graduated from an accredited prelicensure nursing education program and be waiting to take the state licensing exam.<sup>3</sup>

The Agency for Health Care Administration (AHCA) is required to establish a Medicaid fee schedule to reimburse a home health agency for services provided by an HHAMFC at a rate of \$25 per hour for up to 8 hours per day.<sup>4</sup>

### ***Training***

The AHCA, in consultation with the Board of Nursing, approves HHAMFC training programs developed by home health agencies. A training program must consist of at least 85 hours and include at least 40 hours of theoretical instruction in nursing, 20 hours of skills training on basic nursing, 16 hours of clinical training under the direct supervision of a licensed registered nurse, and an unspecified minimum number of hours of training on HIV/AIDS infections. Additionally, an HHAMFC must obtain and maintain a current certificate in cardiopulmonary resuscitation

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<sup>1</sup> Chapter 2023-183, Laws of Fla.

<sup>2</sup> Section 400.462(12), F.S.

<sup>3</sup> Section 400.4765(2), F.S.

<sup>4</sup> Section 400.4765(9), F.S.

(CPR) and complete 12 hours of annual in-service training each 12-month period. The training on HIV/AIDS and CPR may be counted towards the 12 hours of in-service training.<sup>5</sup>

The 40 hours of theoretical instruction in nursing must include the following topics:

- Person-centered care;
- Communication and interpersonal skills;
- Infection control;
- Safety and emergency procedures;
- Assistance with activities of daily living;
- Mental health and social service needs;
- Care of cognitively impaired individuals;
- Basic restorative care and rehabilitation;
- Patient rights and confidentiality of personal information and medical records; and
- Relevant legal and ethical issues.

The 20 hours of skills training must consist of basic nursing skills training in the following areas:

- Hygiene, grooming, and toileting;
- Skin care and pressure sore prevention;
- Nutrition and hydration;
- Measuring vital signs, height, and weight;
- Safe lifting, positioning, and moving of patients;
- Wound care;
- Portable oxygen safety and other respiratory procedures;
- Tracheostomy care;
- Enteral care and therapy;
- Peripheral intravenous assistive activities and alternative feeding methods; and
- Urinary catheterization and ostomy care.

An HHAMFC must complete the six hours of training required for home health aides under s. 400.489, F.S., prior to administering medication upon delegation by a registered nurse.

A home health agency must offer training in various formats, and any interactive instruction must be provided during various times of the day. If an HHAMFC allows 24 months to pass without providing any personal care services to an eligible relative, the family caregiver must retake all required training.<sup>6</sup>

### ***Authorized Tasks***

An HHAMFC is authorized to perform certain tasks if delegated by a registered nurse, including medication administration and tasks associated with:<sup>7</sup>

- Activities of daily living, including bathing, dressing, eating, maintaining continence, toileting, and transferring;
- Maintaining mobility;

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<sup>5</sup> Section 400.4765(3), F.S.

<sup>6</sup> Section 400.4765(3)(b), F.S.

<sup>7</sup> Section 400.462(18), F.S.

- Nutrition and hydration;
- Assistive devices;
- Safety and cleanliness;
- Data gathering;
- Reporting abnormal signs and symptoms;
- Postmortem care;
- End-of-life care;
- Patient socialization and reality orientation;
- Cardiopulmonary resuscitation and emergency care;
- Residents' or patients' rights;
- Documentation of services performed;
- Infection control;
- Safety and emergency procedures;
- Hygiene and grooming;
- Skin care and pressure sore prevention;
- Wound care;
- Portable oxygen use and safety and other respiratory procedures;
- Tracheostomy care;
- Enteral care and therapy; and
- Peripheral intravenous assistive activities and alternative feeding methods.

Services provided by an HHAMFC must not duplicate private duty nursing services provided to an eligible recipient and must result in a reduction in the number of private duty nursing service hours provided to an eligible recipient.<sup>8</sup>

### ***Annual Assessment Report***

The AHCA is required to conduct annual assessments of the HHAMFC Program and report their findings by January 1 of each year to the Governor and the Legislature. The report must include an assessment of caregiver satisfaction with the program, identify additional support that may be needed by HHAMFC's, and assess the rate and extent of the hospitalization of children receiving home health services from an HHAMFC compared to those receiving traditional home health services.

### **Federal Home Health Aide Regulations**

#### ***Training***

Pursuant to the federal Centers for Medicare & Medicaid Services (CMS) conditions of participation, a Medicare certified home health agency must ensure that their employees or contractors providing home health aide services comply with federal training and competency requirements.<sup>9</sup>

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<sup>8</sup> Section 400.4765(7), F.S.

<sup>9</sup> 42 C.F.R., § 484.80.

Federal CMS provides four options to become a qualified home health aide, which include successful completion of:<sup>10</sup>

- A nurse aide training and competency evaluation program approved by the state as meeting the requirements of 42 C.F.R., §§ 483.151 through 483.154, and is in good standing on the state nurse aide registry (this is the option Florida used to implement the HHAMFC Program); or
- A training and competency evaluation program that meets the provisions of 42 C.F.R., § 484.80 (b) and (c); or
- The requirements of a state licensure program that meets the provisions of 42 C.F.R., § 484.80 (b) and (c); or
- A competency evaluation program only that must include certain subject areas.

All of the options, except the competency evaluation program only option, require a minimum of 75 hours of classroom and supervised practical training.<sup>11</sup> A minimum of 16 hours of classroom training must precede a minimum of 16 hours of supervised practical training as part of the 75 hours.<sup>12</sup>

### ***Competency Evaluation***

A home health aide competency evaluation program must address certain subject areas, and a registered nurse must observe the home health aide performing the task with a patient or pseudo-patient.<sup>13</sup> These required subject areas include:<sup>14</sup>

- Communication and interpersonal skills;
- Reading and recording vitals;
- Appropriate and safe techniques in performing personal hygiene and grooming tasks;
- Safe transfer techniques and ambulation; and
- Normal range of motion and positioning.

A home health aide competency evaluation program must also address other subject areas for which a home health aide may be evaluated by written or oral examination, or by a simulated experience with a patient or a pseudo-patient.<sup>15</sup> These required subject areas include:<sup>16</sup>

- Observation, reporting, and documentation of patient status and the care of service furnished;
- Basic infection prevention and control procedures;
- Basic elements of body functioning and changes in body function that must be reported to an aide's supervisor;
- Maintenance of a clean, safe, and health environment;
- Safety and emergency procedures;
- The physical, emotional, and developmental needs of populations served by the home health;
- Adequate nutrition and fluid intake;
- Recognizing and reporting changes in skin condition; and

<sup>10</sup> 42 C.F.R., § 484.80(a).

<sup>11</sup> 42 C.F.R., § 484.80(b)(1).

<sup>12</sup> 42 C.F.R., § 484.80(b)(2).

<sup>13</sup> 42 C.F.R., § 484.80(c)(1).

<sup>14</sup> 42 C.F.R., § 484.80(b)(3)(i), (iii), (ix), (x), and (xi).

<sup>15</sup> 42 C.F.R., § 484.80(c)(1).

<sup>16</sup> 42 C.F.R., § 484.80(b)(3)(ii), (iv), (v), (vi), (vii), (viii), (xii), (xiii), and (xiv).

- Any other task that the home health agency may choose to have an aide perform as permitted under state law.

### ***Medicaid Coverage***

Florida Medicaid includes requirements for HHAMFC, referred to as family home health aides in Medicaid, in Rule 59G-4.261, Private Duty Nursing and Family Home Health Aide Services Coverage Policy. Fee-for-service payment rates, procedure codes, and billing units for family home health aide services are specified in Rule 59G-4.002, Provider Reimbursement Schedules and Billing Codes. Currently, the AHCA reimburses for family home health aide services at a rate of \$25 per hour for a maximum of 8 hours per day for home health agencies that employ parents or caregivers who qualify as HHAMFC.

Family home health aide services can be provided by a related provider, legal guardian, or caretaker relative who is employed by a home health agency. This includes the aunt, brother, brother-in-law, cousin, daughter, daughter-in-law, father, father-in-law, granddaughter, grandfather, grandmother, grandson, great-grandfather, great-grandmother, half-brother, half-sister, husband, mother, mother-in-law, nephew, niece, sister, sister-in-law, son, son-in-law, stepbrother, stepdaughter, stepfather, stepmother, stepsister, stepson, uncle, or wife of the recipient. The home health agency enrolls with Florida Medicaid as a provider type 65 with a specialty 965 to provide family home health aide services if they meet the conditions of participation in Medicare per 42 C.F.R. 440.70. A home health agency wishing to provide private duty nursing services only may enroll with specialty 221. If a home health agency wishes to provide family home health aide and private duty nursing services, it will need both 965 and 221 specialties on its file.

### ***Medicaid Eligibility***

The Florida Department of Children and Families (DCF) determines financial eligibility for Florida Medicaid. Medicaid is an income-based program, and income earned by a family member providing family home health aide services may impact a recipient's Medicaid eligibility, as well as their eligibility for other types of public assistance. Currently, any income earned by an eligible caregiver employed by a home health agency and providing family home health aide services is reported to DCF as earned income when applying for public assistance, including Medicaid.<sup>17</sup>

## **III. Effect of Proposed Changes:**

**Section 1** amends s. 400.54, F.S., to require managed care plans to provide the Agency for Health Care Administration (AHCA) with data necessary to assess the rate and extent of hospitalizations for children attended by home health aides for medically fragile children (HHAMFC) compared with those attended by a registered nurse or licensed practical nurse. The AHCA is also required to include data on adverse incidents occurring under the care of an HHAMFC in the assessment.

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<sup>17</sup> AHCA bill analysis for SB 1156, Feb. 27, 2025, (on file with Senate Health Policy Committee staff).

The bill also requires home health agencies to report all adverse incidents occurring under the care of an HHAMFC to the AHCA and the managed care plan within 48 hours after the incident occurs. The bill defines “adverse incident” for reporting purposes to mean:

- Death.
- Brain or spinal damage.
- Permanent disfigurement.
- Fracture or dislocation of bones or joints.
- A limitation of neurological, physical, or sensory function.
- An event that is reported to law enforcement personnel for investigation.

**Section 2** amends s. 400.4765, F.S., related to the HHAMFC program, to adjust the training requirements for an HHAMFC by:

- Eliminating specified topics and required number of hours of training in current law;
- Specifying that before providing services to an eligible relative, an HHAMFC must complete an approved training program. The employing home health agency must provide validation of competency by a registered nurse and maintain documentation of training completion and competency validation;
- Requiring HHAs provide training to HHAMFCs on HIV/AIDS and require that HHAMFCs be certified in CPR; and
- Specifying that training programs must include nurse supervised practical skills training tailored to the child’s care needs.

The bill also modifies the Medicaid reimbursement schedule for HHAMFC services by:

- Increasing the utilization cap from eight hours per day to 12 hours per day. The bill specifies that if an HHAMFC works more than 40 hours per week, justification must be provided as to why there is no other qualified provider available, and the request must be approved by the home health agency and managed care plan.
- Providing that the \$25 per hour reimbursement rate is a minimum rate.

Additionally, the bill requires the AHCA to seek federal approval through any necessary Medicaid waiver or state plan amendment to:

- Allow private duty nursing specialty providers and home health services providers to receive reimbursement for services rendered under the program and
- Establish that the income earned by an HHAMFC from the program must be disregarded when calculating eligibility for Medicaid.

**Section 3** amends s. 400.462(18), F.S., to make minor technical adjustments to the language for services to be provided by an HHAMFC.

**Section 4** amends s. 409.903, F.S., to require the AHCA to seek federal approval, including seeking the appropriate federal waiver or state plan amendment, to exclude from the family’s countable income any income earned through employment as a home health aide for medically fragile children under s. 400.4765, F.S.

**Section 5** requires the AHCA to make all necessary requests and submissions to obtain federal approval to implement the amendment made by this act to s. 409.903, F.S., and initiate any

necessary rulemaking to implement the amendment made by this act to s. 400.4765, F.S., within 60 days of the act becoming a law.

**Section 6** provides that the bill takes effect upon becoming a law.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Agency for Health Care Administration indicates the required changes to the Medicaid fee schedule to establish \$25 as the minimum rate and to increase the utilization cap from 8 hours to 12 hours per day will have a recurring fiscal impact on the Florida Medicaid program in the amount of \$1.6 million (\$0.7 million General Revenue).<sup>18</sup>

**VI. Technical Deficiencies:**

None.

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<sup>18</sup> AHCA bill analysis for SB 1156, Feb. 27, 2025, (on file with Senate Health Policy Committee staff).



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 400.4765 400.54, and 409.903.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Fiscal Policy on April 22, 2025:**

The CS eliminates specified topics and current law required hours of training for HHAMFCs and instead requires that training include skills training under the direct supervision of a registered nurse and tailored to the needs of an eligible relative. The CS adds a requirement that the employing HHA must provide training to the HHAMFC on HIV/AIDS and ensure that the HHAMFC maintains a certification in CPR. The CS also removes a 30-day required timeframe for AHCA to seek federal approval for specified items.

**CS by Health Policy on April 1, 2025:**

The CS requires home health agencies to report adverse incidents to the Agency for Health Care Administration (AHCA) as part of the annual assessment reporting requirements for the home home health aide for medically fragile children (HHAMFC) program. The amendment defines “adverse incident” for the purposes of this reporting. The amendment also requires an eligible relative to have completed an approved training program before serving as an HHAMFC and requires the home health agency to provide validation of the HHAMFC’s competency. Additionally, the amendment removes the direction to the Division of Law Revision to add the effective date to the act in certain places and adds direction to the AHCA to seek federal approval to implement changes made by the act and initiate rulemaking within 60 days of the act becoming law.

**B. Amendments:**

None.