

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1                                   A bill to be entitled  
2           An act relating to Medicaid; amending s. 393.0661, F.S.;  
3           requiring the Agency for Persons with Disabilities to  
4           collect premiums or cost sharing for a home and community-  
5           based delivery system; providing that implementation of  
6           Medicaid waiver programs and services authorized under ch.  
7           393, F.S., are subject to certain funding limitations;  
8           requiring that certain provisions relating to agency cost  
9           containment initiatives be included in contracts with  
10          independent support coordinators and service providers;  
11          providing for establishment of agency corrective action  
12          plans and redesign of the waiver program under certain  
13          circumstances; requiring the plan to be submitted to the  
14          Legislature; amending s. 393.063, F.S.; defining the term  
15          "Down syndrome"; amending s. 408.040, F.S.; prohibiting  
16          the agency from imposing sanctions related to patient day  
17          utilization by patients eligible for care under Title XIX  
18          of the Social Security Act for a nursing home, effective  
19          on a specified date; amending s. 408.0435, F.S.; extending  
20          the certificate-of-need moratorium for additional  
21          community nursing home beds; designating ss. 409.016-  
22          409.803, F.S., as pt. I of ch. 409, F.S., and entitling  
23          the part "Social and Economic Assistance"; designating ss.  
24          409.810-409.821, F.S., as pt. II of ch. 409, F.S., and  
25          entitling the part "Kidcare"; designating ss. 409.901-  
26          409.9205, F.S., as part III of ch. 409, F.S., and  
27          entitling the part "Medicaid"; amending s. 409.9021, F.S.;  
28          revising the time period during which a Medicaid applicant

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

29 | must agree to forfeiture of all entitlements upon a  
30 | judicial or administrative finding of fraud; amending s.  
31 | 409.905, F.S.; requiring the Agency for Health Care  
32 | Administration to set reimbursements rates for hospitals  
33 | that provide Medicaid services based on allowable-cost  
34 | reporting from the hospitals; removing requirements for  
35 | prior authorization for the provision of certain services;  
36 | providing the methodology for the rate calculation and  
37 | adjustments; requiring the rates to be subject to certain  
38 | limits or ceilings; authorizing the agency to require  
39 | prior authorization of home health services under certain  
40 | conditions; providing that exemptions to the limits or  
41 | ceilings may be provided in the General Appropriations  
42 | Act; deleting provisions relating to agency adjustments to  
43 | a hospital's inpatient per diem rate; directing the agency  
44 | to develop a plan to convert inpatient hospital rates to a  
45 | prospective payment system that categorizes each case into  
46 | diagnosis-related groups; requiring a report to the  
47 | Governor and Legislature; amending s. 409.906, F.S.;  
48 | providing conditions under which the agency shall seek  
49 | federal approval to develop a system to require payment of  
50 | premiums or other cost sharing by the parents of certain  
51 | children receiving Medicaid home and community-based  
52 | waiver services; authorizing the Department of Children  
53 | and Family Services to collect certain income information;  
54 | requiring a report to the Legislature; amending s.  
55 | 409.907, F.S.; providing additional requirements for  
56 | provider agreements for Medicare crossover providers;

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

57 | providing that the agency is not obligated to enroll  
58 | certain providers as Medicare crossover providers;  
59 | specifying additional requirements for certain providers;  
60 | providing the agency may establish additional criteria for  
61 | providers to promote program integrity; amending s.  
62 | 409.908, F.S.; revising provisions relating to  
63 | reimbursement of Medicaid direct care providers to include  
64 | additional, specified medically necessary care; amending  
65 | s. 409.9081, F.S.; providing conditions for copayments by  
66 | Medicaid recipients for nonemergency care and services  
67 | provided in a hospital emergency; amending s. 409.911,  
68 | F.S.; providing for expiration of the Medicaid Low-Income  
69 | Pool Council; amending s. 409.912, F.S.; providing payment  
70 | requirements for provider service networks; providing for  
71 | the expiration of various provisions relating to agency  
72 | contracts and agreements with certain entities on  
73 | specified dates to conform to the reorganization of  
74 | Medicaid managed care; requiring the agency to contract on  
75 | a prepaid or fixed-sum basis with certain prepaid dental  
76 | health plans; eliminating obsolete provisions and updating  
77 | provisions, to conform; amending ss. 409.91195 and  
78 | 409.91196, F.S.; conforming cross-references; repealing s.  
79 | 409.91207, F.S., relating to the medical home pilot  
80 | project; amending s. 409.91211, F.S.; conforming cross-  
81 | references; providing for future repeal of s. 409.91211,  
82 | F.S., relating to the Medicaid managed care pilot program;  
83 | amending s. 409.9122, F.S.; providing for the expiration  
84 | of provisions relating to mandatory enrollment in a

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

85 Medicaid managed care plan or MediPass on specified dates  
86 to conform to the reorganization of Medicaid managed care;  
87 eliminating obsolete provisions; providing for the agency  
88 to assign Medicaid recipients with HIV/AIDS in specified  
89 counties to a managed care plan that is a health  
90 maintenance organization under certain conditions;  
91 requiring the agency to develop a process to enable any  
92 recipient with access to employer-sponsored coverage to  
93 opt out of eligible plans in the Medicaid program;  
94 requiring the agency, contingent on federal approval, to  
95 enable recipients with access to other coverage or related  
96 products that provide access to specified health care  
97 services to opt out of eligible plans in the Medicaid  
98 program; requiring the agency to maintain and operate the  
99 Medicaid Encounter Data System; requiring the agency to  
100 conduct a review of encounter data and publish the results  
101 of the review before adjusting rates for prepaid plans;  
102 authorizing the agency to establish a designated payment  
103 for specified Medicare Advantage Special Needs members;  
104 authorizing the agency to develop a designated payment for  
105 Medicaid-only covered services for which the state is  
106 responsible; requiring the agency to establish, and  
107 managed care plans to use, a uniform method of accounting  
108 for and reporting medical and nonmedical costs;  
109 authorizing the agency to create exceptions to mandatory  
110 enrollment in managed care under specified circumstances;  
111 requiring the agency to contract with a provider service  
112 network to function as a third-party administrator and

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

113 managing entity for the MediPass program; providing  
 114 contract provisions; providing for the expiration of such  
 115 contract requirements on a specified date; requiring the  
 116 agency to contract with a single provider service network  
 117 to function as a third-party administrator and managing  
 118 entity for the Medically Needy program; providing contract  
 119 provisions; providing for the expiration of such contract  
 120 requirements on a specified date; amending s. 430.04,  
 121 F.S.; eliminating obsolete provisions; requiring the  
 122 Department of Elderly Affairs to develop a transition plan  
 123 for specified elders and disabled adults receiving long-  
 124 term care Medicaid services when eligible plans become  
 125 available; providing for expiration of the plan; amending  
 126 s. 430.2053, F.S.; eliminating obsolete provisions;  
 127 providing additional duties of aging resource centers;  
 128 providing an additional exception to direct services that  
 129 may not be provided by an aging resource center; providing  
 130 an expiration date for certain services administered  
 131 through aging resource centers; providing for the  
 132 cessation of specified payments by the department as  
 133 eligible plans become available; providing for a  
 134 memorandum of understanding between the agency and aging  
 135 resource centers under certain circumstances; eliminating  
 136 provisions requiring reports; repealing s. 430.701, F.S.,  
 137 relating to legislative findings and intent and approval  
 138 for action relating to provider enrollment levels;  
 139 repealing s. 430.702, F.S., relating to the Long-Term Care  
 140 Community Diversion Pilot Project Act; repealing s.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

141 430.703, F.S., relating to definitions; repealing s.  
 142 430.7031, F.S., relating to the nursing home transition  
 143 program; repealing s. 430.704, F.S., relating to  
 144 evaluation of long-term care through the pilot projects;  
 145 repealing s. 430.705, F.S., relating to implementation of  
 146 long-term care community diversion pilot projects;  
 147 repealing s. 430.706, F.S., relating to quality of care;  
 148 repealing s. 430.707, F.S., relating to contracts;  
 149 repealing s. 430.708, F.S., relating to certificate of  
 150 need; repealing s. 430.709, F.S., relating to reports and  
 151 evaluations; renumbering ss. 409.9301, 409.942, 409.944,  
 152 409.945, 409.946, 409.953, and 409.9531, F.S., as ss.  
 153 402.81, 402.82, 402.83, 402.84, 402.85, 402.86, and  
 154 402.87, F.S., respectively; amending ss. 443.111 and  
 155 641.386, F.S.; conforming cross-references; amending s.  
 156 766.118, F.S.; providing a limitation on noneconomic  
 157 damages for negligence of practitioners providing medical  
 158 services and medical care to Medicaid recipients; defining  
 159 terms for purposes of the limitation; requiring the agency  
 160 to develop a plan to implement and seek federal approval  
 161 for the medically needy program for Medicaid enrollees;  
 162 requiring the agency to develop a reorganization plan for  
 163 realignment of administrative resources of the Medicaid  
 164 program; requiring the plan to be submitted to the  
 165 Governor and Legislature; amending s. 393.0662, F.S.;  
 166 including certain individuals with Down syndrome or a  
 167 developmental disability as eligible to participate in the  
 168 iBudget system; amending s. 409.902, F.S.; restricting

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

169 Medicaid eligibility to citizens of the United States who  
170 meet certain criteria; amending s. 641.19, F.S.; defining  
171 the term "provider service network" for purposes of pt. I  
172 of ch. 641, F.S.; creating s. 641.2019, F.S.; providing  
173 conditions under which a prepaid provider service network  
174 may obtain a certificate of authority under s. 641.21,  
175 F.S.; amending s. 641.2261, F.S.; providing an exception  
176 for provider service networks from certain federal  
177 solvency requirements; providing for severability;  
178 providing effective dates and a contingent effective date.

179

180 Be It Enacted by the Legislature of the State of Florida:

181

182 Section 1. Section 393.0661, Florida Statutes, is amended  
183 to read:

184 393.0661 Home and community-based services delivery  
185 system; comprehensive redesign.—The Legislature finds that the  
186 home and community-based services delivery system for persons  
187 with developmental disabilities and the availability of  
188 appropriated funds are two of the critical elements in making  
189 services available. Therefore, it is the intent of the  
190 Legislature that the Agency for Persons with Disabilities shall  
191 develop and implement a comprehensive redesign of the system.

192 (1) The redesign of the home and community-based services  
193 system shall include, at a minimum, all actions necessary to  
194 achieve an appropriate rate structure, client choice within a  
195 specified service package, appropriate assessment strategies, an  
196 efficient billing process that contains reconciliation and

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

197 monitoring components, and a redefined role for support  
198 coordinators that avoids potential conflicts of interest and  
199 ensures that family/client budgets are linked to levels of need.

200 (a) The agency shall use an assessment instrument that the  
201 agency deems to be reliable and valid, including, but not  
202 limited to, the Department of Children and Family Services'  
203 Individual Cost Guidelines or the agency's Questionnaire for  
204 Situational Information. The agency may contract with an  
205 external vendor or may use support coordinators to complete  
206 client assessments if it develops sufficient safeguards and  
207 training to ensure ongoing inter-rater reliability.

208 (b) The agency, with the concurrence of the Agency for  
209 Health Care Administration, may contract for the determination  
210 of medical necessity and establishment of individual budgets.

211 (2) A provider of services rendered to persons with  
212 developmental disabilities pursuant to a federally approved  
213 waiver shall be reimbursed according to a rate methodology based  
214 upon an analysis of the expenditure history and prospective  
215 costs of providers participating in the waiver program, or under  
216 any other methodology developed by the Agency for Health Care  
217 Administration, in consultation with the Agency for Persons with  
218 Disabilities, and approved by the Federal Government in  
219 accordance with the waiver.

220 (3) The Agency for Health Care Administration, in  
221 consultation with the agency, shall seek federal approval and  
222 implement a four-tiered waiver system to serve eligible clients  
223 through the developmental disabilities and family and supported  
224 living waivers. For the purpose of this waiver program, eligible

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

225 clients shall include individuals with a diagnosis of Down  
226 syndrome or a developmental disability as defined in s. 393.063.

227 The agency shall assign all clients receiving services through  
228 the developmental disabilities waiver to a tier based on the  
229 Department of Children and Family Services' Individual Cost  
230 Guidelines, the agency's Questionnaire for Situational  
231 Information, or another such assessment instrument deemed to be  
232 valid and reliable by the agency; client characteristics,  
233 including, but not limited to, age; and other appropriate  
234 assessment methods.

235 (a) Tier one is limited to clients who have service needs  
236 that cannot be met in tier two, three, or four for intensive  
237 medical or adaptive needs and that are essential for avoiding  
238 institutionalization, or who possess behavioral problems that  
239 are exceptional in intensity, duration, or frequency and present  
240 a substantial risk of harm to themselves or others. Total annual  
241 expenditures under tier one may not exceed \$150,000 per client  
242 each year, provided that expenditures for clients in tier one  
243 with a documented medical necessity requiring intensive  
244 behavioral residential habilitation services, intensive  
245 behavioral residential habilitation services with medical needs,  
246 or special medical home care, as provided in the Developmental  
247 Disabilities Waiver Services Coverage and Limitations Handbook,  
248 are not subject to the \$150,000 limit on annual expenditures.

249 (b) Tier two is limited to clients whose service needs  
250 include a licensed residential facility and who are authorized  
251 to receive a moderate level of support for standard residential  
252 habilitation services or a minimal level of support for behavior

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

253 focus residential habilitation services, or clients in supported  
254 living who receive more than 6 hours a day of in-home support  
255 services. Total annual expenditures under tier two may not  
256 exceed \$53,625 per client each year.

257 (c) Tier three includes, but is not limited to, clients  
258 requiring residential placements, clients in independent or  
259 supported living situations, and clients who live in their  
260 family home. Total annual expenditures under tier three may not  
261 exceed \$34,125 per client each year.

262 (d) Tier four includes individuals who were enrolled in  
263 the family and supported living waiver on July 1, 2007, who  
264 shall be assigned to this tier without the assessments required  
265 by this section. Tier four also includes, but is not limited to,  
266 clients in independent or supported living situations and  
267 clients who live in their family home. Total annual expenditures  
268 under tier four may not exceed \$14,422 per client each year.

269 (e) The Agency for Health Care Administration shall also  
270 seek federal approval to provide a consumer-directed option for  
271 persons with developmental disabilities which corresponds to the  
272 funding levels in each of the waiver tiers. The agency shall  
273 implement the four-tiered waiver system beginning with tiers  
274 one, three, and four and followed by tier two. The agency and  
275 the Agency for Health Care Administration may adopt rules  
276 necessary to administer this subsection.

277 (f) The agency shall seek federal waivers and amend  
278 contracts as necessary to make changes to services defined in  
279 federal waiver programs administered by the agency as follows:

280 1. Supported living coaching services may not exceed 20

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

281 hours per month for persons who also receive in-home support  
 282 services.

283 2. Limited support coordination services is the only type  
 284 of support coordination service that may be provided to persons  
 285 under the age of 18 who live in the family home.

286 3. Personal care assistance services are limited to 180  
 287 hours per calendar month and may not include rate modifiers.  
 288 Additional hours may be authorized for persons who have  
 289 intensive physical, medical, or adaptive needs if such hours are  
 290 essential for avoiding institutionalization.

291 4. Residential habilitation services are limited to 8  
 292 hours per day. Additional hours may be authorized for persons  
 293 who have intensive medical or adaptive needs and if such hours  
 294 are essential for avoiding institutionalization, or for persons  
 295 who possess behavioral problems that are exceptional in  
 296 intensity, duration, or frequency and present a substantial risk  
 297 of harming themselves or others. This restriction shall be in  
 298 effect until the four-tiered waiver system is fully implemented.

299 5. Chore services, nonresidential support services, and  
 300 homemaker services are eliminated. The agency shall expand the  
 301 definition of in-home support services to allow the service  
 302 provider to include activities previously provided in these  
 303 eliminated services.

304 6. Massage therapy, medication review, and psychological  
 305 assessment services are eliminated.

306 7. The agency shall conduct supplemental cost plan reviews  
 307 to verify the medical necessity of authorized services for plans  
 308 that have increased by more than 8 percent during either of the

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

309 2 preceding fiscal years.

310 8. The agency shall implement a consolidated residential  
311 habilitation rate structure to increase savings to the state  
312 through a more cost-effective payment method and establish  
313 uniform rates for intensive behavioral residential habilitation  
314 services.

315 9. Pending federal approval, the agency may extend current  
316 support plans for clients receiving services under Medicaid  
317 waivers for 1 year beginning July 1, 2007, or from the date  
318 approved, whichever is later. Clients who have a substantial  
319 change in circumstances which threatens their health and safety  
320 may be reassessed during this year in order to determine the  
321 necessity for a change in their support plan.

322 10. The agency shall develop a plan to eliminate  
323 redundancies and duplications between in-home support services,  
324 companion services, personal care services, and supported living  
325 coaching by limiting or consolidating such services.

326 11. The agency shall develop a plan to reduce the  
327 intensity and frequency of supported employment services to  
328 clients in stable employment situations who have a documented  
329 history of at least 3 years' employment with the same company or  
330 in the same industry.

331 (4) The geographic differential for Miami-Dade, Broward,  
332 and Palm Beach Counties for residential habilitation services  
333 shall be 7.5 percent.

334 (5) The geographic differential for Monroe County for  
335 residential habilitation services shall be 20 percent.

336 (6) Effective January 1, 2010, and except as otherwise

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

337 provided in this section, a client served by the home and  
338 community-based services waiver or the family and supported  
339 living waiver funded through the agency shall have his or her  
340 cost plan adjusted to reflect the amount of expenditures for the  
341 previous state fiscal year plus 5 percent if such amount is less  
342 than the client's existing cost plan. The agency shall use  
343 actual paid claims for services provided during the previous  
344 fiscal year that are submitted by October 31 to calculate the  
345 revised cost plan amount. If the client was not served for the  
346 entire previous state fiscal year or there was any single change  
347 in the cost plan amount of more than 5 percent during the  
348 previous state fiscal year, the agency shall set the cost plan  
349 amount at an estimated annualized expenditure amount plus 5  
350 percent. The agency shall estimate the annualized expenditure  
351 amount by calculating the average of monthly expenditures,  
352 beginning in the fourth month after the client enrolled,  
353 interrupted services are resumed, or the cost plan was changed  
354 by more than 5 percent and ending on August 31, 2009, and  
355 multiplying the average by 12. In order to determine whether a  
356 client was not served for the entire year, the agency shall  
357 include any interruption of a waiver-funded service or services  
358 lasting at least 18 days. If at least 3 months of actual  
359 expenditure data are not available to estimate annualized  
360 expenditures, the agency may not rebase a cost plan pursuant to  
361 this subsection. The agency may not rebase the cost plan of any  
362 client who experiences a significant change in recipient  
363 condition or circumstance which results in a change of more than  
364 5 percent to his or her cost plan between July 1 and the date

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

365 that a rebased cost plan would take effect pursuant to this  
 366 subsection.

367 (7) The agency shall collect premiums or cost sharing  
 368 pursuant to s. 409.906(13)(d).

369 (8)-(7) Nothing in This section or related in any  
 370 administrative rule does not shall be construed to prevent or  
 371 limit the Agency for Health Care Administration, in consultation  
 372 with the Agency for Persons with Disabilities, from adjusting  
 373 fees, reimbursement rates, lengths of stay, number of visits, or  
 374 number of services, or from limiting enrollment, or making any  
 375 other adjustment necessary to comply with the availability of  
 376 moneys and any limitations or directions provided ~~for~~ in the  
 377 General Appropriations Act.

378 (9)-(8) The Agency for Persons with Disabilities shall  
 379 submit quarterly status reports to the Executive Office of the  
 380 Governor, the chair of the Senate Ways and Means Committee or  
 381 its successor, and the chair of the House Fiscal Council or its  
 382 successor regarding the financial status of home and community-  
 383 based services, including the number of enrolled individuals who  
 384 are receiving services through one or more programs; the number  
 385 of individuals who have requested services who are not enrolled  
 386 but who are receiving services through one or more programs,  
 387 with a description indicating the programs from which the  
 388 individual is receiving services; the number of individuals who  
 389 have refused an offer of services but who choose to remain on  
 390 the list of individuals waiting for services; the number of  
 391 individuals who have requested services but who are receiving no  
 392 services; a frequency distribution indicating the length of time

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

393 individuals have been waiting for services; and information  
394 concerning the actual and projected costs compared to the amount  
395 of the appropriation available to the program and any projected  
396 surpluses or deficits. If at any time an analysis by the agency,  
397 in consultation with the Agency for Health Care Administration,  
398 indicates that the cost of services is expected to exceed the  
399 amount appropriated, the agency shall submit a plan in  
400 accordance with subsection (8) ~~(7)~~ to the Executive Office of  
401 the Governor, the chair of the Senate Ways and Means Committee  
402 or its successor, and the chair of the House Fiscal Council or  
403 its successor to remain within the amount appropriated. The  
404 agency shall work with the Agency for Health Care Administration  
405 to implement the plan so as to remain within the appropriation.

406 (10) Implementation of Medicaid waiver programs and  
407 services authorized under this chapter is limited by the funds  
408 appropriated for the individual budgets pursuant to s. 393.0662  
409 and the four-tiered waiver system pursuant to subsection (3).  
410 Contracts with independent support coordinators and service  
411 providers must include provisions requiring compliance with  
412 agency cost containment initiatives. The agency shall implement  
413 monitoring and accounting procedures necessary to track actual  
414 expenditures and project future spending compared to available  
415 appropriations for Medicaid waiver programs. When necessary  
416 based on projected deficits, the agency must establish specific  
417 corrective action plans that incorporate corrective actions of  
418 contracted providers that are sufficient to align program  
419 expenditures with annual appropriations. If deficits continue  
420 during the 2012-2013 fiscal year, the agency in conjunction with

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

421 the Agency for Health Care Administration shall develop a plan  
422 to redesign the waiver program and submit the plan to the  
423 President of the Senate and the Speaker of the House of  
424 Representatives by September 30, 2013. At a minimum, the plan  
425 must include the following elements:

426 (a) Budget predictability.—Agency budget recommendations  
427 must include specific steps to restrict spending to budgeted  
428 amounts based on alternatives to the iBudget and four-tiered  
429 Medicaid waiver models.

430 (b) Services.—The agency shall identify core services that  
431 are essential to provide for client health and safety and  
432 recommend elimination of coverage for other services that are  
433 not affordable based on available resources.

434 (c) Flexibility.—The redesign shall be responsive to  
435 individual needs and to the extent possible encourage client  
436 control over allocated resources for their needs.

437 (d) Support coordination services.—The plan shall modify  
438 the manner of providing support coordination services to improve  
439 management of service utilization and increase accountability  
440 and responsiveness to agency priorities.

441 (e) Reporting.—The agency shall provide monthly reports to  
442 the President of the Senate and the Speaker of the House of  
443 Representatives on plan progress and development on July 31,  
444 2013, and August 31, 2013.

445 (f) Implementation.—The implementation of a redesigned  
446 program is subject to legislative approval and shall occur no  
447 later than July 1, 2014. The Agency for Health Care  
448 Administration shall seek federal waivers as needed to implement

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

449 the redesigned plan approved by the Legislature.

450 Section 2. Subsections (13) through (40) of section  
 451 393.063, Florida Statutes, are renumbered as subsections (14)  
 452 through (41), respectively, and a new subsection (13) is added  
 453 to that section to read:

454 393.063 Definitions.—For the purposes of this chapter, the  
 455 term:

456 (13) "Down syndrome" means a disorder caused by the  
 457 presence of an extra chromosome 21.

458 Section 3. Paragraph (e) of subsection (1) of section  
 459 408.040, Florida Statutes, is redesignated as paragraph (d), and  
 460 paragraph (b) and present paragraph (d) of that subsection are  
 461 amended to read:

462 408.040 Conditions and monitoring.—

463 (1)

464 (b) The agency may consider, in addition to the other  
 465 criteria specified in s. 408.035, a statement of intent by the  
 466 applicant that a specified percentage of the annual patient days  
 467 at the facility will be utilized by patients eligible for care  
 468 under Title XIX of the Social Security Act. Any certificate of  
 469 need issued to a nursing home in reliance upon an applicant's  
 470 statements that a specified percentage of annual patient days  
 471 will be utilized by residents eligible for care under Title XIX  
 472 of the Social Security Act must include a statement that such  
 473 certification is a condition of issuance of the certificate of  
 474 need. The certificate-of-need program shall notify the Medicaid  
 475 program office and the Department of Elderly Affairs when it  
 476 imposes conditions as authorized in this paragraph in an area in

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

477 which a community diversion pilot project is implemented.  
 478 Effective July 1, 2012, the agency may not impose sanctions  
 479 related to patient day utilization by patients eligible for care  
 480 under Title XIX of the Social Security Act for nursing homes.

481 ~~(d) If a nursing home is located in a county in which a~~  
 482 ~~long-term care community diversion pilot project has been~~  
 483 ~~implemented under s. 430.705 or in a county in which an~~  
 484 ~~integrated, fixed-payment delivery program for Medicaid~~  
 485 ~~recipients who are 60 years of age or older or dually eligible~~  
 486 ~~for Medicare and Medicaid has been implemented under s.~~  
 487 ~~409.912(5), the nursing home may request a reduction in the~~  
 488 ~~percentage of annual patient days used by residents who are~~  
 489 ~~eligible for care under Title XIX of the Social Security Act,~~  
 490 ~~which is a condition of the nursing home's certificate of need.~~  
 491 ~~The agency shall automatically grant the nursing home's request~~  
 492 ~~if the reduction is not more than 15 percent of the nursing~~  
 493 ~~home's annual Medicaid-patient-days condition. A nursing home~~  
 494 ~~may submit only one request every 2 years for an automatic~~  
 495 ~~reduction. A requesting nursing home must notify the agency in~~  
 496 ~~writing at least 60 days in advance of its intent to reduce its~~  
 497 ~~annual Medicaid-patient-days condition by not more than 15~~  
 498 ~~percent. The agency must acknowledge the request in writing and~~  
 499 ~~must change its records to reflect the revised certificate of~~  
 500 ~~need condition. This paragraph expires June 30, 2011.~~

501 Section 4. Subsection (1) of section 408.0435, Florida  
 502 Statutes, is amended to read:

503 408.0435 Moratorium on nursing home certificates of need.—  
 504 (1) Notwithstanding the establishment of need as provided

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

505 for in this chapter, a certificate of need for additional  
 506 community nursing home beds may not be approved by the agency  
 507 until Medicaid managed care is implemented statewide pursuant to  
 508 ss. 409.961-409.985 or October 1, 2016, whichever is earlier  
 509 July 1, 2011.

510 Section 5. Sections 409.016 through 409.803, Florida  
 511 Statutes, are designated as part I of chapter 409, Florida  
 512 Statutes, and entitled "SOCIAL AND ECONOMIC ASSISTANCE."

513 Section 6. Sections 409.810 through 409.821, Florida  
 514 Statutes, are designated as part II of chapter 409, Florida  
 515 Statutes, and entitled "KIDCARE."

516 Section 7. Sections 409.901 through 409.9205, Florida  
 517 Statutes, are designated as part III of chapter 409, Florida  
 518 Statutes, and entitled "MEDICAID."

519 Section 8. Section 409.9021, Florida Statutes, is amended  
 520 to read:

521 409.9021 Forfeiture of eligibility agreement.—As a  
 522 condition of Medicaid eligibility, subject to federal approval,  
 523 a Medicaid applicant shall agree in writing to forfeit all  
 524 entitlements to any goods or services provided through the  
 525 Medicaid program for the next 10 years if he or she has been  
 526 found to have committed Medicaid fraud, through judicial or  
 527 administrative determination, ~~two times in a period of 5 years.~~  
 528 This provision applies only to the Medicaid recipient found to  
 529 have committed or participated in Medicaid ~~the~~ fraud and does  
 530 not apply to any family member of the recipient who was not  
 531 involved in the fraud.

532 Section 9. Subsections (2) and (4) and paragraph (c) of

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

533 subsection (5) of section 409.905, Florida Statutes, are  
 534 amended, and paragraph (g) is added to subsection (5), to read:  
 535 409.905 Mandatory Medicaid services.—The agency may make  
 536 payments for the following services, which are required of the  
 537 state by Title XIX of the Social Security Act, furnished by  
 538 Medicaid providers to recipients who are determined to be  
 539 eligible on the dates on which the services were provided. Any  
 540 service under this section shall be provided only when medically  
 541 necessary and in accordance with state and federal law.  
 542 Mandatory services rendered by providers in mobile units to  
 543 Medicaid recipients may be restricted by the agency. Nothing in  
 544 this section shall be construed to prevent or limit the agency  
 545 from adjusting fees, reimbursement rates, lengths of stay,  
 546 number of visits, number of services, or any other adjustments  
 547 necessary to comply with the availability of moneys and any  
 548 limitations or directions provided for in the General  
 549 Appropriations Act or chapter 216.

550 (2) EARLY AND PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT  
 551 SERVICES.—The agency shall pay for early and periodic screening  
 552 and diagnosis of a recipient under age 21 to ascertain physical  
 553 and mental problems and conditions and ~~provide treatment to~~  
 554 ~~correct or ameliorate these problems and conditions. These~~  
 555 ~~services include~~ all services determined by the agency to be  
 556 medically necessary for the treatment, correction, or  
 557 amelioration of these problems and conditions, including  
 558 personal care, private duty nursing, durable medical equipment,  
 559 physical therapy, occupational therapy, speech therapy,  
 560 respiratory therapy, and immunizations.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

561 (4) HOME HEALTH CARE SERVICES.—The agency shall pay for  
 562 nursing and home health aide services, supplies, appliances, and  
 563 durable medical equipment, necessary to assist a recipient  
 564 living at home. An entity that provides such services must  
 565 ~~pursuant to this subsection shall~~ be licensed under part III of  
 566 chapter 400. These services, equipment, and supplies, or  
 567 reimbursement therefor, may be limited as provided in the  
 568 General Appropriations Act and do not include services,  
 569 equipment, or supplies provided to a person residing in a  
 570 hospital or nursing facility.

571 (a) ~~In providing home health care services,~~ The agency  
 572 shall ~~may~~ require prior authorization of home health services  
 573 ~~are~~ based on diagnosis, utilization rates, and ~~or~~ billing  
 574 rates. ~~The agency shall require prior authorization for visits~~  
 575 ~~for home health services that are not associated with a skilled~~  
 576 ~~nursing visit when the home health agency billing rates exceed~~  
 577 ~~the state average by 50 percent or more.~~ The home health agency  
 578 must submit the recipient's plan of care and documentation that  
 579 supports the recipient's diagnosis to the agency when requesting  
 580 prior authorization.

581 (b) The agency shall implement a comprehensive utilization  
 582 management program ~~that requires prior authorization~~ of all  
 583 private duty nursing services, an individualized treatment plan  
 584 that includes information about medication and treatment orders,  
 585 treatment goals, methods of care to be used, and plans for care  
 586 coordination by nurses and other health professionals. The  
 587 utilization management program must ~~shall~~ also include a process  
 588 for periodically reviewing the ongoing use of private duty

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

589 nursing services. The assessment of need shall be based on a  
 590 child's condition;; family support and care supplements;; a  
 591 family's ability to provide care;;~~and~~ a family's and child's  
 592 schedule regarding work, school, sleep, and care for other  
 593 family dependents; and a determination of the medical necessity  
 594 for private duty nursing instead of other more cost-effective  
 595 in-home services. When implemented, the private duty nursing  
 596 utilization management program shall replace the current  
 597 authorization program used by the agency ~~for Health Care~~  
 598 ~~Administration~~ and the Children's Medical Services program of  
 599 the Department of Health. The agency may competitively bid ~~on~~ a  
 600 contract to select a qualified organization to provide  
 601 utilization management of private duty nursing services. The  
 602 agency may ~~is authorized to~~ seek federal waivers to implement  
 603 this initiative.

604 (c) The agency may not pay for home health services unless  
 605 the services are medically necessary and:

- 606 1. The services are ordered by a physician.
- 607 2. The written prescription for the services is signed and  
 608 dated by the recipient's physician before the development of a  
 609 plan of care and before any request requiring prior  
 610 authorization.
- 611 3. The physician ordering the services is not employed,  
 612 under contract with, or otherwise affiliated with the home  
 613 health agency rendering the services. However, this subparagraph  
 614 does not apply to a home health agency affiliated with a  
 615 retirement community, of which the parent corporation or a  
 616 related legal entity owns a rural health clinic certified under

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

617 42 C.F.R. part 491, subpart A, ss. 1-11, a nursing home licensed  
 618 under part II of chapter 400, or an apartment or single-family  
 619 home for independent living. For purposes of this subparagraph,  
 620 the agency may, on a case-by-case basis, provide an exception  
 621 for medically fragile children who are younger than 21 years of  
 622 age.

623 4. The physician ordering the services has examined the  
 624 recipient within the 30 days preceding the initial request for  
 625 the services and biannually thereafter.

626 5. The written prescription for the services includes the  
 627 recipient's acute or chronic medical condition or diagnosis, the  
 628 home health service required, and, for skilled nursing services,  
 629 the frequency and duration of the services.

630 6. The national provider identifier, Medicaid  
 631 identification number, or medical practitioner license number of  
 632 the physician ordering the services is listed on the written  
 633 prescription for the services, the claim for home health  
 634 reimbursement, and the prior authorization request.

635 (5) HOSPITAL INPATIENT SERVICES.—The agency shall pay for  
 636 all covered services provided for the medical care and treatment  
 637 of a recipient who is admitted as an inpatient by a licensed  
 638 physician or dentist to a hospital licensed under part I of  
 639 chapter 395. However, the agency shall limit the payment for  
 640 inpatient hospital services for a Medicaid recipient 21 years of  
 641 age or older to 45 days or the number of days necessary to  
 642 comply with the General Appropriations Act.

643 (c) The agency shall implement a methodology for  
 644 establishing base reimbursement rates for each hospital based on

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

645 allowable costs, as defined by the agency. Rates shall be  
 646 calculated annually and take effect July 1 of each year based on  
 647 the most recent complete and accurate cost report submitted by  
 648 each hospital. Adjustments may not be made to the rates after  
 649 September 30 of the state fiscal year in which the rate takes  
 650 effect. Errors in cost reporting or calculation of rates  
 651 discovered after September 30 must be reconciled in a subsequent  
 652 rate period. The agency may not make any adjustment to a  
 653 hospital's reimbursement rate more than 5 years after a hospital  
 654 is notified of an audited rate established by the agency. The  
 655 requirement that the agency may not make any adjustment to a  
 656 hospital's reimbursement rate more than 5 years after a hospital  
 657 is notified of an audited rate established by the agency is  
 658 remedial and shall apply to actions by providers involving  
 659 Medicaid claims for hospital services. Hospital rates shall be  
 660 subject to such limits or ceilings as may be established in law  
 661 or described in the agency's hospital reimbursement plan.  
 662 Specific exemptions to the limits or ceilings may be provided in  
 663 the General Appropriations Act. The agency shall adjust a  
 664 ~~hospital's current inpatient per diem rate to reflect the cost~~  
 665 ~~of serving the Medicaid population at that institution if:~~  
 666 ~~1. The hospital experiences an increase in Medicaid~~  
 667 ~~easeload by more than 25 percent in any year, primarily~~  
 668 ~~resulting from the closure of a hospital in the same service~~  
 669 ~~area occurring after July 1, 1995;~~  
 670 ~~2. The hospital's Medicaid per diem rate is at least 25~~  
 671 ~~percent below the Medicaid per patient cost for that year; or~~  
 672 ~~3. The hospital is located in a county that has six or~~

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

673 ~~fewer general acute care hospitals, began offering obstetrical~~  
674 ~~services on or after September 1999, and has submitted a request~~  
675 ~~in writing to the agency for a rate adjustment after July 1,~~  
676 ~~2000, but before September 30, 2000, in which case such~~  
677 ~~hospital's Medicaid inpatient per diem rate shall be adjusted to~~  
678 ~~cost, effective July 1, 2002.~~

679  
680 ~~By October 1 of each year, the agency must provide estimated~~  
681 ~~costs for any adjustment in a hospital inpatient per diem rate~~  
682 ~~to the Executive Office of the Governor, the House of~~  
683 ~~Representatives General Appropriations Committee, and the Senate~~  
684 ~~Appropriations Committee. Before the agency implements a change~~  
685 ~~in a hospital's inpatient per diem rate pursuant to this~~  
686 ~~paragraph, the Legislature must have specifically appropriated~~  
687 ~~sufficient funds in the General Appropriations Act to support~~  
688 ~~the increase in cost as estimated by the agency.~~

689 (g) The agency shall develop a plan to convert inpatient  
690 hospital rates to a prospective payment system that categorizes  
691 each case into diagnosis-related groups (DRG) and assigns a  
692 payment weight based on the average resources used to treat  
693 Medicaid patients in that DRG. To the extent possible, the  
694 agency shall propose an adaptation of an existing prospective  
695 payment system, such as the one used by Medicare, and shall  
696 propose such adjustments as are necessary for the Medicaid  
697 population and to maintain budget neutrality for inpatient  
698 hospital expenditures. The agency shall submit the Medicaid DRG  
699 plan, identifying all steps necessary for the transition and any  
700 costs associated with plan implementation, to the Governor, the

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

701 President of the Senate, and the Speaker of the House of  
 702 Representatives no later than January 1, 2013.

703 Section 10. Paragraph (d) is added to subsection (13) of  
 704 section 409.906, Florida Statutes, to read:

705 409.906 Optional Medicaid services.—Subject to specific  
 706 appropriations, the agency may make payments for services which  
 707 are optional to the state under Title XIX of the Social Security  
 708 Act and are furnished by Medicaid providers to recipients who  
 709 are determined to be eligible on the dates on which the services  
 710 were provided. Any optional service that is provided shall be  
 711 provided only when medically necessary and in accordance with  
 712 state and federal law. Optional services rendered by providers  
 713 in mobile units to Medicaid recipients may be restricted or  
 714 prohibited by the agency. Nothing in this section shall be  
 715 construed to prevent or limit the agency from adjusting fees,  
 716 reimbursement rates, lengths of stay, number of visits, or  
 717 number of services, or making any other adjustments necessary to  
 718 comply with the availability of moneys and any limitations or  
 719 directions provided for in the General Appropriations Act or  
 720 chapter 216. If necessary to safeguard the state's systems of  
 721 providing services to elderly and disabled persons and subject  
 722 to the notice and review provisions of s. 216.177, the Governor  
 723 may direct the Agency for Health Care Administration to amend  
 724 the Medicaid state plan to delete the optional Medicaid service  
 725 known as "Intermediate Care Facilities for the Developmentally  
 726 Disabled." Optional services may include:

727 (13) HOME AND COMMUNITY-BASED SERVICES.—

728 (d) The agency shall request federal approval to develop a

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

729 system to require payment of premiums or other cost sharing by  
 730 the parents of a child who is being served by a waiver under  
 731 this subsection if the adjusted household income is greater than  
 732 100 percent of the federal poverty level. The amount of the  
 733 premium or cost sharing shall be calculated using a sliding  
 734 scale based on the size of the family, the amount of the  
 735 parent's adjusted gross income, and the federal poverty  
 736 guidelines. The premium and cost sharing system developed by the  
 737 agency shall not adversely affect federal funding to the state.  
 738 After the agency receives federal approval, the Department of  
 739 Children and Family Services may collect income information from  
 740 parents of children who will be affected by this paragraph. The  
 741 agency shall prepare a report to include the estimated  
 742 operational cost of implementing the premium and cost sharing  
 743 system and the estimated revenues to be collected from parents  
 744 of children in the waiver program. The report shall be delivered  
 745 to the President of the Senate and the Speaker of the House of  
 746 Representatives by June 30, 2012.

747 Section 11. Paragraphs (d) and (e) of subsection (5) of  
 748 section 409.907, Florida Statutes, are amended to read:

749 409.907 Medicaid provider agreements.—The agency may make  
 750 payments for medical assistance and related services rendered to  
 751 Medicaid recipients only to an individual or entity who has a  
 752 provider agreement in effect with the agency, who is performing  
 753 services or supplying goods in accordance with federal, state,  
 754 and local law, and who agrees that no person shall, on the  
 755 grounds of handicap, race, color, or national origin, or for any  
 756 other reason, be subjected to discrimination under any program

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

757 or activity for which the provider receives payment from the  
758 agency.

759 (5) The agency:

760 (d) May enroll entities as Medicare crossover-only  
761 providers for payment and claims processing purposes only. The  
762 provider agreement shall:

763 1. Require that the provider be able to demonstrate to the  
764 satisfaction of the agency that the provider is an eligible  
765 Medicare provider and has a current provider agreement in place  
766 with the Centers for Medicare and Medicaid Services.

767 2. Require the provider to notify the agency immediately  
768 in writing upon being suspended or disenrolled as a Medicare  
769 provider. If the provider does not provide such notification  
770 within 5 business days after suspension or disenrollment,  
771 sanctions may be imposed pursuant to this chapter and the  
772 provider may be required to return funds paid to the provider  
773 during the period of time that the provider was suspended or  
774 disenrolled as a Medicare provider.

775 3. Require the applicant to submit an attestation, as  
776 approved by the agency, that the provider meets the requirements  
777 of Florida Medicaid provider enrollment criteria.

778 4. Require the applicant to submit fingerprints as  
779 required by the agency.

780 ~~5.3.~~ Require that all records pertaining to health care  
781 services provided to each of the provider's recipients be kept  
782 for a minimum of 6 years. The agreement shall also require that  
783 records and any information relating to payments claimed by the  
784 provider for services under the agreement be delivered to the

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

785 agency or the Office of the Attorney General Medicaid Fraud  
 786 Control Unit when requested. If a provider does not provide such  
 787 records and information when requested, sanctions may be imposed  
 788 pursuant to this chapter.

789 ~~6.4.~~ Disclose that the agreement is for the purposes of  
 790 paying and processing Medicare crossover claims only.

791  
 792 This paragraph pertains solely to Medicare crossover-only  
 793 providers. In order to become a standard Medicaid provider, the  
 794 requirements of this section and applicable rules must be met.  
 795 This paragraph does not create an entitlement or obligation of  
 796 the agency to enroll all Medicare providers that may be  
 797 considered a Medicare crossover-only provider in the Medicaid  
 798 program.

799 (e) Providers that are required to post a surety bond as  
 800 part of the Medicaid enrollment process are excluded for  
 801 enrollment under paragraph (d) and must complete a full Medicaid  
 802 application. The agency may establish additional criteria to  
 803 promote program integrity.

804 Section 12. Paragraph (b) of subsection (2) of section  
 805 409.908, Florida Statutes, is amended to read:

806 409.908 Reimbursement of Medicaid providers.—Subject to  
 807 specific appropriations, the agency shall reimburse Medicaid  
 808 providers, in accordance with state and federal law, according  
 809 to methodologies set forth in the rules of the agency and in  
 810 policy manuals and handbooks incorporated by reference therein.  
 811 These methodologies may include fee schedules, reimbursement  
 812 methods based on cost reporting, negotiated fees, competitive

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

813 bidding pursuant to s. 287.057, and other mechanisms the agency  
814 considers efficient and effective for purchasing services or  
815 goods on behalf of recipients. If a provider is reimbursed based  
816 on cost reporting and submits a cost report late and that cost  
817 report would have been used to set a lower reimbursement rate  
818 for a rate semester, then the provider's rate for that semester  
819 shall be retroactively calculated using the new cost report, and  
820 full payment at the recalculated rate shall be effected  
821 retroactively. Medicare-granted extensions for filing cost  
822 reports, if applicable, shall also apply to Medicaid cost  
823 reports. Payment for Medicaid compensable services made on  
824 behalf of Medicaid eligible persons is subject to the  
825 availability of moneys and any limitations or directions  
826 provided for in the General Appropriations Act or chapter 216.  
827 Further, nothing in this section shall be construed to prevent  
828 or limit the agency from adjusting fees, reimbursement rates,  
829 lengths of stay, number of visits, or number of services, or  
830 making any other adjustments necessary to comply with the  
831 availability of moneys and any limitations or directions  
832 provided for in the General Appropriations Act, provided the  
833 adjustment is consistent with legislative intent.

834 (2)

835 (b) Subject to any limitations or directions provided for  
836 in the General Appropriations Act, the agency shall establish  
837 and implement a Florida Title XIX Long-Term Care Reimbursement  
838 Plan (Medicaid) for nursing home care in order to provide care  
839 and services in conformance with the applicable state and  
840 federal laws, rules, regulations, and quality and safety

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

841 standards and to ensure that individuals eligible for medical  
842 assistance have reasonable geographic access to such care.

843 1. The agency shall amend the long-term care reimbursement  
844 plan and cost reporting system to create direct care and  
845 indirect care subcomponents of the patient care component of the  
846 per diem rate. These two subcomponents together shall equal the  
847 patient care component of the per diem rate. Separate cost-based  
848 ceilings shall be calculated for each patient care subcomponent.  
849 The direct care subcomponent of the per diem rate shall be  
850 limited by the cost-based class ceiling, and the indirect care  
851 subcomponent may be limited by the lower of the cost-based class  
852 ceiling, the target rate class ceiling, or the individual  
853 provider target.

854 2. The direct care subcomponent shall include salaries and  
855 benefits of direct care staff providing nursing services  
856 including registered nurses, licensed practical nurses, and  
857 certified nursing assistants who deliver care directly to  
858 residents in the nursing home facility. This excludes nursing  
859 administration, minimum data set, and care plan coordinators,  
860 staff development, and the staffing coordinator. The direct care  
861 subcomponent also includes medically necessary dental care,  
862 vision care, hearing care, and podiatric care.

863 3. All other patient care costs shall be included in the  
864 indirect care cost subcomponent of the patient care per diem  
865 rate. There shall be no costs directly or indirectly allocated  
866 to the direct care subcomponent from a home office or management  
867 company.

868 4. On July 1 of each year, the agency shall report to the

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

869 Legislature direct and indirect care costs, including average  
 870 direct and indirect care costs per resident per facility and  
 871 direct care and indirect care salaries and benefits per category  
 872 of staff member per facility.

873         5. In order to offset the cost of general and professional  
 874 liability insurance, the agency shall amend the plan to allow  
 875 for interim rate adjustments to reflect increases in the cost of  
 876 general or professional liability insurance for nursing homes.  
 877 This provision shall be implemented to the extent existing  
 878 appropriations are available.

879  
 880 It is the intent of the Legislature that the reimbursement plan  
 881 achieve the goal of providing access to health care for nursing  
 882 home residents who require large amounts of care while  
 883 encouraging diversion services as an alternative to nursing home  
 884 care for residents who can be served within the community. The  
 885 agency shall base the establishment of any maximum rate of  
 886 payment, whether overall or component, on the available moneys  
 887 as provided for in the General Appropriations Act. The agency  
 888 may base the maximum rate of payment on the results of  
 889 scientifically valid analysis and conclusions derived from  
 890 objective statistical data pertinent to the particular maximum  
 891 rate of payment.

892         Section 13. Paragraph (c) of subsection (1) of section  
 893 409.9081, Florida Statutes, is amended to read:

894         409.9081 Copayments.—

895         (1) The agency shall require, subject to federal  
 896 regulations and limitations, each Medicaid recipient ~~to~~ pay at

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

897 the time of service a nominal copayment for the following  
898 Medicaid services:

899 (c) Hospital emergency department visits for nonemergency  
900 care: 5 percent of up to the first \$300 of the Medicaid payment  
901 for emergency room services, not to exceed \$15. The agency shall  
902 seek federal approval to require Medicaid recipients to pay \$100  
903 copayment for nonemergency services and care furnished in a  
904 hospital emergency department. Upon waiver approval, a Medicaid  
905 recipient who requests such services and care must pay a \$100  
906 copayment to the hospital for the nonemergency services and care  
907 provided in the hospital emergency department.

908 Section 14. Subsection (10) of section 409.911, Florida  
909 Statutes, is amended to read:

910 409.911 Disproportionate share program.—Subject to  
911 specific allocations established within the General  
912 Appropriations Act and any limitations established pursuant to  
913 chapter 216, the agency shall distribute, pursuant to this  
914 section, moneys to hospitals providing a disproportionate share  
915 of Medicaid or charity care services by making quarterly  
916 Medicaid payments as required. Notwithstanding the provisions of  
917 s. 409.915, counties are exempt from contributing toward the  
918 cost of this special reimbursement for hospitals serving a  
919 disproportionate share of low-income patients.

920 (10) The Agency for Health Care Administration shall  
921 create a Medicaid Low-Income Pool Council by July 1, 2006. The  
922 Low-Income Pool Council shall consist of 24 members, including 2  
923 members appointed by the President of the Senate, 2 members  
924 appointed by the Speaker of the House of Representatives, 3

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

925 representatives of statutory teaching hospitals, 3  
 926 representatives of public hospitals, 3 representatives of  
 927 nonprofit hospitals, 3 representatives of for-profit hospitals,  
 928 2 representatives of rural hospitals, 2 representatives of units  
 929 of local government which contribute funding, 1 representative  
 930 of family practice teaching hospitals, 1 representative of  
 931 federally qualified health centers, 1 representative from the  
 932 Department of Health, and 1 nonvoting representative of the  
 933 Agency for Health Care Administration who shall serve as chair  
 934 of the council. Except for a full-time employee of a public  
 935 entity, an individual who qualifies as a lobbyist under s.  
 936 11.045 or s. 112.3215 may not serve as a member of the council.  
 937 Of the members appointed by the Senate President, only one shall  
 938 be a physician. Of the members appointed by the Speaker of the  
 939 House of Representatives, only one shall be a physician. The  
 940 physician member appointed by the Senate President and the  
 941 physician member appointed by the Speaker of the House of  
 942 Representatives must be physicians who routinely take calls in a  
 943 trauma center, as defined in s. 395.4001, or a hospital  
 944 emergency department. The council shall:

945 (a) Make recommendations on the financing of the low-  
 946 income pool and the disproportionate share hospital program and  
 947 the distribution of their funds.

948 (b) Advise the Agency for Health Care Administration on  
 949 the development of the low-income pool plan required by the  
 950 federal Centers for Medicare and Medicaid Services pursuant to  
 951 the Medicaid reform waiver.

952 (c) Advise the Agency for Health Care Administration on

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

953 | the distribution of hospital funds used to adjust inpatient  
 954 | hospital rates, rebase rates, or otherwise exempt hospitals from  
 955 | reimbursement limits as financed by intergovernmental transfers.

956 | (d) Submit its findings and recommendations to the  
 957 | Governor and the Legislature no later than February 1 of each  
 958 | year.

959 |  
 960 | This subsection expires October 1, 2014.

961 | Section 15. Subsection (4) of section 409.91195, Florida  
 962 | Statutes, is amended to read:

963 | 409.91195 Medicaid Pharmaceutical and Therapeutics  
 964 | Committee.—There is created a Medicaid Pharmaceutical and  
 965 | Therapeutics Committee within the agency for the purpose of  
 966 | developing a Medicaid preferred drug list.

967 | (4) Upon recommendation of the committee, the agency shall  
 968 | adopt a preferred drug list as described in s. 409.912 (37) ~~(39)~~.  
 969 | To the extent feasible, the committee shall review all drug  
 970 | classes included on the preferred drug list every 12 months, and  
 971 | may recommend additions to and deletions from the preferred drug  
 972 | list, such that the preferred drug list provides for medically  
 973 | appropriate drug therapies for Medicaid patients which achieve  
 974 | cost savings contained in the General Appropriations Act.

975 | Section 16. Subsection (1) of section 409.91196, Florida  
 976 | Statutes, is amended to read:

977 | 409.91196 Supplemental rebate agreements; public records  
 978 | and public meetings exemption.—

979 | (1) The rebate amount, percent of rebate, manufacturer's  
 980 | pricing, and supplemental rebate, and other trade secrets as

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

981 defined in s. 688.002 that the agency has identified for use in  
 982 negotiations, held by the Agency for Health Care Administration  
 983 under s. 409.912 (37) ~~(39)~~ (a) 7. are confidential and exempt from  
 984 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

985 Section 17. Section 409.912, Florida Statutes, is amended  
 986 to read:

987 409.912 Cost-effective purchasing of health care.—The  
 988 agency shall purchase goods and services for Medicaid recipients  
 989 in the most cost-effective manner consistent with the delivery  
 990 of quality medical care. To ensure that medical services are  
 991 effectively utilized, the agency may, in any case, require a  
 992 confirmation or second physician's opinion of the correct  
 993 diagnosis for purposes of authorizing future services under the  
 994 Medicaid program. This section does not restrict access to  
 995 emergency services or poststabilization care services as defined  
 996 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
 997 shall be rendered in a manner approved by the agency. The agency  
 998 shall maximize the use of prepaid per capita and prepaid  
 999 aggregate fixed-sum basis services when appropriate and other  
 1000 alternative service delivery and reimbursement methodologies,  
 1001 including competitive bidding pursuant to s. 287.057, designed  
 1002 to facilitate the cost-effective purchase of a case-managed  
 1003 continuum of care. The agency shall also require providers to  
 1004 minimize the exposure of recipients to the need for acute  
 1005 inpatient, custodial, and other institutional care and the  
 1006 inappropriate or unnecessary use of high-cost services. The  
 1007 agency shall contract with a vendor to monitor and evaluate the  
 1008 clinical practice patterns of providers in order to identify

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1009 trends that are outside the normal practice patterns of a  
1010 provider's professional peers or the national guidelines of a  
1011 provider's professional association. The vendor must be able to  
1012 provide information and counseling to a provider whose practice  
1013 patterns are outside the norms, in consultation with the agency,  
1014 to improve patient care and reduce inappropriate utilization.  
1015 The agency may mandate prior authorization, drug therapy  
1016 management, or disease management participation for certain  
1017 populations of Medicaid beneficiaries, certain drug classes, or  
1018 particular drugs to prevent fraud, abuse, overuse, and possible  
1019 dangerous drug interactions. The Pharmaceutical and Therapeutics  
1020 Committee shall make recommendations to the agency on drugs for  
1021 which prior authorization is required. The agency shall inform  
1022 the Pharmaceutical and Therapeutics Committee of its decisions  
1023 regarding drugs subject to prior authorization. The agency is  
1024 authorized to limit the entities it contracts with or enrolls as  
1025 Medicaid providers by developing a provider network through  
1026 provider credentialing. The agency may competitively bid single-  
1027 source-provider contracts if procurement of goods or services  
1028 results in demonstrated cost savings to the state without  
1029 limiting access to care. The agency may limit its network based  
1030 on the assessment of beneficiary access to care, provider  
1031 availability, provider quality standards, time and distance  
1032 standards for access to care, the cultural competence of the  
1033 provider network, demographic characteristics of Medicaid  
1034 beneficiaries, practice and provider-to-beneficiary standards,  
1035 appointment wait times, beneficiary use of services, provider  
1036 turnover, provider profiling, provider licensure history,

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1037 previous program integrity investigations and findings, peer  
 1038 review, provider Medicaid policy and billing compliance records,  
 1039 clinical and medical record audits, and other factors. Providers  
 1040 are ~~shall~~ not ~~be~~ entitled to enrollment in the Medicaid provider  
 1041 network. The agency shall determine instances in which allowing  
 1042 Medicaid beneficiaries to purchase durable medical equipment and  
 1043 other goods is less expensive to the Medicaid program than long-  
 1044 term rental of the equipment or goods. The agency may establish  
 1045 rules to facilitate purchases in lieu of long-term rentals in  
 1046 order to protect against fraud and abuse in the Medicaid program  
 1047 as defined in s. 409.913. The agency may seek federal waivers  
 1048 necessary to administer these policies.

1049 (1) The agency shall work with the Department of Children  
 1050 and Family Services to ensure access of children and families in  
 1051 the child protection system to needed and appropriate mental  
 1052 health and substance abuse services. This subsection expires  
 1053 October 1, 2014.

1054 (2) The agency may enter into agreements with appropriate  
 1055 agents of other state agencies or of any agency of the Federal  
 1056 Government and accept such duties in respect to social welfare  
 1057 or public aid as may be necessary to implement the provisions of  
 1058 Title XIX of the Social Security Act and ss. 409.901-409.920.  
 1059 This subsection expires October 1, 2016.

1060 (3) The agency may contract with health maintenance  
 1061 organizations certified pursuant to part I of chapter 641 for  
 1062 the provision of services to recipients. This subsection expires  
 1063 October 1, 2014.

1064 (4) The agency may contract with:

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1065 (a) An entity that provides no prepaid health care  
 1066 services other than Medicaid services under contract with the  
 1067 agency and which is owned and operated by a county, county  
 1068 health department, or county-owned and operated hospital to  
 1069 provide health care services on a prepaid or fixed-sum basis to  
 1070 recipients, which entity may provide such prepaid services  
 1071 either directly or through arrangements with other providers.  
 1072 Such prepaid health care services entities must be licensed  
 1073 under parts I and III of chapter 641. An entity recognized under  
 1074 this paragraph which demonstrates to the satisfaction of the  
 1075 Office of Insurance Regulation of the Financial Services  
 1076 Commission that it is backed by the full faith and credit of the  
 1077 county in which it is located may be exempted from s. 641.225.  
 1078 This paragraph expires October 1, 2014.

1079 (b) An entity that is providing comprehensive behavioral  
 1080 health care services to certain Medicaid recipients through a  
 1081 capitated, prepaid arrangement pursuant to the federal waiver  
 1082 provided for by s. 409.905(5). Such entity must be licensed  
 1083 under chapter 624, chapter 636, or chapter 641, or authorized  
 1084 under paragraph (c) or paragraph (d), and must possess the  
 1085 clinical systems and operational competence to manage risk and  
 1086 provide comprehensive behavioral health care to Medicaid  
 1087 recipients. As used in this paragraph, the term "comprehensive  
 1088 behavioral health care services" means covered mental health and  
 1089 substance abuse treatment services that are available to  
 1090 Medicaid recipients. The secretary of the Department of Children  
 1091 and Family Services shall approve provisions of procurements  
 1092 related to children in the department's care or custody before

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1093 enrolling such children in a prepaid behavioral health plan. Any  
 1094 contract awarded under this paragraph must be competitively  
 1095 procured. In developing the behavioral health care prepaid plan  
 1096 procurement document, the agency shall ensure that the  
 1097 procurement document requires the contractor to develop and  
 1098 implement a plan to ensure compliance with s. 394.4574 related  
 1099 to services provided to residents of licensed assisted living  
 1100 facilities that hold a limited mental health license. Except as  
 1101 provided in subparagraph 5. ~~8.~~, and except in counties where the  
 1102 Medicaid managed care pilot program is authorized pursuant to s.  
 1103 409.91211, the agency shall seek federal approval to contract  
 1104 with a single entity meeting these requirements to provide  
 1105 comprehensive behavioral health care services to all Medicaid  
 1106 recipients not enrolled in a Medicaid managed care plan  
 1107 authorized under s. 409.91211, a provider service network  
 1108 authorized under paragraph (d), or a Medicaid health maintenance  
 1109 organization in an AHCA area. In an AHCA area where the Medicaid  
 1110 managed care pilot program is authorized pursuant to s.  
 1111 409.91211 in one or more counties, the agency may procure a  
 1112 contract with a single entity to serve the remaining counties as  
 1113 an AHCA area or the remaining counties may be included with an  
 1114 adjacent AHCA area and are subject to this paragraph. Each  
 1115 entity must offer a sufficient choice of providers in its  
 1116 network to ensure recipient access to care and the opportunity  
 1117 to select a provider with whom they are satisfied. The network  
 1118 shall include all public mental health hospitals. To ensure  
 1119 unimpaired access to behavioral health care services by Medicaid  
 1120 recipients, all contracts issued pursuant to this paragraph must

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1121 require 80 percent of the capitation paid to the managed care  
 1122 plan, including health maintenance organizations and capitated  
 1123 provider service networks, to be expended for the provision of  
 1124 behavioral health care services. If the managed care plan  
 1125 expends less than 80 percent of the capitation paid for the  
 1126 provision of behavioral health care services, the difference  
 1127 shall be returned to the agency. The agency shall provide the  
 1128 plan with a certification letter indicating the amount of  
 1129 capitation paid during each calendar year for behavioral health  
 1130 care services pursuant to this section. The agency may reimburse  
 1131 for substance abuse treatment services on a fee-for-service  
 1132 basis until the agency finds that adequate funds are available  
 1133 for capitated, prepaid arrangements.

1134 1. ~~By January 1, 2001,~~ The agency shall modify the  
 1135 contracts with the entities providing comprehensive inpatient  
 1136 and outpatient mental health care services to Medicaid  
 1137 recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk  
 1138 Counties, to include substance abuse treatment services.

1139 2. ~~By July 1, 2003, the agency and the Department of~~  
 1140 ~~Children and Family Services shall execute a written agreement~~  
 1141 ~~that requires collaboration and joint development of all policy,~~  
 1142 ~~budgets, procurement documents, contracts, and monitoring plans~~  
 1143 ~~that have an impact on the state and Medicaid community mental~~  
 1144 ~~health and targeted case management programs.~~

1145 2.3. Except as provided in subparagraph 5. 8., ~~by July 1,~~  
 1146 ~~2006,~~ the agency and the Department of Children and Family  
 1147 Services shall contract with managed care entities in each AHCA  
 1148 area except area 6 or arrange to provide comprehensive inpatient

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1149 | and outpatient mental health and substance abuse services  
 1150 | through capitated prepaid arrangements to all Medicaid  
 1151 | recipients who are eligible to participate in such plans under  
 1152 | federal law and regulation. In AHCA areas where eligible  
 1153 | individuals number less than 150,000, the agency shall contract  
 1154 | with a single managed care plan to provide comprehensive  
 1155 | behavioral health services to all recipients who are not  
 1156 | enrolled in a Medicaid health maintenance organization, a  
 1157 | provider service network authorized under paragraph (d), or a  
 1158 | Medicaid capitated managed care plan authorized under s.  
 1159 | 409.91211. The agency may contract with more than one  
 1160 | comprehensive behavioral health provider to provide care to  
 1161 | recipients who are not enrolled in a Medicaid capitated managed  
 1162 | care plan authorized under s. 409.91211, a provider service  
 1163 | network authorized under paragraph (d), or a Medicaid health  
 1164 | maintenance organization in AHCA areas where the eligible  
 1165 | population exceeds 150,000. In an AHCA area where the Medicaid  
 1166 | managed care pilot program is authorized pursuant to s.  
 1167 | 409.91211 in one or more counties, the agency may procure a  
 1168 | contract with a single entity to serve the remaining counties as  
 1169 | an AHCA area or the remaining counties may be included with an  
 1170 | adjacent AHCA area and shall be subject to this paragraph.  
 1171 | Contracts for comprehensive behavioral health providers awarded  
 1172 | pursuant to this section shall be competitively procured. Both  
 1173 | for-profit and not-for-profit corporations are eligible to  
 1174 | compete. Managed care plans contracting with the agency under  
 1175 | subsection (3) or paragraph (d), shall provide and receive  
 1176 | payment for the same comprehensive behavioral health benefits as

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1177 provided in AHCA rules, including handbooks incorporated by  
 1178 reference. In AHCA area 11, the agency shall contract with at  
 1179 least two comprehensive behavioral health care providers to  
 1180 provide behavioral health care to recipients in that area who  
 1181 are enrolled in, or assigned to, the MediPass program. One of  
 1182 the behavioral health care contracts must be with the existing  
 1183 provider service network pilot project, as described in  
 1184 paragraph (d), for the purpose of demonstrating the cost-  
 1185 effectiveness of the provision of quality mental health services  
 1186 through a public hospital-operated managed care model. Payment  
 1187 shall be at an agreed-upon capitated rate to ensure cost  
 1188 savings. Of the recipients in area 11 who are assigned to  
 1189 MediPass under s. 409.9122(2)(k), a minimum of 50,000 of those  
 1190 MediPass-enrolled recipients shall be assigned to the existing  
 1191 provider service network in area 11 for their behavioral care.

1192 ~~4. By October 1, 2003, the agency and the department shall~~  
 1193 ~~submit a plan to the Governor, the President of the Senate, and~~  
 1194 ~~the Speaker of the House of Representatives which provides for~~  
 1195 ~~the full implementation of capitated prepaid behavioral health~~  
 1196 ~~care in all areas of the state.~~

1197 ~~a. Implementation shall begin in 2003 in those AHCA areas~~  
 1198 ~~of the state where the agency is able to establish sufficient~~  
 1199 ~~capitation rates.~~

1200 ~~b. If the agency determines that the proposed capitation~~  
 1201 ~~rate in any area is insufficient to provide appropriate~~  
 1202 ~~services, the agency may adjust the capitation rate to ensure~~  
 1203 ~~that care will be available. The agency and the department may~~  
 1204 ~~use existing general revenue to address any additional required~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1205 ~~match but may not over-obligate existing funds on an annualized~~  
 1206 ~~basis.~~

1207 ~~e. Subject to any limitations provided in the General~~  
 1208 ~~Appropriations Act, the agency, in compliance with appropriate~~  
 1209 ~~federal authorization, shall develop policies and procedures~~  
 1210 ~~that allow for certification of local and state funds.~~

1211 3.5. Children residing in a statewide inpatient  
 1212 psychiatric program, or in a Department of Juvenile Justice or a  
 1213 Department of Children and Family Services residential program  
 1214 approved as a Medicaid behavioral health overlay services  
 1215 provider may not be included in a behavioral health care prepaid  
 1216 health plan or any other Medicaid managed care plan pursuant to  
 1217 this paragraph.

1218 ~~6. In converting to a prepaid system of delivery, the~~  
 1219 ~~agency shall in its procurement document require an entity~~  
 1220 ~~providing only comprehensive behavioral health care services to~~  
 1221 ~~prevent the displacement of indigent care patients by enrollees~~  
 1222 ~~in the Medicaid prepaid health plan providing behavioral health~~  
 1223 ~~care services from facilities receiving state funding to provide~~  
 1224 ~~indigent behavioral health care, to facilities licensed under~~  
 1225 ~~chapter 395 which do not receive state funding for indigent~~  
 1226 ~~behavioral health care, or reimburse the unsubsidized facility~~  
 1227 ~~for the cost of behavioral health care provided to the displaced~~  
 1228 ~~indigent care patient.~~

1229 4.7. Traditional community mental health providers under  
 1230 contract with the Department of Children and Family Services  
 1231 pursuant to part IV of chapter 394, child welfare providers  
 1232 under contract with the Department of Children and Family

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1233 Services in areas 1 and 6, and inpatient mental health providers  
 1234 licensed pursuant to chapter 395 must be offered an opportunity  
 1235 to accept or decline a contract to participate in any provider  
 1236 network for prepaid behavioral health services.

1237 5.8. All Medicaid-eligible children, except children in  
 1238 area 1 and children in Highlands County, Hardee County, Polk  
 1239 County, or Manatee County of area 6, that are open for child  
 1240 welfare services in the statewide automated child welfare  
 1241 information HomeSafeNet system, shall receive their behavioral  
 1242 health care services through a specialty prepaid plan operated  
 1243 by community-based lead agencies through a single agency or  
 1244 formal agreements among several agencies. The specialty prepaid  
 1245 plan must result in savings to the state comparable to savings  
 1246 achieved in other Medicaid managed care and prepaid programs.  
 1247 Such plan must provide mechanisms to maximize state and local  
 1248 revenues. The specialty prepaid plan shall be developed by the  
 1249 agency and the Department of Children and Family Services. The  
 1250 agency may seek federal waivers to implement this initiative.  
 1251 Medicaid-eligible children whose cases are open for child  
 1252 welfare services in the statewide automated child welfare  
 1253 information HomeSafeNet system and who reside in AHCA area 10  
 1254 shall be enrolled in a capitated provider service network or  
 1255 other capitated managed care plan, which, in coordination with  
 1256 available community-based care providers specified in s.  
 1257 409.1671, shall provide sufficient medical, developmental, and  
 1258 behavioral health services to meet the needs of these children  
 1259 ~~are exempt from the specialty prepaid plan upon the development~~  
 1260 ~~of a service delivery mechanism for children who reside in area~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1261 ~~10 as specified in s. 409.91211(3)(dd).~~

1262

1263 This paragraph expires October 1, 2014.

1264 (c) A federally qualified health center or an entity owned  
 1265 by one or more federally qualified health centers or an entity  
 1266 owned by other migrant and community health centers receiving  
 1267 non-Medicaid financial support from the Federal Government to  
 1268 provide health care services on a prepaid or fixed-sum basis to  
 1269 recipients. A federally qualified health center or an entity  
 1270 that is owned by one or more federally qualified health centers  
 1271 and is reimbursed by the agency on a prepaid basis is exempt  
 1272 from parts I and III of chapter 641, but must comply with the  
 1273 solvency requirements in s. 641.2261(2) and meet the appropriate  
 1274 requirements governing financial reserve, quality assurance, and  
 1275 patients' rights established by the agency. This paragraph  
 1276 expires October 1, 2014.

1277 (d)1. A provider service network, which may be reimbursed  
 1278 on a fee-for-service or prepaid basis. Prepaid provider service  
 1279 networks shall receive per-member, per-month payments. A  
 1280 provider service network that does not choose to be a prepaid  
 1281 plan shall receive fee-for-service rates with a shared savings  
 1282 settlement. The fee-for-service option shall be available to a  
 1283 provider service network only for the first 2 years of the  
 1284 plan's operation or until the contract year beginning September  
 1285 1, 2014, whichever is later. The agency shall annually conduct  
 1286 cost reconciliations to determine the amount of cost savings  
 1287 achieved by fee-for-service provider service networks for the  
 1288 dates of service in the period being reconciled. Only payments

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1289 for covered services for dates of service within the  
 1290 reconciliation period and paid within 6 months after the last  
 1291 date of service in the reconciliation period shall be included.  
 1292 The agency shall perform the necessary adjustments for the  
 1293 inclusion of claims incurred but not reported within the  
 1294 reconciliation for claims that could be received and paid by the  
 1295 agency after the 6-month claims processing time lag. The agency  
 1296 shall provide the results of the reconciliations to the fee-for-  
 1297 service provider service networks within 45 days after the end  
 1298 of the reconciliation period. The fee-for-service provider  
 1299 service networks shall review and provide written comments or a  
 1300 letter of concurrence to the agency within 45 days after receipt  
 1301 of the reconciliation results. This reconciliation shall be  
 1302 considered final.

1303 2. A provider service network which is reimbursed by the  
 1304 agency on a prepaid basis shall be exempt from parts I and III  
 1305 of chapter 641, but must comply with the solvency requirements  
 1306 in s. 641.2261(2) and meet appropriate financial reserve,  
 1307 quality assurance, and patient rights requirements as  
 1308 established by the agency.

1309 3. Medicaid recipients assigned to a provider service  
 1310 network shall be chosen equally from those who would otherwise  
 1311 have been assigned to prepaid plans and MediPass. The agency is  
 1312 authorized to seek federal Medicaid waivers as necessary to  
 1313 implement the provisions of this section. This subparagraph  
 1314 expires October 1, 2014. Any contract previously awarded to a  
 1315 provider service network operated by a hospital pursuant to this  
 1316 subsection shall remain in effect for a period of 3 years

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1317 ~~following the current contract expiration date, regardless of~~  
 1318 ~~any contractual provisions to the contrary.~~

1319 4. A provider service network is a network established or  
 1320 organized and operated by a health care provider, or group of  
 1321 affiliated health care providers, including minority physician  
 1322 networks and emergency room diversion programs that meet the  
 1323 requirements of s. 409.91211, which provides a substantial  
 1324 proportion of the health care items and services under a  
 1325 contract directly through the provider or affiliated group of  
 1326 providers and may make arrangements with physicians or other  
 1327 health care professionals, health care institutions, or any  
 1328 combination of such individuals or institutions to assume all or  
 1329 part of the financial risk on a prospective basis for the  
 1330 provision of basic health services by the physicians, by other  
 1331 health professionals, or through the institutions. The health  
 1332 care providers must have a controlling interest in the governing  
 1333 body of the provider service network organization.

1334 (e) An entity that provides only comprehensive behavioral  
 1335 health care services to certain Medicaid recipients through an  
 1336 administrative services organization agreement. Such an entity  
 1337 must possess the clinical systems and operational competence to  
 1338 provide comprehensive health care to Medicaid recipients. As  
 1339 used in this paragraph, the term "comprehensive behavioral  
 1340 health care services" means covered mental health and substance  
 1341 abuse treatment services that are available to Medicaid  
 1342 recipients. Any contract awarded under this paragraph must be  
 1343 competitively procured. The agency must ensure that Medicaid  
 1344 recipients have available the choice of at least two managed

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1345 care plans for their behavioral health care services. This  
 1346 paragraph expires October 1, 2014.

1347 ~~(f) An entity that provides in-home physician services to~~  
 1348 ~~test the cost-effectiveness of enhanced home-based medical care~~  
 1349 ~~to Medicaid recipients with degenerative neurological diseases~~  
 1350 ~~and other diseases or disabling conditions associated with high~~  
 1351 ~~costs to Medicaid. The program shall be designed to serve very~~  
 1352 ~~disabled persons and to reduce Medicaid reimbursed costs for~~  
 1353 ~~inpatient, outpatient, and emergency department services. The~~  
 1354 ~~agency shall contract with vendors on a risk-sharing basis.~~

1355 ~~(g) Children's provider networks that provide care~~  
 1356 ~~coordination and care management for Medicaid-eligible pediatric~~  
 1357 ~~patients, primary care, authorization of specialty care, and~~  
 1358 ~~other urgent and emergency care through organized providers~~  
 1359 ~~designed to service Medicaid eligibles under age 18 and~~  
 1360 ~~pediatric emergency departments' diversion programs. The~~  
 1361 ~~networks shall provide after-hour operations, including evening~~  
 1362 ~~and weekend hours, to promote, when appropriate, the use of the~~  
 1363 ~~children's networks rather than hospital emergency departments.~~

1364 (f)~~(h)~~ An entity authorized in s. 430.205 to contract with  
 1365 the agency and the Department of Elderly Affairs to provide  
 1366 health care and social services on a prepaid or fixed-sum basis  
 1367 to elderly recipients. Such prepaid health care services  
 1368 entities are exempt from the provisions of part I of chapter 641  
 1369 for the first 3 years of operation. An entity recognized under  
 1370 this paragraph that demonstrates to the satisfaction of the  
 1371 Office of Insurance Regulation that it is backed by the full  
 1372 faith and credit of one or more counties in which it operates

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1373 may be exempted from s. 641.225. This paragraph expires October  
 1374 1, 2013.

1375 (g)(i) A Children's Medical Services Network, as defined  
 1376 in s. 391.021. This paragraph expires October 1, 2014.

1377 ~~(5) The Agency for Health Care Administration, in~~  
 1378 ~~partnership with the Department of Elderly Affairs, shall create~~  
 1379 ~~an integrated, fixed-payment delivery program for Medicaid~~  
 1380 ~~recipients who are 60 years of age or older or dually eligible~~  
 1381 ~~for Medicare and Medicaid. The Agency for Health Care~~  
 1382 ~~Administration shall implement the integrated program initially~~  
 1383 ~~on a pilot basis in two areas of the state. The pilot areas~~  
 1384 ~~shall be Area 7 and Area 11 of the Agency for Health Care~~  
 1385 ~~Administration. Enrollment in the pilot areas shall be on a~~  
 1386 ~~voluntary basis and in accordance with approved federal waivers~~  
 1387 ~~and this section. The agency and its program contractors and~~  
 1388 ~~providers shall not enroll any individual in the integrated~~  
 1389 ~~program because the individual or the person legally responsible~~  
 1390 ~~for the individual fails to choose to enroll in the integrated~~  
 1391 ~~program. Enrollment in the integrated program shall be~~  
 1392 ~~exclusively by affirmative choice of the eligible individual or~~  
 1393 ~~by the person legally responsible for the individual. The~~  
 1394 ~~integrated program must transfer all Medicaid services for~~  
 1395 ~~eligible elderly individuals who choose to participate into an~~  
 1396 ~~integrated-care management model designed to serve Medicaid~~  
 1397 ~~recipients in the community. The integrated program must combine~~  
 1398 ~~all funding for Medicaid services provided to individuals who~~  
 1399 ~~are 60 years of age or older or dually eligible for Medicare and~~  
 1400 ~~Medicaid into the integrated program, including funds for~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1401 ~~Medicaid home and community-based waiver services; all Medicaid~~  
 1402 ~~services authorized in ss. 409.905 and 409.906, excluding funds~~  
 1403 ~~for Medicaid nursing home services unless the agency is able to~~  
 1404 ~~demonstrate how the integration of the funds will improve~~  
 1405 ~~coordinated care for these services in a less costly manner; and~~  
 1406 ~~Medicare coinsurance and deductibles for persons dually eligible~~  
 1407 ~~for Medicaid and Medicare as prescribed in s. 409.908(13).~~

1408 ~~(a) Individuals who are 60 years of age or older or dually~~  
 1409 ~~eligible for Medicare and Medicaid and enrolled in the~~  
 1410 ~~developmental disabilities waiver program, the family and~~  
 1411 ~~supported-living waiver program, the project AIDS care waiver~~  
 1412 ~~program, the traumatic brain injury and spinal cord injury~~  
 1413 ~~waiver program, the consumer-directed care waiver program, and~~  
 1414 ~~the program of all-inclusive care for the elderly program, and~~  
 1415 ~~residents of institutional care facilities for the~~  
 1416 ~~developmentally disabled, must be excluded from the integrated~~  
 1417 ~~program.~~

1418 ~~(b) Managed care entities who meet or exceed the agency's~~  
 1419 ~~minimum standards are eligible to operate the integrated~~  
 1420 ~~program. Entities eligible to participate include managed care~~  
 1421 ~~organizations licensed under chapter 641, including entities~~  
 1422 ~~eligible to participate in the nursing home diversion program,~~  
 1423 ~~other qualified providers as defined in s. 430.703(7), community~~  
 1424 ~~care for the elderly lead agencies, and other state-certified~~  
 1425 ~~community service networks that meet comparable standards as~~  
 1426 ~~defined by the agency, in consultation with the Department of~~  
 1427 ~~Elderly Affairs and the Office of Insurance Regulation, to be~~  
 1428 ~~financially solvent and able to take on financial risk for~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1429 ~~managed care. Community service networks that are certified~~  
 1430 ~~pursuant to the comparable standards defined by the agency are~~  
 1431 ~~not required to be licensed under chapter 641. Managed care~~  
 1432 ~~entities who operate the integrated program shall be subject to~~  
 1433 ~~s. 408.7056. Eligible entities shall choose to serve enrollees~~  
 1434 ~~who are dually eligible for Medicare and Medicaid, enrollees who~~  
 1435 ~~are 60 years of age or older, or both.~~

1436 ~~(c) The agency must ensure that the capitation-rate-~~  
 1437 ~~setting methodology for the integrated program is actuarially~~  
 1438 ~~sound and reflects the intent to provide quality care in the~~  
 1439 ~~least restrictive setting. The agency must also require~~  
 1440 ~~integrated program providers to develop a credentialing system~~  
 1441 ~~for service providers and to contract with all Gold Seal nursing~~  
 1442 ~~homes, where feasible, and exclude, where feasible, chronically~~  
 1443 ~~poor performing facilities and providers as defined by the~~  
 1444 ~~agency. The integrated program must develop and maintain an~~  
 1445 ~~informal provider grievance system that addresses provider~~  
 1446 ~~payment and contract problems. The agency shall also establish a~~  
 1447 ~~formal grievance system to address those issues that were not~~  
 1448 ~~resolved through the informal grievance system. The integrated~~  
 1449 ~~program must provide that if the recipient resides in a~~  
 1450 ~~noncontracted residential facility licensed under chapter 400 or~~  
 1451 ~~chapter 429 at the time of enrollment in the integrated program,~~  
 1452 ~~the recipient must be permitted to continue to reside in the~~  
 1453 ~~noncontracted facility as long as the recipient desires. The~~  
 1454 ~~integrated program must also provide that, in the absence of a~~  
 1455 ~~contract between the integrated program provider and the~~  
 1456 ~~residential facility licensed under chapter 400 or chapter 429,~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1457 ~~current Medicaid rates must prevail. The integrated program~~  
 1458 ~~provider must ensure that electronic nursing home claims that~~  
 1459 ~~contain sufficient information for processing are paid within 10~~  
 1460 ~~business days after receipt. Alternately, the integrated program~~  
 1461 ~~provider may establish a capitated payment mechanism to~~  
 1462 ~~prospectively pay nursing homes at the beginning of each month.~~  
 1463 ~~The agency and the Department of Elderly Affairs must jointly~~  
 1464 ~~develop procedures to manage the services provided through the~~  
 1465 ~~integrated program in order to ensure quality and recipient~~  
 1466 ~~choice.~~

1467 ~~(d) The Office of Program Policy Analysis and Government~~  
 1468 ~~Accountability, in consultation with the Auditor General, shall~~  
 1469 ~~comprehensively evaluate the pilot project for the integrated,~~  
 1470 ~~fixed-payment delivery program for Medicaid recipients created~~  
 1471 ~~under this subsection. The evaluation shall begin as soon as~~  
 1472 ~~Medicaid recipients are enrolled in the managed care pilot~~  
 1473 ~~program plans and shall continue for 24 months thereafter. The~~  
 1474 ~~evaluation must include assessments of each managed care plan in~~  
 1475 ~~the integrated program with regard to cost savings; consumer~~  
 1476 ~~education, choice, and access to services; coordination of care;~~  
 1477 ~~and quality of care. The evaluation must describe administrative~~  
 1478 ~~or legal barriers to the implementation and operation of the~~  
 1479 ~~pilot program and include recommendations regarding statewide~~  
 1480 ~~expansion of the pilot program. The office shall submit its~~  
 1481 ~~evaluation report to the Governor, the President of the Senate,~~  
 1482 ~~and the Speaker of the House of Representatives no later than~~  
 1483 ~~December 31, 2009.~~

1484 ~~(e) The agency may seek federal waivers or Medicaid state~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1485 ~~plan amendments and adopt rules as necessary to administer the~~  
 1486 ~~integrated program. The agency may implement the approved~~  
 1487 ~~federal waivers and other provisions as specified in this~~  
 1488 ~~subsection.~~

1489 ~~(f) The implementation of the integrated, fixed-payment~~  
 1490 ~~delivery program created under this subsection is subject to an~~  
 1491 ~~appropriation in the General Appropriations Act.~~

1492 (5)~~(6)~~ The agency may contract with any public or private  
 1493 entity otherwise authorized by this section on a prepaid or  
 1494 fixed-sum basis for the provision of health care services to  
 1495 recipients. An entity may provide prepaid services to  
 1496 recipients, either directly or through arrangements with other  
 1497 entities, if each entity involved in providing services:

1498 (a) Is organized primarily for the purpose of providing  
 1499 health care or other services of the type regularly offered to  
 1500 Medicaid recipients;

1501 (b) Ensures that services meet the standards set by the  
 1502 agency for quality, appropriateness, and timeliness;

1503 (c) Makes provisions satisfactory to the agency for  
 1504 insolvency protection and ensures that neither enrolled Medicaid  
 1505 recipients nor the agency will be liable for the debts of the  
 1506 entity;

1507 (d) Submits to the agency, if a private entity, a  
 1508 financial plan that the agency finds to be fiscally sound and  
 1509 that provides for working capital in the form of cash or  
 1510 equivalent liquid assets excluding revenues from Medicaid  
 1511 premium payments equal to at least the first 3 months of  
 1512 operating expenses or \$200,000, whichever is greater;

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1513 (e) Furnishes evidence satisfactory to the agency of  
 1514 adequate liability insurance coverage or an adequate plan of  
 1515 self-insurance to respond to claims for injuries arising out of  
 1516 the furnishing of health care;

1517 (f) Provides, through contract or otherwise, for periodic  
 1518 review of its medical facilities and services, as required by  
 1519 the agency; and

1520 (g) Provides organizational, operational, financial, and  
 1521 other information required by the agency.

1522

1523 This subsection expires October 1, 2014.

1524 ~~(6)-(7)~~ The agency may contract on a prepaid or fixed-sum  
 1525 basis with any health insurer that:

1526 (a) Pays for health care services provided to enrolled  
 1527 Medicaid recipients in exchange for a premium payment paid by  
 1528 the agency;

1529 (b) Assumes the underwriting risk; and

1530 (c) Is organized and licensed under applicable provisions  
 1531 of the Florida Insurance Code and is currently in good standing  
 1532 with the Office of Insurance Regulation.

1533

1534 This subsection expires October 1, 2014.

1535 ~~(7)-(8)-(a)~~ The agency may contract on a prepaid or fixed-  
 1536 sum basis with an exclusive provider organization to provide  
 1537 health care services to Medicaid recipients provided that the  
 1538 exclusive provider organization meets applicable managed care  
 1539 plan requirements in this section, ss. 409.9122, 409.9123,  
 1540 409.9128, and 627.6472, and other applicable provisions of law.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1541 This subsection expires October 1, 2014.

1542 ~~(b) For a period of no longer than 24 months after the~~  
 1543 ~~effective date of this paragraph, when a member of an exclusive~~  
 1544 ~~provider organization that is contracted by the agency to~~  
 1545 ~~provide health care services to Medicaid recipients in rural~~  
 1546 ~~areas without a health maintenance organization obtains services~~  
 1547 ~~from a provider that participates in the Medicaid program in~~  
 1548 ~~this state, the provider shall be paid in accordance with the~~  
 1549 ~~appropriate fee schedule for services provided to eligible~~  
 1550 ~~Medicaid recipients. The agency may seek waiver authority to~~  
 1551 ~~implement this paragraph.~~

1552 (8)~~(9)~~ The Agency for Health Care Administration may  
 1553 provide cost-effective purchasing of chiropractic services on a  
 1554 fee-for-service basis to Medicaid recipients through  
 1555 arrangements with a statewide chiropractic preferred provider  
 1556 organization incorporated in this state as a not-for-profit  
 1557 corporation. The agency shall ensure that the benefit limits and  
 1558 prior authorization requirements in the current Medicaid program  
 1559 shall apply to the services provided by the chiropractic  
 1560 preferred provider organization. This subsection expires October  
 1561 1, 2014.

1562 (9)~~(10)~~ The agency shall not contract on a prepaid or  
 1563 fixed-sum basis for Medicaid services with an entity which knows  
 1564 or reasonably should know that any officer, director, agent,  
 1565 managing employee, or owner of stock or beneficial interest in  
 1566 excess of 5 percent common or preferred stock, or the entity  
 1567 itself, has been found guilty of, regardless of adjudication, or  
 1568 entered a plea of nolo contendere, or guilty, to:

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

- 1569 (a) Fraud;
- 1570 (b) Violation of federal or state antitrust statutes,
- 1571 including those proscribing price fixing between competitors and
- 1572 the allocation of customers among competitors;
- 1573 (c) Commission of a felony involving embezzlement, theft,
- 1574 forgery, income tax evasion, bribery, falsification or
- 1575 destruction of records, making false statements, receiving
- 1576 stolen property, making false claims, or obstruction of justice;
- 1577 or
- 1578 (d) Any crime in any jurisdiction which directly relates
- 1579 to the provision of health services on a prepaid or fixed-sum
- 1580 basis.

1581  
 1582 This subsection expires October 1, 2014.

1583 (10)~~(11)~~ The agency, after notifying the Legislature, may  
 1584 apply for waivers of applicable federal laws and regulations as  
 1585 necessary to implement more appropriate systems of health care  
 1586 for Medicaid recipients and reduce the cost of the Medicaid  
 1587 program to the state and federal governments and shall implement  
 1588 such programs, after legislative approval, within a reasonable  
 1589 period of time after federal approval. These programs must be  
 1590 designed primarily to reduce the need for inpatient care,  
 1591 custodial care and other long-term or institutional care, and  
 1592 other high-cost services. Prior to seeking legislative approval  
 1593 of such a waiver as authorized by this subsection, the agency  
 1594 shall provide notice and an opportunity for public comment.  
 1595 Notice shall be provided to all persons who have made requests  
 1596 of the agency for advance notice and shall be published in the

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1597 Florida Administrative Weekly not less than 28 days prior to the  
 1598 intended action. This subsection expires October 1, 2016.

1599 (11)~~(12)~~ The agency shall establish a postpayment  
 1600 utilization control program designed to identify recipients who  
 1601 may inappropriately overuse or underuse Medicaid services and  
 1602 shall provide methods to correct such misuse. This subsection  
 1603 expires October 1, 2014.

1604 (12)~~(13)~~ The agency shall develop and provide coordinated  
 1605 systems of care for Medicaid recipients and may contract with  
 1606 public or private entities to develop and administer such  
 1607 systems of care among public and private health care providers  
 1608 in a given geographic area. This subsection expires October 1,  
 1609 2014.

1610 (13)~~(14)~~~~(a)~~ The agency shall operate or contract for the  
 1611 operation of utilization management and incentive systems  
 1612 designed to encourage cost-effective use of services and to  
 1613 eliminate services that are medically unnecessary. The agency  
 1614 shall track Medicaid provider prescription and billing patterns  
 1615 and evaluate them against Medicaid medical necessity criteria  
 1616 and coverage and limitation guidelines adopted by rule. Medical  
 1617 necessity determination requires that service be consistent with  
 1618 symptoms or confirmed diagnosis of illness or injury under  
 1619 treatment and not in excess of the patient's needs. The agency  
 1620 shall conduct reviews of provider exceptions to peer group norms  
 1621 and shall, using statistical methodologies, provider profiling,  
 1622 and analysis of billing patterns, detect and investigate  
 1623 abnormal or unusual increases in billing or payment of claims  
 1624 for Medicaid services and medically unnecessary provision of

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1625 services. Providers that demonstrate a pattern of submitting  
 1626 claims for medically unnecessary services shall be referred to  
 1627 the Medicaid program integrity unit for investigation. In its  
 1628 annual report, required in s. 409.913, the agency shall report  
 1629 on its efforts to control overutilization as described in this  
 1630 subsection paragraph. This subsection expires October 1, 2014.

1631 ~~(b) The agency shall develop a procedure for determining~~  
 1632 ~~whether health care providers and service vendors can provide~~  
 1633 ~~the Medicaid program using a business case that demonstrates~~  
 1634 ~~whether a particular good or service can offset the cost of~~  
 1635 ~~providing the good or service in an alternative setting or~~  
 1636 ~~through other means and therefore should receive a higher~~  
 1637 ~~reimbursement. The business case must include, but need not be~~  
 1638 ~~limited to:~~

1639 ~~1. A detailed description of the good or service to be~~  
 1640 ~~provided, a description and analysis of the agency's current~~  
 1641 ~~performance of the service, and a rationale documenting how~~  
 1642 ~~providing the service in an alternative setting would be in the~~  
 1643 ~~best interest of the state, the agency, and its clients.~~

1644 ~~2. A cost benefit analysis documenting the estimated~~  
 1645 ~~specific direct and indirect costs, savings, performance~~  
 1646 ~~improvements, risks, and qualitative and quantitative benefits~~  
 1647 ~~involved in or resulting from providing the service. The cost-~~  
 1648 ~~benefit analysis must include a detailed plan and timeline~~  
 1649 ~~identifying all actions that must be implemented to realize~~  
 1650 ~~expected benefits. The Secretary of Health Care Administration~~  
 1651 ~~shall verify that all costs, savings, and benefits are valid and~~  
 1652 ~~achievable.~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1653 ~~(c) If the agency determines that the increased~~  
 1654 ~~reimbursement is cost-effective, the agency shall recommend a~~  
 1655 ~~change in the reimbursement schedule for that particular good or~~  
 1656 ~~service. If, within 12 months after implementing any rate change~~  
 1657 ~~under this procedure, the agency determines that costs were not~~  
 1658 ~~offset by the increased reimbursement schedule, the agency may~~  
 1659 ~~revert to the former reimbursement schedule for the particular~~  
 1660 ~~good or service.~~

1661 (14)~~(15)~~ (a) The agency shall operate the Comprehensive  
 1662 Assessment and Review for Long-Term Care Services (CARES)  
 1663 nursing facility preadmission screening program to ensure that  
 1664 Medicaid payment for nursing facility care is made only for  
 1665 individuals whose conditions require such care and to ensure  
 1666 that long-term care services are provided in the setting most  
 1667 appropriate to the needs of the person and in the most  
 1668 economical manner possible. The CARES program shall also ensure  
 1669 that individuals participating in Medicaid home and community-  
 1670 based waiver programs meet criteria for those programs,  
 1671 consistent with approved federal waivers.

1672 (b) The agency shall operate the CARES program through an  
 1673 interagency agreement with the Department of Elderly Affairs.  
 1674 The agency, in consultation with the Department of Elderly  
 1675 Affairs, may contract for any function or activity of the CARES  
 1676 program, including any function or activity required by 42  
 1677 C.F.R. part 483.20, relating to preadmission screening and  
 1678 resident review.

1679 (c) Prior to making payment for nursing facility services  
 1680 for a Medicaid recipient, the agency must verify that the

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1681 nursing facility preadmission screening program has determined  
1682 that the individual requires nursing facility care and that the  
1683 individual cannot be safely served in community-based programs.  
1684 The nursing facility preadmission screening program shall refer  
1685 a Medicaid recipient to a community-based program if the  
1686 individual could be safely served at a lower cost and the  
1687 recipient chooses to participate in such program. For  
1688 individuals whose nursing home stay is initially funded by  
1689 Medicare and Medicare coverage is being terminated for lack of  
1690 progress towards rehabilitation, CARES staff shall consult with  
1691 the person making the determination of progress toward  
1692 rehabilitation to ensure that the recipient is not being  
1693 inappropriately disqualified from Medicare coverage. If, in  
1694 their professional judgment, CARES staff believes that a  
1695 Medicare beneficiary is still making progress toward  
1696 rehabilitation, they may assist the Medicare beneficiary with an  
1697 appeal of the disqualification from Medicare coverage. The use  
1698 of CARES teams to review Medicare denials for coverage under  
1699 this section is authorized only if it is determined that such  
1700 reviews qualify for federal matching funds through Medicaid. The  
1701 agency shall seek or amend federal waivers as necessary to  
1702 implement this section.

1703 (d) For the purpose of initiating immediate prescreening  
1704 and diversion assistance for individuals residing in nursing  
1705 homes and in order to make families aware of alternative long-  
1706 term care resources so that they may choose a more cost-  
1707 effective setting for long-term placement, CARES staff shall  
1708 conduct an assessment and review of a sample of individuals

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1709 whose nursing home stay is expected to exceed 20 days,  
 1710 regardless of the initial funding source for the nursing home  
 1711 placement. CARES staff shall provide counseling and referral  
 1712 services to these individuals regarding choosing appropriate  
 1713 long-term care alternatives. This paragraph does not apply to  
 1714 continuing care facilities licensed under chapter 651 or to  
 1715 retirement communities that provide a combination of nursing  
 1716 home, independent living, and other long-term care services.

1717 (e) By January 15 of each year, the agency shall submit a  
 1718 report to the Legislature describing the operations of the CARES  
 1719 program. The report must describe:

1720 1. Rate of diversion to community alternative programs;

1721 2. CARES program staffing needs to achieve additional  
 1722 diversions;

1723 3. Reasons the program is unable to place individuals in  
 1724 less restrictive settings when such individuals desired such  
 1725 services and could have been served in such settings;

1726 4. Barriers to appropriate placement, including barriers  
 1727 due to policies or operations of other agencies or state-funded  
 1728 programs; and

1729 5. Statutory changes necessary to ensure that individuals  
 1730 in need of long-term care services receive care in the least  
 1731 restrictive environment.

1732 (f) The Department of Elderly Affairs shall track  
 1733 individuals over time who are assessed under the CARES program  
 1734 and who are diverted from nursing home placement. By January 15  
 1735 of each year, the department shall submit to the Legislature a  
 1736 longitudinal study of the individuals who are diverted from

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1737 nursing home placement. The study must include:

1738 1. The demographic characteristics of the individuals  
 1739 assessed and diverted from nursing home placement, including,  
 1740 but not limited to, age, race, gender, frailty, caregiver  
 1741 status, living arrangements, and geographic location;

1742 2. A summary of community services provided to individuals  
 1743 for 1 year after assessment and diversion;

1744 3. A summary of inpatient hospital admissions for  
 1745 individuals who have been diverted; and

1746 4. A summary of the length of time between diversion and  
 1747 subsequent entry into a nursing home or death.

1748

1749 This subsection expires October 1, 2013.

1750 (15)~~(16)~~(a) The agency shall identify health care  
 1751 utilization and price patterns within the Medicaid program which  
 1752 are not cost-effective or medically appropriate and assess the  
 1753 effectiveness of new or alternate methods of providing and  
 1754 monitoring service, and may implement such methods as it  
 1755 considers appropriate. Such methods may include disease  
 1756 management initiatives, an integrated and systematic approach  
 1757 for managing the health care needs of recipients who are at risk  
 1758 of or diagnosed with a specific disease by using best practices,  
 1759 prevention strategies, clinical-practice improvement, clinical  
 1760 interventions and protocols, outcomes research, information  
 1761 technology, and other tools and resources to reduce overall  
 1762 costs and improve measurable outcomes.

1763 (b) The responsibility of the agency under this subsection  
 1764 shall include the development of capabilities to identify actual

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1765 and optimal practice patterns; patient and provider educational  
1766 initiatives; methods for determining patient compliance with  
1767 prescribed treatments; fraud, waste, and abuse prevention and  
1768 detection programs; and beneficiary case management programs.

1769 1. The practice pattern identification program shall  
1770 evaluate practitioner prescribing patterns based on national and  
1771 regional practice guidelines, comparing practitioners to their  
1772 peer groups. The agency and its Drug Utilization Review Board  
1773 shall consult with the Department of Health and a panel of  
1774 practicing health care professionals consisting of the  
1775 following: the Speaker of the House of Representatives and the  
1776 President of the Senate shall each appoint three physicians  
1777 licensed under chapter 458 or chapter 459; and the Governor  
1778 shall appoint two pharmacists licensed under chapter 465 and one  
1779 dentist licensed under chapter 466 who is an oral surgeon. Terms  
1780 of the panel members shall expire at the discretion of the  
1781 appointing official. The advisory panel shall be responsible for  
1782 evaluating treatment guidelines and recommending ways to  
1783 incorporate their use in the practice pattern identification  
1784 program. Practitioners who are prescribing inappropriately or  
1785 inefficiently, as determined by the agency, may have their  
1786 prescribing of certain drugs subject to prior authorization or  
1787 may be terminated from all participation in the Medicaid  
1788 program.

1789 2. The agency shall also develop educational interventions  
1790 designed to promote the proper use of medications by providers  
1791 and beneficiaries.

1792 3. The agency shall implement a pharmacy fraud, waste, and

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1793 | abuse initiative that may include a surety bond or letter of  
1794 | credit requirement for participating pharmacies, enhanced  
1795 | provider auditing practices, the use of additional fraud and  
1796 | abuse software, recipient management programs for beneficiaries  
1797 | inappropriately using their benefits, and other steps that will  
1798 | eliminate provider and recipient fraud, waste, and abuse. The  
1799 | initiative shall address enforcement efforts to reduce the  
1800 | number and use of counterfeit prescriptions.

1801 |         4. By September 30, 2002, the agency shall contract with  
1802 | an entity in the state to implement a wireless handheld clinical  
1803 | pharmacology drug information database for practitioners. The  
1804 | initiative shall be designed to enhance the agency's efforts to  
1805 | reduce fraud, abuse, and errors in the prescription drug benefit  
1806 | program and to otherwise further the intent of this paragraph.

1807 |         5. By April 1, 2006, the agency shall contract with an  
1808 | entity to design a database of clinical utilization information  
1809 | or electronic medical records for Medicaid providers. This  
1810 | system must be web-based and allow providers to review on a  
1811 | real-time basis the utilization of Medicaid services, including,  
1812 | but not limited to, physician office visits, inpatient and  
1813 | outpatient hospitalizations, laboratory and pathology services,  
1814 | radiological and other imaging services, dental care, and  
1815 | patterns of dispensing prescription drugs in order to coordinate  
1816 | care and identify potential fraud and abuse.

1817 |         6. The agency may apply for any federal waivers needed to  
1818 | administer this paragraph.

1819 |

1820 | This subsection expires October 1, 2014.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1821        (16)~~(17)~~ An entity contracting on a prepaid or fixed-sum  
 1822 basis shall meet the surplus requirements of s. 641.225. If an  
 1823 entity's surplus falls below an amount equal to the surplus  
 1824 requirements of s. 641.225, the agency shall prohibit the entity  
 1825 from engaging in marketing and preenrollment activities, shall  
 1826 cease to process new enrollments, and may not renew the entity's  
 1827 contract until the required balance is achieved. The  
 1828 requirements of this subsection do not apply:

1829            (a) Where a public entity agrees to fund any deficit  
 1830 incurred by the contracting entity; or

1831            (b) Where the entity's performance and obligations are  
 1832 guaranteed in writing by a guaranteeing organization which:

1833            1. Has been in operation for at least 5 years and has  
 1834 assets in excess of \$50 million; or

1835            2. Submits a written guarantee acceptable to the agency  
 1836 which is irrevocable during the term of the contracting entity's  
 1837 contract with the agency and, upon termination of the contract,  
 1838 until the agency receives proof of satisfaction of all  
 1839 outstanding obligations incurred under the contract.

1840

1841 This subsection expires October 1, 2014.

1842        (17)~~(18)~~ (a) The agency may require an entity contracting  
 1843 on a prepaid or fixed-sum basis to establish a restricted  
 1844 insolvency protection account with a federally guaranteed  
 1845 financial institution licensed to do business in this state. The  
 1846 entity shall deposit into that account 5 percent of the  
 1847 capitation payments made by the agency each month until a  
 1848 maximum total of 2 percent of the total current contract amount

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1849 is reached. The restricted insolvency protection account may be  
 1850 drawn upon with the authorized signatures of two persons  
 1851 designated by the entity and two representatives of the agency.  
 1852 If the agency finds that the entity is insolvent, the agency may  
 1853 draw upon the account solely with the two authorized signatures  
 1854 of representatives of the agency, and the funds may be disbursed  
 1855 to meet financial obligations incurred by the entity under the  
 1856 prepaid contract. If the contract is terminated, expired, or not  
 1857 continued, the account balance must be released by the agency to  
 1858 the entity upon receipt of proof of satisfaction of all  
 1859 outstanding obligations incurred under this contract.

1860 (b) The agency may waive the insolvency protection account  
 1861 requirement in writing when evidence is on file with the agency  
 1862 of adequate insolvency insurance and reinsurance that will  
 1863 protect enrollees if the entity becomes unable to meet its  
 1864 obligations.

1865 (18)~~(19)~~ An entity that contracts with the agency on a  
 1866 prepaid or fixed-sum basis for the provision of Medicaid  
 1867 services shall reimburse any hospital or physician that is  
 1868 outside the entity's authorized geographic service area as  
 1869 specified in its contract with the agency, and that provides  
 1870 services authorized by the entity to its members, at a rate  
 1871 negotiated with the hospital or physician for the provision of  
 1872 services or according to the lesser of the following:

1873 (a) The usual and customary charges made to the general  
 1874 public by the hospital or physician; or

1875 (b) The Florida Medicaid reimbursement rate established  
 1876 for the hospital or physician.

1877  
 1878 This subsection expires October 1, 2014.  
 1879       ~~(19)-(20)~~ When a merger or acquisition of a Medicaid  
 1880 prepaid contractor has been approved by the Office of Insurance  
 1881 Regulation pursuant to s. 628.4615, the agency shall approve the  
 1882 assignment or transfer of the appropriate Medicaid prepaid  
 1883 contract upon request of the surviving entity of the merger or  
 1884 acquisition if the contractor and the other entity have been in  
 1885 good standing with the agency for the most recent 12-month  
 1886 period, unless the agency determines that the assignment or  
 1887 transfer would be detrimental to the Medicaid recipients or the  
 1888 Medicaid program. To be in good standing, an entity must not  
 1889 have failed accreditation or committed any material violation of  
 1890 the requirements of s. 641.52 and must meet the Medicaid  
 1891 contract requirements. For purposes of this section, a merger or  
 1892 acquisition means a change in controlling interest of an entity,  
 1893 including an asset or stock purchase. This subsection expires  
 1894 October 1, 2014.

1895       ~~(20)-(21)~~ Any entity contracting with the agency pursuant  
 1896 to this section to provide health care services to Medicaid  
 1897 recipients is prohibited from engaging in any of the following  
 1898 practices or activities:

1899           (a) Practices that are discriminatory, including, but not  
 1900 limited to, attempts to discourage participation on the basis of  
 1901 actual or perceived health status.

1902           (b) Activities that could mislead or confuse recipients,  
 1903 or misrepresent the organization, its marketing representatives,  
 1904 or the agency. Violations of this paragraph include, but are not

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1905 limited to:

1906 1. False or misleading claims that marketing

1907 representatives are employees or representatives of the state or

1908 county, or of anyone other than the entity or the organization

1909 by whom they are reimbursed.

1910 2. False or misleading claims that the entity is

1911 recommended or endorsed by any state or county agency, or by any

1912 other organization which has not certified its endorsement in

1913 writing to the entity.

1914 3. False or misleading claims that the state or county

1915 recommends that a Medicaid recipient enroll with an entity.

1916 4. Claims that a Medicaid recipient will lose benefits

1917 under the Medicaid program, or any other health or welfare

1918 benefits to which the recipient is legally entitled, if the

1919 recipient does not enroll with the entity.

1920 (c) Granting or offering of any monetary or other valuable

1921 consideration for enrollment, except as authorized by subsection

1922 (23) ~~(24)~~.

1923 (d) Door-to-door solicitation of recipients who have not

1924 contacted the entity or who have not invited the entity to make

1925 a presentation.

1926 (e) Solicitation of Medicaid recipients by marketing

1927 representatives stationed in state offices unless approved and

1928 supervised by the agency or its agent and approved by the

1929 affected state agency when solicitation occurs in an office of

1930 the state agency. The agency shall ensure that marketing

1931 representatives stationed in state offices shall market their

1932 managed care plans to Medicaid recipients only in designated

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1933 areas and in such a way as to not interfere with the recipients'  
 1934 activities in the state office.

1935 (f) Enrollment of Medicaid recipients.

1936 ~~(21)~~~~(22)~~ The agency may impose a fine for a violation of  
 1937 this section or the contract with the agency by a person or  
 1938 entity that is under contract with the agency. With respect to  
 1939 any nonwillful violation, such fine shall not exceed \$2,500 per  
 1940 violation. In no event shall such fine exceed an aggregate  
 1941 amount of \$10,000 for all nonwillful violations arising out of  
 1942 the same action. With respect to any knowing and willful  
 1943 violation of this section or the contract with the agency, the  
 1944 agency may impose a fine upon the entity in an amount not to  
 1945 exceed \$20,000 for each such violation. In no event shall such  
 1946 fine exceed an aggregate amount of \$100,000 for all knowing and  
 1947 willful violations arising out of the same action. This  
 1948 subsection expires October 1, 2014.

1949 ~~(22)~~~~(23)~~ A health maintenance organization or a person or  
 1950 entity exempt from chapter 641 that is under contract with the  
 1951 agency for the provision of health care services to Medicaid  
 1952 recipients may not use or distribute marketing materials used to  
 1953 solicit Medicaid recipients, unless such materials have been  
 1954 approved by the agency. The provisions of this subsection do not  
 1955 apply to general advertising and marketing materials used by a  
 1956 health maintenance organization to solicit both non-Medicaid  
 1957 subscribers and Medicaid recipients. This subsection expires  
 1958 October 1, 2014.

1959 ~~(23)~~~~(24)~~ Upon approval by the agency, health maintenance  
 1960 organizations and persons or entities exempt from chapter 641

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1961 that are under contract with the agency for the provision of  
 1962 health care services to Medicaid recipients may be permitted  
 1963 within the capitation rate to provide additional health benefits  
 1964 that the agency has found are of high quality, are practicably  
 1965 available, provide reasonable value to the recipient, and are  
 1966 provided at no additional cost to the state. This subsection  
 1967 expires October 1, 2014.

1968 ~~(24)-(25)~~ The agency shall utilize the statewide health  
 1969 maintenance organization complaint hotline for the purpose of  
 1970 investigating and resolving Medicaid and prepaid health plan  
 1971 complaints, maintaining a record of complaints and confirmed  
 1972 problems, and receiving disenrollment requests made by  
 1973 recipients. This subsection expires October 1, 2014.

1974 ~~(25)-(26)~~ The agency shall require the publication of the  
 1975 health maintenance organization's and the prepaid health plan's  
 1976 consumer services telephone numbers and the "800" telephone  
 1977 number of the statewide health maintenance organization  
 1978 complaint hotline on each Medicaid identification card issued by  
 1979 a health maintenance organization or prepaid health plan  
 1980 contracting with the agency to serve Medicaid recipients and on  
 1981 each subscriber handbook issued to a Medicaid recipient. This  
 1982 subsection expires October 1, 2014.

1983 ~~(26)-(27)~~ The agency shall establish a health care quality  
 1984 improvement system for those entities contracting with the  
 1985 agency pursuant to this section, incorporating all the standards  
 1986 and guidelines developed by the Medicaid Bureau of the Health  
 1987 Care Financing Administration as a part of the quality assurance  
 1988 reform initiative. The system shall include, but need not be

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

1989 | limited to, the following:

1990 |       (a) Guidelines for internal quality assurance programs,

1991 | including standards for:

1992 |       1. Written quality assurance program descriptions.

1993 |       2. Responsibilities of the governing body for monitoring,

1994 | evaluating, and making improvements to care.

1995 |       3. An active quality assurance committee.

1996 |       4. Quality assurance program supervision.

1997 |       5. Requiring the program to have adequate resources to

1998 | effectively carry out its specified activities.

1999 |       6. Provider participation in the quality assurance

2000 | program.

2001 |       7. Delegation of quality assurance program activities.

2002 |       8. Credentialing and recredentialing.

2003 |       9. Enrollee rights and responsibilities.

2004 |       10. Availability and accessibility to services and care.

2005 |       11. Ambulatory care facilities.

2006 |       12. Accessibility and availability of medical records, as

2007 | well as proper recordkeeping and process for record review.

2008 |       13. Utilization review.

2009 |       14. A continuity of care system.

2010 |       15. Quality assurance program documentation.

2011 |       16. Coordination of quality assurance activity with other

2012 | management activity.

2013 |       17. Delivering care to pregnant women and infants; to

2014 | elderly and disabled recipients, especially those who are at

2015 | risk of institutional placement; to persons with developmental

2016 | disabilities; and to adults who have chronic, high-cost medical

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2017 conditions.

2018 (b) Guidelines which require the entities to conduct

2019 quality-of-care studies which:

2020 1. Target specific conditions and specific health service

2021 delivery issues for focused monitoring and evaluation.

2022 2. Use clinical care standards or practice guidelines to

2023 objectively evaluate the care the entity delivers or fails to

2024 deliver for the targeted clinical conditions and health services

2025 delivery issues.

2026 3. Use quality indicators derived from the clinical care

2027 standards or practice guidelines to screen and monitor care and

2028 services delivered.

2029 (c) Guidelines for external quality review of each

2030 contractor which require: focused studies of patterns of care;

2031 individual care review in specific situations; and followup

2032 activities on previous pattern-of-care study findings and

2033 individual-care-review findings. In designing the external

2034 quality review function and determining how it is to operate as

2035 part of the state's overall quality improvement system, the

2036 agency shall construct its external quality review organization

2037 and entity contracts to address each of the following:

2038 1. Delineating the role of the external quality review

2039 organization.

2040 2. Length of the external quality review organization

2041 contract with the state.

2042 3. Participation of the contracting entities in designing

2043 external quality review organization review activities.

2044 4. Potential variation in the type of clinical conditions

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2045 and health services delivery issues to be studied at each plan.

2046 5. Determining the number of focused pattern-of-care  
2047 studies to be conducted for each plan.

2048 6. Methods for implementing focused studies.

2049 7. Individual care review.

2050 8. Followup activities.

2051

2052 This subsection expires October 1, 2016.

2053 ~~(27)-(28)~~ In order to ensure that children receive health  
2054 care services for which an entity has already been compensated,  
2055 an entity contracting with the agency pursuant to this section  
2056 shall achieve an annual Early and Periodic Screening, Diagnosis,  
2057 and Treatment (EPSDT) Service screening rate of at least 60  
2058 percent for those recipients continuously enrolled for at least  
2059 8 months. The agency shall develop a method by which the EPSDT  
2060 screening rate shall be calculated. For any entity which does  
2061 not achieve the annual 60 percent rate, the entity must submit a  
2062 corrective action plan for the agency's approval. If the entity  
2063 does not meet the standard established in the corrective action  
2064 plan during the specified timeframe, the agency is authorized to  
2065 impose appropriate contract sanctions. At least annually, the  
2066 agency shall publicly release the EPSDT Services screening rates  
2067 of each entity it has contracted with on a prepaid basis to  
2068 serve Medicaid recipients. This subsection expires October 1,  
2069 2014.

2070 ~~(28)-(29)~~ The agency shall perform enrollments and  
2071 disenrollments for Medicaid recipients who are eligible for  
2072 MediPass or managed care plans. Notwithstanding the prohibition

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2073 contained in paragraph (20)~~(21)~~(f), managed care plans may  
 2074 perform preenrollments of Medicaid recipients under the  
 2075 supervision of the agency or its agents. For the purposes of  
 2076 this section, the term "preenrollment" means the provision of  
 2077 marketing and educational materials to a Medicaid recipient and  
 2078 assistance in completing the application forms, but does not  
 2079 include actual enrollment into a managed care plan. An  
 2080 application for enrollment may not be deemed complete until the  
 2081 agency or its agent verifies that the recipient made an  
 2082 informed, voluntary choice. The agency, in cooperation with the  
 2083 Department of Children and Family Services, may test new  
 2084 marketing initiatives to inform Medicaid recipients about their  
 2085 managed care options at selected sites. The agency may contract  
 2086 with a third party to perform managed care plan and MediPass  
 2087 enrollment and disenrollment services for Medicaid recipients  
 2088 and may adopt rules to administer such services. The agency may  
 2089 adjust the capitation rate only to cover the costs of a third-  
 2090 party enrollment and disenrollment contract, and for agency  
 2091 supervision and management of the managed care plan enrollment  
 2092 and disenrollment contract. This subsection expires October 1,  
 2093 2014.

2094 (29)~~(30)~~ Any lists of providers made available to Medicaid  
 2095 recipients, MediPass enrollees, or managed care plan enrollees  
 2096 shall be arranged alphabetically showing the provider's name and  
 2097 specialty and, separately, by specialty in alphabetical order.  
 2098 This subsection expires October 1, 2014.

2099 (30)~~(31)~~ The agency shall establish an enhanced managed  
 2100 care quality assurance oversight function, to include at least

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2101 the following components:

2102 (a) At least quarterly analysis and followup, including  
 2103 sanctions as appropriate, of managed care participant  
 2104 utilization of services.

2105 (b) At least quarterly analysis and followup, including  
 2106 sanctions as appropriate, of quality findings of the Medicaid  
 2107 peer review organization and other external quality assurance  
 2108 programs.

2109 (c) At least quarterly analysis and followup, including  
 2110 sanctions as appropriate, of the fiscal viability of managed  
 2111 care plans.

2112 (d) At least quarterly analysis and followup, including  
 2113 sanctions as appropriate, of managed care participant  
 2114 satisfaction and disenrollment surveys.

2115 (e) The agency shall conduct regular and ongoing Medicaid  
 2116 recipient satisfaction surveys.

2117  
 2118 The analyses and followup activities conducted by the agency  
 2119 under its enhanced managed care quality assurance oversight  
 2120 function shall not duplicate the activities of accreditation  
 2121 reviewers for entities regulated under part III of chapter 641,  
 2122 but may include a review of the finding of such reviewers. This  
 2123 subsection expires October 1, 2014.

2124 ~~(31)(32)~~ Each managed care plan that is under contract  
 2125 with the agency to provide health care services to Medicaid  
 2126 recipients shall annually conduct a background check with the  
 2127 Department of Law Enforcement of all persons with ownership  
 2128 interest of 5 percent or more or executive management

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2129 responsibility for the managed care plan and shall submit to the  
 2130 agency information concerning any such person who has been found  
 2131 guilty of, regardless of adjudication, or has entered a plea of  
 2132 nolo contendere or guilty to, any of the offenses listed in s.  
 2133 435.04. This subsection expires October 1, 2014.

2134 ~~(32)~~~~(33)~~ The agency shall, by rule, develop a process  
 2135 whereby a Medicaid managed care plan enrollee who wishes to  
 2136 enter hospice care may be disenrolled from the managed care plan  
 2137 within 24 hours after contacting the agency regarding such  
 2138 request. The agency rule shall include a methodology for the  
 2139 agency to recoup managed care plan payments on a pro rata basis  
 2140 if payment has been made for the enrollment month when  
 2141 disenrollment occurs. This subsection expires October 1, 2014.

2142 ~~(33)~~~~(34)~~ The agency and entities that contract with the  
 2143 agency to provide health care services to Medicaid recipients  
 2144 under this section or ss. 409.91211 and 409.9122 must comply  
 2145 with the provisions of s. 641.513 in providing emergency  
 2146 services and care to Medicaid recipients and MediPass  
 2147 recipients. Where feasible, safe, and cost-effective, the agency  
 2148 shall encourage hospitals, emergency medical services providers,  
 2149 and other public and private health care providers to work  
 2150 together in their local communities to enter into agreements or  
 2151 arrangements to ensure access to alternatives to emergency  
 2152 services and care for those Medicaid recipients who need  
 2153 nonemergent care. The agency shall coordinate with hospitals,  
 2154 emergency medical services providers, private health plans,  
 2155 capitated managed care networks as established in s. 409.91211,  
 2156 and other public and private health care providers to implement

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2157 the provisions of ss. 395.1041(7), 409.91255(3)(g), 627.6405,  
 2158 and 641.31097 to develop and implement emergency department  
 2159 diversion programs for Medicaid recipients. This subsection  
 2160 expires October 1, 2014.

2161 ~~(34)-(35)~~ All entities providing health care services to  
 2162 Medicaid recipients shall make available, and encourage all  
 2163 pregnant women and mothers with infants to receive, and provide  
 2164 documentation in the medical records to reflect, the following:

2165 (a) Healthy Start prenatal or infant screening.

2166 (b) Healthy Start care coordination, when screening or  
 2167 other factors indicate need.

2168 (c) Healthy Start enhanced services in accordance with the  
 2169 prenatal or infant screening results.

2170 (d) Immunizations in accordance with recommendations of  
 2171 the Advisory Committee on Immunization Practices of the United  
 2172 States Public Health Service and the American Academy of  
 2173 Pediatrics, as appropriate.

2174 (e) Counseling and services for family planning to all  
 2175 women and their partners.

2176 (f) A scheduled postpartum visit for the purpose of  
 2177 voluntary family planning, to include discussion of all methods  
 2178 of contraception, as appropriate.

2179 (g) Referral to the Special Supplemental Nutrition Program  
 2180 for Women, Infants, and Children (WIC).

2181  
 2182 This subsection expires October 1, 2014.

2183 ~~(35)-(36)~~ Any entity that provides Medicaid prepaid health  
 2184 plan services shall ensure the appropriate coordination of

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2185 health care services with an assisted living facility in cases  
 2186 where a Medicaid recipient is both a member of the entity's  
 2187 prepaid health plan and a resident of the assisted living  
 2188 facility. If the entity is at risk for Medicaid targeted case  
 2189 management and behavioral health services, the entity shall  
 2190 inform the assisted living facility of the procedures to follow  
 2191 should an emergent condition arise. This subsection expires  
 2192 October 1, 2014.

2193 ~~(37) The agency may seek and implement federal waivers~~  
 2194 ~~necessary to provide for cost-effective purchasing of home~~  
 2195 ~~health services, private duty nursing services, transportation,~~  
 2196 ~~independent laboratory services, and durable medical equipment~~  
 2197 ~~and supplies through competitive bidding pursuant to s. 287.057.~~  
 2198 ~~The agency may request appropriate waivers from the federal~~  
 2199 ~~Health Care Financing Administration in order to competitively~~  
 2200 ~~bid such services. The agency may exclude providers not selected~~  
 2201 ~~through the bidding process from the Medicaid provider network.~~

2202 (36) ~~(38)~~ The agency shall enter into agreements with not-  
 2203 for-profit organizations based in this state for the purpose of  
 2204 providing vision screening. This subsection expires October 1,  
 2205 2014.

2206 (37) ~~(39)~~ (a) The agency shall implement a Medicaid  
 2207 prescribed-drug spending-control program that includes the  
 2208 following components:

- 2209 1. A Medicaid preferred drug list, which shall be a  
 2210 listing of cost-effective therapeutic options recommended by the  
 2211 Medicaid Pharmacy and Therapeutics Committee established  
 2212 pursuant to s. 409.91195 and adopted by the agency for each

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2213 therapeutic class on the preferred drug list. At the discretion  
2214 of the committee, and when feasible, the preferred drug list  
2215 should include at least two products in a therapeutic class. The  
2216 agency may post the preferred drug list and updates to the  
2217 preferred drug list on an Internet website without following the  
2218 rulemaking procedures of chapter 120. Antiretroviral agents are  
2219 excluded from the preferred drug list. The agency shall also  
2220 limit the amount of a prescribed drug dispensed to no more than  
2221 a 34-day supply unless the drug products' smallest marketed  
2222 package is greater than a 34-day supply, or the drug is  
2223 determined by the agency to be a maintenance drug in which case  
2224 a 100-day maximum supply may be authorized. The agency is  
2225 authorized to seek any federal waivers necessary to implement  
2226 these cost-control programs and to continue participation in the  
2227 federal Medicaid rebate program, or alternatively to negotiate  
2228 state-only manufacturer rebates. The agency may adopt rules to  
2229 implement this subparagraph. The agency shall continue to  
2230 provide unlimited contraceptive drugs and items. The agency must  
2231 establish procedures to ensure that:

2232 a. There is a response to a request for prior consultation  
2233 by telephone or other telecommunication device within 24 hours  
2234 after receipt of a request for prior consultation; and

2235 b. A 72-hour supply of the drug prescribed is provided in  
2236 an emergency or when the agency does not provide a response  
2237 within 24 hours as required by sub-subparagraph a.

2238 2. Reimbursement to pharmacies for Medicaid prescribed  
2239 drugs shall be set at the lesser of: the average wholesale price  
2240 (AWP) minus 16.4 percent, the wholesaler acquisition cost (WAC)

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2241 plus 4.75 percent, the federal upper limit (FUL), the state  
 2242 maximum allowable cost (SMAC), or the usual and customary (UAC)  
 2243 charge billed by the provider.

2244 3. The agency shall develop and implement a process for  
 2245 managing the drug therapies of Medicaid recipients who are using  
 2246 significant numbers of prescribed drugs each month. The  
 2247 management process may include, but is not limited to,  
 2248 comprehensive, physician-directed medical-record reviews, claims  
 2249 analyses, and case evaluations to determine the medical  
 2250 necessity and appropriateness of a patient's treatment plan and  
 2251 drug therapies. The agency may contract with a private  
 2252 organization to provide drug-program-management services. The  
 2253 Medicaid drug benefit management program shall include  
 2254 initiatives to manage drug therapies for HIV/AIDS patients,  
 2255 patients using 20 or more unique prescriptions in a 180-day  
 2256 period, and the top 1,000 patients in annual spending. The  
 2257 agency shall enroll any Medicaid recipient in the drug benefit  
 2258 management program if he or she meets the specifications of this  
 2259 provision and is not enrolled in a Medicaid health maintenance  
 2260 organization.

2261 4. The agency may limit the size of its pharmacy network  
 2262 based on need, competitive bidding, price negotiations,  
 2263 credentialing, or similar criteria. The agency shall give  
 2264 special consideration to rural areas in determining the size and  
 2265 location of pharmacies included in the Medicaid pharmacy  
 2266 network. A pharmacy credentialing process may include criteria  
 2267 such as a pharmacy's full-service status, location, size,  
 2268 patient educational programs, patient consultation, disease

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2269 management services, and other characteristics. The agency may  
 2270 impose a moratorium on Medicaid pharmacy enrollment when it is  
 2271 determined that it has a sufficient number of Medicaid-  
 2272 participating providers. The agency must allow dispensing  
 2273 practitioners to participate as a part of the Medicaid pharmacy  
 2274 network regardless of the practitioner's proximity to any other  
 2275 entity that is dispensing prescription drugs under the Medicaid  
 2276 program. A dispensing practitioner must meet all credentialing  
 2277 requirements applicable to his or her practice, as determined by  
 2278 the agency.

2279         5. The agency shall develop and implement a program that  
 2280 requires Medicaid practitioners who prescribe drugs to use a  
 2281 counterfeit-proof prescription pad for Medicaid prescriptions.  
 2282 The agency shall require the use of standardized counterfeit-  
 2283 proof prescription pads by Medicaid-participating prescribers or  
 2284 prescribers who write prescriptions for Medicaid recipients. The  
 2285 agency may implement the program in targeted geographic areas or  
 2286 statewide.

2287         6. The agency may enter into arrangements that require  
 2288 manufacturers of generic drugs prescribed to Medicaid recipients  
 2289 to provide rebates of at least 15.1 percent of the average  
 2290 manufacturer price for the manufacturer's generic products.  
 2291 These arrangements shall require that if a generic-drug  
 2292 manufacturer pays federal rebates for Medicaid-reimbursed drugs  
 2293 at a level below 15.1 percent, the manufacturer must provide a  
 2294 supplemental rebate to the state in an amount necessary to  
 2295 achieve a 15.1-percent rebate level.

2296         7. The agency may establish a preferred drug list as

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2297 described in this subsection, and, pursuant to the establishment  
2298 of such preferred drug list, it is authorized to negotiate  
2299 supplemental rebates from manufacturers that are in addition to  
2300 those required by Title XIX of the Social Security Act and at no  
2301 less than 14 percent of the average manufacturer price as  
2302 defined in 42 U.S.C. s. 1936 on the last day of a quarter unless  
2303 the federal or supplemental rebate, or both, equals or exceeds  
2304 29 percent. There is no upper limit on the supplemental rebates  
2305 the agency may negotiate. The agency may determine that specific  
2306 products, brand-name or generic, are competitive at lower rebate  
2307 percentages. Agreement to pay the minimum supplemental rebate  
2308 percentage will guarantee a manufacturer that the Medicaid  
2309 Pharmaceutical and Therapeutics Committee will consider a  
2310 product for inclusion on the preferred drug list. However, a  
2311 pharmaceutical manufacturer is not guaranteed placement on the  
2312 preferred drug list by simply paying the minimum supplemental  
2313 rebate. Agency decisions will be made on the clinical efficacy  
2314 of a drug and recommendations of the Medicaid Pharmaceutical and  
2315 Therapeutics Committee, as well as the price of competing  
2316 products minus federal and state rebates. The agency is  
2317 authorized to contract with an outside agency or contractor to  
2318 conduct negotiations for supplemental rebates. For the purposes  
2319 of this section, the term "supplemental rebates" means cash  
2320 rebates. Effective July 1, 2004, value-added programs as a  
2321 substitution for supplemental rebates are prohibited. The agency  
2322 is authorized to seek any federal waivers to implement this  
2323 initiative.

2324 8. The Agency for Health Care Administration shall expand

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2325 home delivery of pharmacy products. To assist Medicaid patients  
 2326 in securing their prescriptions and reduce program costs, the  
 2327 agency shall expand its current mail-order-pharmacy diabetes-  
 2328 supply program to include all generic and brand-name drugs used  
 2329 by Medicaid patients with diabetes. Medicaid recipients in the  
 2330 current program may obtain nondiabetes drugs on a voluntary  
 2331 basis. This initiative is limited to the geographic area covered  
 2332 by the current contract. The agency may seek and implement any  
 2333 federal waivers necessary to implement this subparagraph.

2334 9. The agency shall limit to one dose per month any drug  
 2335 prescribed to treat erectile dysfunction.

2336 10.a. The agency may implement a Medicaid behavioral drug  
 2337 management system. The agency may contract with a vendor that  
 2338 has experience in operating behavioral drug management systems  
 2339 to implement this program. The agency is authorized to seek  
 2340 federal waivers to implement this program.

2341 b. The agency, in conjunction with the Department of  
 2342 Children and Family Services, may implement the Medicaid  
 2343 behavioral drug management system that is designed to improve  
 2344 the quality of care and behavioral health prescribing practices  
 2345 based on best practice guidelines, improve patient adherence to  
 2346 medication plans, reduce clinical risk, and lower prescribed  
 2347 drug costs and the rate of inappropriate spending on Medicaid  
 2348 behavioral drugs. The program may include the following  
 2349 elements:

2350 (I) Provide for the development and adoption of best  
 2351 practice guidelines for behavioral health-related drugs such as  
 2352 antipsychotics, antidepressants, and medications for treating

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2353 bipolar disorders and other behavioral conditions; translate  
 2354 them into practice; review behavioral health prescribers and  
 2355 compare their prescribing patterns to a number of indicators  
 2356 that are based on national standards; and determine deviations  
 2357 from best practice guidelines.

2358 (II) Implement processes for providing feedback to and  
 2359 educating prescribers using best practice educational materials  
 2360 and peer-to-peer consultation.

2361 (III) Assess Medicaid beneficiaries who are outliers in  
 2362 their use of behavioral health drugs with regard to the numbers  
 2363 and types of drugs taken, drug dosages, combination drug  
 2364 therapies, and other indicators of improper use of behavioral  
 2365 health drugs.

2366 (IV) Alert prescribers to patients who fail to refill  
 2367 prescriptions in a timely fashion, are prescribed multiple same-  
 2368 class behavioral health drugs, and may have other potential  
 2369 medication problems.

2370 (V) Track spending trends for behavioral health drugs and  
 2371 deviation from best practice guidelines.

2372 (VI) Use educational and technological approaches to  
 2373 promote best practices, educate consumers, and train prescribers  
 2374 in the use of practice guidelines.

2375 (VII) Disseminate electronic and published materials.

2376 (VIII) Hold statewide and regional conferences.

2377 (IX) Implement a disease management program with a model  
 2378 quality-based medication component for severely mentally ill  
 2379 individuals and emotionally disturbed children who are high  
 2380 users of care.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2381           11.a. The agency shall implement a Medicaid prescription  
 2382 drug management system. The agency may contract with a vendor  
 2383 that has experience in operating prescription drug management  
 2384 systems in order to implement this system. Any management system  
 2385 that is implemented in accordance with this subparagraph must  
 2386 rely on cooperation between physicians and pharmacists to  
 2387 determine appropriate practice patterns and clinical guidelines  
 2388 to improve the prescribing, dispensing, and use of drugs in the  
 2389 Medicaid program. The agency may seek federal waivers to  
 2390 implement this program.

2391           b. The drug management system must be designed to improve  
 2392 the quality of care and prescribing practices based on best  
 2393 practice guidelines, improve patient adherence to medication  
 2394 plans, reduce clinical risk, and lower prescribed drug costs and  
 2395 the rate of inappropriate spending on Medicaid prescription  
 2396 drugs. The program must:

2397           (I) Provide for the development and adoption of best  
 2398 practice guidelines for the prescribing and use of drugs in the  
 2399 Medicaid program, including translating best practice guidelines  
 2400 into practice; reviewing prescriber patterns and comparing them  
 2401 to indicators that are based on national standards and practice  
 2402 patterns of clinical peers in their community, statewide, and  
 2403 nationally; and determine deviations from best practice  
 2404 guidelines.

2405           (II) Implement processes for providing feedback to and  
 2406 educating prescribers using best practice educational materials  
 2407 and peer-to-peer consultation.

2408           (III) Assess Medicaid recipients who are outliers in their

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2409 use of a single or multiple prescription drugs with regard to  
 2410 the numbers and types of drugs taken, drug dosages, combination  
 2411 drug therapies, and other indicators of improper use of  
 2412 prescription drugs.

2413 (IV) Alert prescribers to patients who fail to refill  
 2414 prescriptions in a timely fashion, are prescribed multiple drugs  
 2415 that may be redundant or contraindicated, or may have other  
 2416 potential medication problems.

2417 (V) Track spending trends for prescription drugs and  
 2418 deviation from best practice guidelines.

2419 (VI) Use educational and technological approaches to  
 2420 promote best practices, educate consumers, and train prescribers  
 2421 in the use of practice guidelines.

2422 (VII) Disseminate electronic and published materials.

2423 (VIII) Hold statewide and regional conferences.

2424 (IX) Implement disease management programs in cooperation  
 2425 with physicians and pharmacists, along with a model quality-  
 2426 based medication component for individuals having chronic  
 2427 medical conditions.

2428 12. The agency is authorized to contract for drug rebate  
 2429 administration, including, but not limited to, calculating  
 2430 rebate amounts, invoicing manufacturers, negotiating disputes  
 2431 with manufacturers, and maintaining a database of rebate  
 2432 collections.

2433 13. The agency may specify the preferred daily dosing form  
 2434 or strength for the purpose of promoting best practices with  
 2435 regard to the prescribing of certain drugs as specified in the  
 2436 General Appropriations Act and ensuring cost-effective

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2437 | prescribing practices.

2438 |         14. The agency may require prior authorization for  
 2439 | Medicaid-covered prescribed drugs. The agency may, but is not  
 2440 | required to, prior-authorize the use of a product:

- 2441 |         a. For an indication not approved in labeling;
- 2442 |         b. To comply with certain clinical guidelines; or
- 2443 |         c. If the product has the potential for overuse, misuse,  
 2444 | or abuse.

2445 |  
 2446 | The agency may require the prescribing professional to provide  
 2447 | information about the rationale and supporting medical evidence  
 2448 | for the use of a drug. The agency may post prior authorization  
 2449 | criteria and protocol and updates to the list of drugs that are  
 2450 | subject to prior authorization on an Internet website without  
 2451 | amending its rule or engaging in additional rulemaking.

2452 |         15. The agency, in conjunction with the Pharmaceutical and  
 2453 | Therapeutics Committee, may require age-related prior  
 2454 | authorizations for certain prescribed drugs. The agency may  
 2455 | preauthorize the use of a drug for a recipient who may not meet  
 2456 | the age requirement or may exceed the length of therapy for use  
 2457 | of this product as recommended by the manufacturer and approved  
 2458 | by the Food and Drug Administration. Prior authorization may  
 2459 | require the prescribing professional to provide information  
 2460 | about the rationale and supporting medical evidence for the use  
 2461 | of a drug.

2462 |         16. The agency shall implement a step-therapy prior  
 2463 | authorization approval process for medications excluded from the  
 2464 | preferred drug list. Medications listed on the preferred drug

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2465 list must be used within the previous 12 months prior to the  
2466 alternative medications that are not listed. The step-therapy  
2467 prior authorization may require the prescriber to use the  
2468 medications of a similar drug class or for a similar medical  
2469 indication unless contraindicated in the Food and Drug  
2470 Administration labeling. The trial period between the specified  
2471 steps may vary according to the medical indication. The step-  
2472 therapy approval process shall be developed in accordance with  
2473 the committee as stated in s. 409.91195(7) and (8). A drug  
2474 product may be approved without meeting the step-therapy prior  
2475 authorization criteria if the prescribing physician provides the  
2476 agency with additional written medical or clinical documentation  
2477 that the product is medically necessary because:

2478 a. There is not a drug on the preferred drug list to treat  
2479 the disease or medical condition which is an acceptable clinical  
2480 alternative;

2481 b. The alternatives have been ineffective in the treatment  
2482 of the beneficiary's disease; or

2483 c. Based on historic evidence and known characteristics of  
2484 the patient and the drug, the drug is likely to be ineffective,  
2485 or the number of doses have been ineffective.

2486  
2487 The agency shall work with the physician to determine the best  
2488 alternative for the patient. The agency may adopt rules waiving  
2489 the requirements for written clinical documentation for specific  
2490 drugs in limited clinical situations.

2491 17. The agency shall implement a return and reuse program  
2492 for drugs dispensed by pharmacies to institutional recipients,

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2493 | which includes payment of a \$5 restocking fee for the  
2494 | implementation and operation of the program. The return and  
2495 | reuse program shall be implemented electronically and in a  
2496 | manner that promotes efficiency. The program must permit a  
2497 | pharmacy to exclude drugs from the program if it is not  
2498 | practical or cost-effective for the drug to be included and must  
2499 | provide for the return to inventory of drugs that cannot be  
2500 | credited or returned in a cost-effective manner. The agency  
2501 | shall determine if the program has reduced the amount of  
2502 | Medicaid prescription drugs which are destroyed on an annual  
2503 | basis and if there are additional ways to ensure more  
2504 | prescription drugs are not destroyed which could safely be  
2505 | reused. The agency's conclusion and recommendations shall be  
2506 | reported to the Legislature by December 1, 2005.

2507 |       (b) The agency shall implement this subsection to the  
2508 | extent that funds are appropriated to administer the Medicaid  
2509 | prescribed-drug spending-control program. The agency may  
2510 | contract all or any part of this program to private  
2511 | organizations.

2512 |       (c) The agency shall submit quarterly reports to the  
2513 | Governor, the President of the Senate, and the Speaker of the  
2514 | House of Representatives which must include, but need not be  
2515 | limited to, the progress made in implementing this subsection  
2516 | and its effect on Medicaid prescribed-drug expenditures.

2517 |       (38)~~(40)~~ Notwithstanding the provisions of chapter 287,  
2518 | the agency may, at its discretion, renew a contract or contracts  
2519 | for fiscal intermediary services one or more times for such  
2520 | periods as the agency may decide; however, all such renewals may

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2521 not combine to exceed a total period longer than the term of the  
2522 original contract.

2523 (39)~~(41)~~ The agency shall provide for the development of a  
2524 demonstration project by establishment in Miami-Dade County of a  
2525 long-term-care facility licensed pursuant to chapter 395 to  
2526 improve access to health care for a predominantly minority,  
2527 medically underserved, and medically complex population and to  
2528 evaluate alternatives to nursing home care and general acute  
2529 care for such population. Such project is to be located in a  
2530 health care condominium and colocated with licensed facilities  
2531 providing a continuum of care. The establishment of this project  
2532 is not subject to the provisions of s. 408.036 or s. 408.039.  
2533 This subsection expires October 1, 2013.

2534 (40)~~(42)~~ The agency shall develop and implement a  
2535 utilization management program for Medicaid-eligible recipients  
2536 for the management of occupational, physical, respiratory, and  
2537 speech therapies. The agency shall establish a utilization  
2538 program that may require prior authorization in order to ensure  
2539 medically necessary and cost-effective treatments. The program  
2540 shall be operated in accordance with a federally approved waiver  
2541 program or state plan amendment. The agency may seek a federal  
2542 waiver or state plan amendment to implement this program. The  
2543 agency may also competitively procure these services from an  
2544 outside vendor on a regional or statewide basis. This subsection  
2545 expires October 1, 2014.

2546 (41)~~(43)~~ The agency shall may contract on a prepaid or  
2547 fixed-sum basis with appropriately licensed prepaid dental  
2548 health plans to provide dental services. This subsection expires

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2549 October 1, 2014.

2550 (42)~~(44)~~ The Agency for Health Care Administration shall  
 2551 ensure that any Medicaid managed care plan as defined in s.  
 2552 409.9122(2)(f), whether paid on a capitated basis or a shared  
 2553 savings basis, is cost-effective. For purposes of this  
 2554 subsection, the term "cost-effective" means that a network's  
 2555 per-member, per-month costs to the state, including, but not  
 2556 limited to, fee-for-service costs, administrative costs, and  
 2557 case-management fees, if any, must be no greater than the  
 2558 state's costs associated with contracts for Medicaid services  
 2559 established under subsection (3), which may be adjusted for  
 2560 health status. The agency shall conduct actuarially sound  
 2561 adjustments for health status in order to ensure such cost-  
 2562 effectiveness and shall annually publish the results on its  
 2563 Internet website. Contracts established pursuant to this  
 2564 subsection which are not cost-effective may not be renewed. This  
 2565 subsection expires October 1, 2014.

2566 (43)~~(45)~~ Subject to the availability of funds, the agency  
 2567 shall mandate a recipient's participation in a provider lock-in  
 2568 program, when appropriate, if a recipient is found by the agency  
 2569 to have used Medicaid goods or services at a frequency or amount  
 2570 not medically necessary, limiting the receipt of goods or  
 2571 services to medically necessary providers after the 21-day  
 2572 appeal process has ended, for a period of not less than 1 year.  
 2573 The lock-in programs shall include, but are not limited to,  
 2574 pharmacies, medical doctors, and infusion clinics. The  
 2575 limitation does not apply to emergency services and care  
 2576 provided to the recipient in a hospital emergency department.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2577 The agency shall seek any federal waivers necessary to implement  
 2578 this subsection. The agency shall adopt any rules necessary to  
 2579 comply with or administer this subsection. This subsection  
 2580 expires October 1, 2014.

2581 (44)-(46) The agency shall seek a federal waiver for  
 2582 permission to terminate the eligibility of a Medicaid recipient  
 2583 who has been found to have committed fraud, through judicial or  
 2584 administrative determination, two times in a period of 5 years.

2585 ~~(47) The agency shall conduct a study of available~~  
 2586 ~~electronic systems for the purpose of verifying the identity and~~  
 2587 ~~eligibility of a Medicaid recipient. The agency shall recommend~~  
 2588 ~~to the Legislature a plan to implement an electronic~~  
 2589 ~~verification system for Medicaid recipients by January 31, 2005.~~

2590 (45)-(48)(a) A provider is not entitled to enrollment in  
 2591 the Medicaid provider network. The agency may implement a  
 2592 Medicaid fee-for-service provider network controls, including,  
 2593 but not limited to, competitive procurement and provider  
 2594 credentialing. If a credentialing process is used, the agency  
 2595 may limit its provider network based upon the following  
 2596 considerations: beneficiary access to care, provider  
 2597 availability, provider quality standards and quality assurance  
 2598 processes, cultural competency, demographic characteristics of  
 2599 beneficiaries, practice standards, service wait times, provider  
 2600 turnover, provider licensure and accreditation history, program  
 2601 integrity history, peer review, Medicaid policy and billing  
 2602 compliance records, clinical and medical record audit findings,  
 2603 and such other areas that are considered necessary by the agency  
 2604 to ensure the integrity of the program.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2605 (b) The agency shall limit its network of durable medical  
 2606 equipment and medical supply providers. For dates of service  
 2607 after January 1, 2009, the agency shall limit payment for  
 2608 durable medical equipment and supplies to providers that meet  
 2609 all the requirements of this paragraph.

2610 1. Providers must be accredited by a Centers for Medicare  
 2611 and Medicaid Services deemed accreditation organization for  
 2612 suppliers of durable medical equipment, prosthetics, orthotics,  
 2613 and supplies. The provider must maintain accreditation and is  
 2614 subject to unannounced reviews by the accrediting organization.

2615 2. Providers must provide the services or supplies  
 2616 directly to the Medicaid recipient or caregiver at the provider  
 2617 location or recipient's residence or send the supplies directly  
 2618 to the recipient's residence with receipt of mailed delivery.  
 2619 Subcontracting or consignment of the service or supply to a  
 2620 third party is prohibited.

2621 3. Notwithstanding subparagraph 2., a durable medical  
 2622 equipment provider may store nebulizers at a physician's office  
 2623 for the purpose of having the physician's staff issue the  
 2624 equipment if it meets all of the following conditions:

2625 a. The physician must document the medical necessity and  
 2626 need to prevent further deterioration of the patient's  
 2627 respiratory status by the timely delivery of the nebulizer in  
 2628 the physician's office.

2629 b. The durable medical equipment provider must have  
 2630 written documentation of the competency and training by a  
 2631 Florida-licensed registered respiratory therapist of any durable  
 2632 medical equipment staff who participate in the training of

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2633 physician office staff for the use of nebulizers, including  
 2634 cleaning, warranty, and special needs of patients.

2635 c. The physician's office must have documented the  
 2636 training and competency of any staff member who initiates the  
 2637 delivery of nebulizers to patients. The durable medical  
 2638 equipment provider must maintain copies of all physician office  
 2639 training.

2640 d. The physician's office must maintain inventory records  
 2641 of stored nebulizers, including documentation of the durable  
 2642 medical equipment provider source.

2643 e. A physician contracted with a Medicaid durable medical  
 2644 equipment provider may not have a financial relationship with  
 2645 that provider or receive any financial gain from the delivery of  
 2646 nebulizers to patients.

2647 4. Providers must have a physical business location and a  
 2648 functional landline business phone. The location must be within  
 2649 the state or not more than 50 miles from the Florida state line.  
 2650 The agency may make exceptions for providers of durable medical  
 2651 equipment or supplies not otherwise available from other  
 2652 enrolled providers located within the state.

2653 5. Physical business locations must be clearly identified  
 2654 as a business that furnishes durable medical equipment or  
 2655 medical supplies by signage that can be read from 20 feet away.  
 2656 The location must be readily accessible to the public during  
 2657 normal, posted business hours and must operate at least 5 hours  
 2658 per day and at least 5 days per week, with the exception of  
 2659 scheduled and posted holidays. The location may not be located  
 2660 within or at the same numbered street address as another

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2661 enrolled Medicaid durable medical equipment or medical supply  
2662 provider or as an enrolled Medicaid pharmacy that is also  
2663 enrolled as a durable medical equipment provider. A licensed  
2664 orthotist or prosthetist that provides only orthotic or  
2665 prosthetic devices as a Medicaid durable medical equipment  
2666 provider is exempt from this paragraph.

2667 6. Providers must maintain a stock of durable medical  
2668 equipment and medical supplies on site that is readily available  
2669 to meet the needs of the durable medical equipment business  
2670 location's customers.

2671 7. Providers must provide a surety bond of \$50,000 for  
2672 each provider location, up to a maximum of 5 bonds statewide or  
2673 an aggregate bond of \$250,000 statewide, as identified by  
2674 Federal Employer Identification Number. Providers who post a  
2675 statewide or an aggregate bond must identify all of their  
2676 locations in any Medicaid durable medical equipment and medical  
2677 supply provider enrollment application or bond renewal. Each  
2678 provider location's surety bond must be renewed annually and the  
2679 provider must submit proof of renewal even if the original bond  
2680 is a continuous bond. A licensed orthotist or prosthetist that  
2681 provides only orthotic or prosthetic devices as a Medicaid  
2682 durable medical equipment provider is exempt from the provisions  
2683 in this paragraph.

2684 8. Providers must obtain a level 2 background screening,  
2685 in accordance with chapter 435 and s. 408.809, for each provider  
2686 employee in direct contact with or providing direct services to  
2687 recipients of durable medical equipment and medical supplies in  
2688 their homes. This requirement includes, but is not limited to,

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2689 repair and service technicians, fitters, and delivery staff. The  
 2690 provider shall pay for the cost of the background screening.

2691 9. The following providers are exempt from subparagraphs  
 2692 1. and 7.:

2693 a. Durable medical equipment providers owned and operated  
 2694 by a government entity.

2695 b. Durable medical equipment providers that are operating  
 2696 within a pharmacy that is currently enrolled as a Medicaid  
 2697 pharmacy provider.

2698 c. Active, Medicaid-enrolled orthopedic physician groups,  
 2699 primarily owned by physicians, which provide only orthotic and  
 2700 prosthetic devices.

2701 (46)~~(49)~~ The agency shall contract with established  
 2702 minority physician networks that provide services to  
 2703 historically underserved minority patients. The networks must  
 2704 provide cost-effective Medicaid services, comply with the  
 2705 requirements to be a MediPass provider, and provide their  
 2706 primary care physicians with access to data and other management  
 2707 tools necessary to assist them in ensuring the appropriate use  
 2708 of services, including inpatient hospital services and  
 2709 pharmaceuticals.

2710 (a) The agency shall provide for the development and  
 2711 expansion of minority physician networks in each service area to  
 2712 provide services to Medicaid recipients who are eligible to  
 2713 participate under federal law and rules.

2714 (b) The agency shall reimburse each minority physician  
 2715 network as a fee-for-service provider, including the case  
 2716 management fee for primary care, if any, or as a capitated rate

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2717 provider for Medicaid services. Any savings shall be shared with  
 2718 the minority physician networks pursuant to the contract.

2719 (c) For purposes of this subsection, the term "cost-  
 2720 effective" means that a network's per-member, per-month costs to  
 2721 the state, including, but not limited to, fee-for-service costs,  
 2722 administrative costs, and case-management fees, if any, must be  
 2723 no greater than the state's costs associated with contracts for  
 2724 Medicaid services established under subsection (3), which shall  
 2725 be actuarially adjusted for case mix, model, and service area.  
 2726 The agency shall conduct actuarially sound audits adjusted for  
 2727 case mix and model in order to ensure such cost-effectiveness  
 2728 and shall annually publish the audit results on its Internet  
 2729 website. Contracts established pursuant to this subsection which  
 2730 are not cost-effective may not be renewed.

2731 (d) The agency may apply for any federal waivers needed to  
 2732 implement this subsection.

2733  
 2734 This subsection expires October 1, 2014.

2735 (47)~~(50)~~ To the extent permitted by federal law and as  
 2736 allowed under s. 409.906, the agency shall provide reimbursement  
 2737 for emergency mental health care services for Medicaid  
 2738 recipients in crisis stabilization facilities licensed under s.  
 2739 394.875 as long as those services are less expensive than the  
 2740 same services provided in a hospital setting.

2741 (48)~~(51)~~ The agency shall work with the Agency for Persons  
 2742 with Disabilities to develop a home and community-based waiver  
 2743 to serve children and adults who are diagnosed with familial  
 2744 dysautonomia or Riley-Day syndrome caused by a mutation of the

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2745 IKBKAP gene on chromosome 9. The agency shall seek federal  
 2746 waiver approval and implement the approved waiver subject to the  
 2747 availability of funds and any limitations provided in the  
 2748 General Appropriations Act. The agency may adopt rules to  
 2749 implement this waiver program.

2750 ~~(49)-(52)~~ The agency shall implement a program of all-  
 2751 inclusive care for children. The program of all-inclusive care  
 2752 for children shall be established to provide in-home hospice-  
 2753 like support services to children diagnosed with a life-  
 2754 threatening illness and enrolled in the Children's Medical  
 2755 Services network to reduce hospitalizations as appropriate. The  
 2756 agency, in consultation with the Department of Health, may  
 2757 implement the program of all-inclusive care for children after  
 2758 obtaining approval from the Centers for Medicare and Medicaid  
 2759 Services.

2760 ~~(50)-(53)~~ Before seeking an amendment to the state plan for  
 2761 purposes of implementing programs authorized by the Deficit  
 2762 Reduction Act of 2005, the agency shall notify the Legislature.

2763 (51) The agency may not pay for psychotropic medication  
 2764 prescribed for a child in the Medicaid program without the  
 2765 express and informed consent of the child's parent or legal  
 2766 guardian. The physician shall document the consent in the  
 2767 child's medical record and provide the pharmacy with a signed  
 2768 attestation of this documentation with the prescription. The  
 2769 express and informed consent or court authorization for a  
 2770 prescription of psychotropic medication for a child in the  
 2771 custody of the Department of Children and Family Services shall  
 2772 be obtained pursuant to s. 39.407.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2773 Section 18. Section 409.91207, Florida Statutes, is  
 2774 repealed.

2775 Section 19. Paragraphs (e), (l), (p), (w), and (dd) of  
 2776 subsection (3) of section 409.91211, Florida Statutes, are  
 2777 amended to read:

2778 409.91211 Medicaid managed care pilot program.—

2779 (3) The agency shall have the following powers, duties,  
 2780 and responsibilities with respect to the pilot program:

2781 (e) To implement policies and guidelines for phasing in  
 2782 financial risk for approved provider service networks that, for  
 2783 purposes of this paragraph, include the Children's Medical  
 2784 Services Network, over the period of the waiver and the  
 2785 extension thereof. These policies and guidelines must include an  
 2786 option for a provider service network to be paid fee-for-service  
 2787 rates. For any provider service network established in a managed  
 2788 care pilot area, the option to be paid fee-for-service rates  
 2789 must include a savings-settlement mechanism that is consistent  
 2790 with s. 409.912(42)~~(44)~~. This model must be converted to a risk-  
 2791 adjusted capitated rate by the beginning of the final year of  
 2792 operation under the waiver extension, and may be converted  
 2793 earlier at the option of the provider service network. Federally  
 2794 qualified health centers may be offered an opportunity to accept  
 2795 or decline a contract to participate in any provider network for  
 2796 prepaid primary care services.

2797 (l) To implement a system that prohibits capitated managed  
 2798 care plans, their representatives, and providers employed by or  
 2799 contracted with the capitated managed care plans from recruiting  
 2800 persons eligible for or enrolled in Medicaid, from providing

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2801 inducements to Medicaid recipients to select a particular  
2802 capitated managed care plan, and from prejudicing Medicaid  
2803 recipients against other capitated managed care plans. The  
2804 system shall require the entity performing choice counseling to  
2805 determine if the recipient has made a choice of a plan or has  
2806 opted out because of duress, threats, payment to the recipient,  
2807 or incentives promised to the recipient by a third party. If the  
2808 choice counseling entity determines that the decision to choose  
2809 a plan was unlawfully influenced or a plan violated any of the  
2810 provisions of s. 409.912(20)(~~21~~), the choice counseling entity  
2811 shall immediately report the violation to the agency's program  
2812 integrity section for investigation. Verification of choice  
2813 counseling by the recipient shall include a stipulation that the  
2814 recipient acknowledges the provisions of this subsection.

2815 (p) To implement standards for plan compliance, including,  
2816 but not limited to, standards for quality assurance and  
2817 performance improvement, standards for peer or professional  
2818 reviews, grievance policies, and policies for maintaining  
2819 program integrity. The agency shall develop a data-reporting  
2820 system, seek input from managed care plans in order to establish  
2821 requirements for patient-encounter reporting, and ensure that  
2822 the data reported is accurate and complete.

2823 1. In performing the duties required under this section,  
2824 the agency shall work with managed care plans to establish a  
2825 uniform system to measure and monitor outcomes for a recipient  
2826 of Medicaid services.

2827 2. The system shall use financial, clinical, and other  
2828 criteria based on pharmacy, medical services, and other data

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2829 that is related to the provision of Medicaid services,  
 2830 including, but not limited to:

- 2831 a. The Health Plan Employer Data and Information Set
- 2832 (HEDIS) or measures that are similar to HEDIS.
- 2833 b. Member satisfaction.
- 2834 c. Provider satisfaction.
- 2835 d. Report cards on plan performance and best practices.
- 2836 e. Compliance with the requirements for prompt payment of
- 2837 claims under ss. 627.613, 641.3155, and 641.513.
- 2838 f. Utilization and quality data for the purpose of
- 2839 ensuring access to medically necessary services, including
- 2840 underutilization or inappropriate denial of services.

2841 3. The agency shall require the managed care plans that

2842 have contracted with the agency to establish a quality assurance

2843 system that incorporates the provisions of s. 409.912 (26) ~~(27)~~

2844 and any standards, rules, and guidelines developed by the

2845 agency.

2846 4. The agency shall establish an encounter database in

2847 order to compile data on health services rendered by health care

2848 practitioners who provide services to patients enrolled in

2849 managed care plans in the demonstration sites. The encounter

2850 database shall:

- 2851 a. Collect the following for each type of patient
- 2852 encounter with a health care practitioner or facility,
- 2853 including:
- 2854 (I) The demographic characteristics of the patient.
- 2855 (II) The principal, secondary, and tertiary diagnosis.
- 2856 (III) The procedure performed.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2857 (IV) The date and location where the procedure was  
 2858 performed.

2859 (V) The payment for the procedure, if any.

2860 (VI) If applicable, the health care practitioner's  
 2861 universal identification number.

2862 (VII) If the health care practitioner rendering the  
 2863 service is a dependent practitioner, the modifiers appropriate  
 2864 to indicate that the service was delivered by the dependent  
 2865 practitioner.

2866 b. Collect appropriate information relating to  
 2867 prescription drugs for each type of patient encounter.

2868 c. Collect appropriate information related to health care  
 2869 costs and utilization from managed care plans participating in  
 2870 the demonstration sites.

2871 5. To the extent practicable, when collecting the data the  
 2872 agency shall use a standardized claim form or electronic  
 2873 transfer system that is used by health care practitioners,  
 2874 facilities, and payors.

2875 6. Health care practitioners and facilities in the  
 2876 demonstration sites shall electronically submit, and managed  
 2877 care plans participating in the demonstration sites shall  
 2878 electronically receive, information concerning claims payments  
 2879 and any other information reasonably related to the encounter  
 2880 database using a standard format as required by the agency.

2881 7. The agency shall establish reasonable deadlines for  
 2882 phasing in the electronic transmittal of full encounter data.

2883 8. The system must ensure that the data reported is  
 2884 accurate and complete.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2885 (w) To implement procedures to minimize the risk of  
 2886 Medicaid fraud and abuse in all plans operating in the Medicaid  
 2887 managed care pilot program authorized in this section.

2888 1. The agency shall ensure that applicable provisions of  
 2889 this chapter and chapters 414, 626, 641, and 932 which relate to  
 2890 Medicaid fraud and abuse are applied and enforced at the  
 2891 demonstration project sites.

2892 2. Providers must have the certification, license, and  
 2893 credentials that are required by law and waiver requirements.

2894 3. The agency shall ensure that the plan is in compliance  
 2895 with s. 409.912 (20) and (21) and ~~(22)~~.

2896 4. The agency shall require that each plan establish  
 2897 functions and activities governing program integrity in order to  
 2898 reduce the incidence of fraud and abuse. Plans must report  
 2899 instances of fraud and abuse pursuant to chapter 641.

2900 5. The plan shall have written administrative and  
 2901 management arrangements or procedures, including a mandatory  
 2902 compliance plan, which are designed to guard against fraud and  
 2903 abuse. The plan shall designate a compliance officer who has  
 2904 sufficient experience in health care.

2905 6.a. The agency shall require all managed care plan  
 2906 contractors in the pilot program to report all instances of  
 2907 suspected fraud and abuse. A failure to report instances of  
 2908 suspected fraud and abuse is a violation of law and subject to  
 2909 the penalties provided by law.

2910 b. An instance of fraud and abuse in the managed care  
 2911 plan, including, but not limited to, defrauding the state health  
 2912 care benefit program by misrepresentation of fact in reports,

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2913 | claims, certifications, enrollment claims, demographic  
 2914 | statistics, or patient-encounter data; misrepresentation of the  
 2915 | qualifications of persons rendering health care and ancillary  
 2916 | services; bribery and false statements relating to the delivery  
 2917 | of health care; unfair and deceptive marketing practices; and  
 2918 | false claims actions in the provision of managed care, is a  
 2919 | violation of law and subject to the penalties provided by law.

2920 |       c. The agency shall require that all contractors make all  
 2921 | files and relevant billing and claims data accessible to state  
 2922 | regulators and investigators and that all such data is linked  
 2923 | into a unified system to ensure consistent reviews and  
 2924 | investigations.

2925 |       (dd) To implement service delivery mechanisms within a  
 2926 | specialty plan in area 10 to provide behavioral health care  
 2927 | services to Medicaid-eligible children whose cases are open for  
 2928 | child welfare services in the HomeSafeNet system. These services  
 2929 | must be coordinated with community-based care providers as  
 2930 | specified in s. 409.1671, where available, and be sufficient to  
 2931 | meet the developmental, behavioral, and emotional needs of these  
 2932 | children. Children in area 10 who have an open case in the  
 2933 | HomeSafeNet system shall be enrolled into the specialty plan.  
 2934 | These service delivery mechanisms must be implemented no later  
 2935 | than July 1, 2011, in AHCA area 10 in order for the children in  
 2936 | AHCA area 10 to remain exempt from the statewide plan under s.  
 2937 | 409.912(4)(b)5.8. An administrative fee may be paid to the  
 2938 | specialty plan for the coordination of services based on the  
 2939 | receipt of the state share of that fee being provided through  
 2940 | intergovernmental transfers.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2941           Section 20. Effective October 1, 2014, section 409.91211,  
 2942 Florida Statutes, is repealed.

2943           Section 21. Section 409.9122, Florida Statutes, is amended  
 2944 to read:

2945           409.9122 Mandatory Medicaid managed care enrollment;  
 2946 programs and procedures.—

2947           (1) It is the intent of the Legislature that the MediPass  
 2948 program be cost-effective, provide quality health care, and  
 2949 improve access to health services, and that the program be  
 2950 statewide. This subsection expires October 1, 2014.

2951           (2) (a) The agency shall enroll in a managed care plan or  
 2952 MediPass all Medicaid recipients, except those Medicaid  
 2953 recipients who are: in an institution; enrolled in the Medicaid  
 2954 medically needy program; or eligible for both Medicaid and  
 2955 Medicare. Upon enrollment, individuals will be able to change  
 2956 their managed care option during the 90-day opt out period  
 2957 required by federal Medicaid regulations. The agency is  
 2958 authorized to seek the necessary Medicaid state plan amendment  
 2959 to implement this policy. However, to the extent permitted by  
 2960 federal law, the agency may enroll in a managed care plan or  
 2961 MediPass a Medicaid recipient who is exempt from mandatory  
 2962 managed care enrollment, provided that:

2963           1. The recipient's decision to enroll in a managed care  
 2964 plan or MediPass is voluntary;

2965           2. If the recipient chooses to enroll in a managed care  
 2966 plan, the agency has determined that the managed care plan  
 2967 provides specific programs and services which address the  
 2968 special health needs of the recipient; and

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2969           3. The agency receives any necessary waivers from the  
 2970 federal Centers for Medicare and Medicaid Services.  
 2971  
 2972 ~~The agency shall develop rules to establish policies by which~~  
 2973 ~~exceptions to the mandatory managed care enrollment requirement~~  
 2974 ~~may be made on a case-by-case basis. The rules shall include the~~  
 2975 ~~specific criteria to be applied when making a determination as~~  
 2976 ~~to whether to exempt a recipient from mandatory enrollment in a~~  
 2977 ~~managed care plan or MediPass. School districts participating in~~  
 2978 the certified school match program pursuant to ss. 409.908(21)  
 2979 and 1011.70 shall be reimbursed by Medicaid, subject to the  
 2980 limitations of s. 1011.70(1), for a Medicaid-eligible child  
 2981 participating in the services as authorized in s. 1011.70, as  
 2982 provided for in s. 409.9071, regardless of whether the child is  
 2983 enrolled in MediPass or a managed care plan. Managed care plans  
 2984 shall make a good faith effort to execute agreements with school  
 2985 districts regarding the coordinated provision of services  
 2986 authorized under s. 1011.70. County health departments  
 2987 delivering school-based services pursuant to ss. 381.0056 and  
 2988 381.0057 shall be reimbursed by Medicaid for the federal share  
 2989 for a Medicaid-eligible child who receives Medicaid-covered  
 2990 services in a school setting, regardless of whether the child is  
 2991 enrolled in MediPass or a managed care plan. Managed care plans  
 2992 shall make a good faith effort to execute agreements with county  
 2993 health departments regarding the coordinated provision of  
 2994 services to a Medicaid-eligible child. To ensure continuity of  
 2995 care for Medicaid patients, the agency, the Department of  
 2996 Health, and the Department of Education shall develop procedures

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

2997 | for ensuring that a student's managed care plan or MediPass  
 2998 | provider receives information relating to services provided in  
 2999 | accordance with ss. 381.0056, 381.0057, 409.9071, and 1011.70.

3000 |       (b) A Medicaid recipient shall not be enrolled in or  
 3001 | assigned to a managed care plan or MediPass unless the managed  
 3002 | care plan or MediPass has complied with the quality-of-care  
 3003 | standards specified in paragraphs (3)(a) and (b), respectively.

3004 |       (c) Medicaid recipients shall have a choice of managed  
 3005 | care plans or MediPass. The Agency for Health Care  
 3006 | Administration, the Department of Health, the Department of  
 3007 | Children and Family Services, and the Department of Elderly  
 3008 | Affairs shall cooperate to ensure that each Medicaid recipient  
 3009 | receives clear and easily understandable information that meets  
 3010 | the following requirements:

3011 |           1. Explains the concept of managed care, including  
 3012 | MediPass.

3013 |           2. Provides information on the comparative performance of  
 3014 | managed care plans and MediPass in the areas of quality,  
 3015 | credentialing, preventive health programs, network size and  
 3016 | availability, and patient satisfaction.

3017 |           3. Explains where additional information on each managed  
 3018 | care plan and MediPass in the recipient's area can be obtained.

3019 |           4. Explains that recipients have the right to choose their  
 3020 | managed care coverage at the time they first enroll in Medicaid  
 3021 | and again at regular intervals set by the agency. However, if a  
 3022 | recipient does not choose a managed care plan or MediPass, the  
 3023 | agency will assign the recipient to a managed care plan or  
 3024 | MediPass according to the criteria specified in this section.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3025           5. Explains the recipient's right to complain, file a  
 3026 grievance, or change managed care plans or MediPass providers if  
 3027 the recipient is not satisfied with the managed care plan or  
 3028 MediPass.

3029           (d) The agency shall develop a mechanism for providing  
 3030 information to Medicaid recipients for the purpose of making a  
 3031 managed care plan or MediPass selection. Examples of such  
 3032 mechanisms may include, but not be limited to, interactive  
 3033 information systems, mailings, and mass marketing materials.  
 3034 Managed care plans and MediPass providers are prohibited from  
 3035 providing inducements to Medicaid recipients to select their  
 3036 plans or from prejudicing Medicaid recipients against other  
 3037 managed care plans or MediPass providers.

3038           (e) Medicaid recipients who are already enrolled in a  
 3039 managed care plan or MediPass shall be offered the opportunity  
 3040 to change managed care plans or MediPass providers on a  
 3041 staggered basis, as defined by the agency. All Medicaid  
 3042 recipients shall have 30 days in which to make a choice of  
 3043 managed care plans or MediPass providers. Those Medicaid  
 3044 recipients who do not make a choice shall be assigned in  
 3045 accordance with paragraph (f). To facilitate continuity of care,  
 3046 for a Medicaid recipient who is also a recipient of Supplemental  
 3047 Security Income (SSI), prior to assigning the SSI recipient to a  
 3048 managed care plan or MediPass, the agency shall determine  
 3049 whether the SSI recipient has an ongoing relationship with a  
 3050 MediPass provider or managed care plan, and if so, the agency  
 3051 shall assign the SSI recipient to that MediPass provider or  
 3052 managed care plan. Those SSI recipients who do not have such a

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3053 provider relationship shall be assigned to a managed care plan  
 3054 or MediPass provider in accordance with paragraph (f).

3055 (f) If a Medicaid recipient does not choose a managed care  
 3056 plan or MediPass provider, the agency shall assign the Medicaid  
 3057 recipient to a managed care plan or MediPass provider. Medicaid  
 3058 recipients eligible for managed care plan enrollment who are  
 3059 subject to mandatory assignment but who fail to make a choice  
 3060 shall be assigned to managed care plans until an enrollment of  
 3061 35 percent in MediPass and 65 percent in managed care plans, of  
 3062 all those eligible to choose managed care, is achieved. Once  
 3063 this enrollment is achieved, the assignments shall be divided in  
 3064 order to maintain an enrollment in MediPass and managed care  
 3065 plans which is in a 35 percent and 65 percent proportion,  
 3066 respectively. Thereafter, assignment of Medicaid recipients who  
 3067 fail to make a choice shall be based proportionally on the  
 3068 preferences of recipients who have made a choice in the previous  
 3069 period. Such proportions shall be revised at least quarterly to  
 3070 reflect an update of the preferences of Medicaid recipients. The  
 3071 agency shall disproportionately assign Medicaid-eligible  
 3072 recipients who are required to but have failed to make a choice  
 3073 of managed care plan or MediPass, ~~including children, and who~~  
 3074 ~~would be assigned to the MediPass program to~~ the children's  
 3075 ~~networks as described in s. 409.912(4)(g),~~ Children's Medical  
 3076 Services Network as defined in s. 391.021, exclusive provider  
 3077 organizations, provider service networks, minority physician  
 3078 networks, and pediatric emergency department diversion programs  
 3079 authorized by this chapter or the General Appropriations Act, in  
 3080 such manner as the agency deems appropriate, until the agency

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3081 has determined that the networks and programs have sufficient  
3082 numbers to be operated economically. For purposes of this  
3083 paragraph, when referring to assignment, the term "managed care  
3084 plans" includes health maintenance organizations, exclusive  
3085 provider organizations, provider service networks, minority  
3086 physician networks, Children's Medical Services Network, and  
3087 pediatric emergency department diversion programs authorized by  
3088 this chapter or the General Appropriations Act. When making  
3089 assignments, the agency shall take into account the following  
3090 criteria:

3091 1. A managed care plan has sufficient network capacity to  
3092 meet the need of members.

3093 2. The managed care plan or MediPass has previously  
3094 enrolled the recipient as a member, or one of the managed care  
3095 plan's primary care providers or MediPass providers has  
3096 previously provided health care to the recipient.

3097 3. The agency has knowledge that the member has previously  
3098 expressed a preference for a particular managed care plan or  
3099 MediPass provider as indicated by Medicaid fee-for-service  
3100 claims data, but has failed to make a choice.

3101 4. The managed care plan's or MediPass primary care  
3102 providers are geographically accessible to the recipient's  
3103 residence.

3104 (g) When more than one managed care plan or MediPass  
3105 provider meets the criteria specified in paragraph (f), the  
3106 agency shall make recipient assignments consecutively by family  
3107 unit.

3108 (h) The agency may not engage in practices that are

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3109 | designed to favor one managed care plan over another or that are  
3110 | designed to influence Medicaid recipients to enroll in MediPass  
3111 | rather than in a managed care plan or to enroll in a managed  
3112 | care plan rather than in MediPass. This subsection does not  
3113 | prohibit the agency from reporting on the performance of  
3114 | MediPass or any managed care plan, as measured by performance  
3115 | criteria developed by the agency.

3116 |       (i) After a recipient has made his or her selection or has  
3117 | been enrolled in a managed care plan or MediPass, the recipient  
3118 | shall have 90 days to exercise the opportunity to voluntarily  
3119 | disenroll and select another managed care plan or MediPass.  
3120 | After 90 days, no further changes may be made except for good  
3121 | cause. Good cause includes, but is not limited to, poor quality  
3122 | of care, lack of access to necessary specialty services, an  
3123 | unreasonable delay or denial of service, or fraudulent  
3124 | enrollment. The agency shall develop criteria for good cause  
3125 | disenrollment for chronically ill and disabled populations who  
3126 | are assigned to managed care plans if more appropriate care is  
3127 | available through the MediPass program. The agency must make a  
3128 | determination as to whether cause exists. However, the agency  
3129 | may require a recipient to use the managed care plan's or  
3130 | MediPass grievance process prior to the agency's determination  
3131 | of cause, except in cases in which immediate risk of permanent  
3132 | damage to the recipient's health is alleged. The grievance  
3133 | process, when utilized, must be completed in time to permit the  
3134 | recipient to disenroll by the first day of the second month  
3135 | after the month the disenrollment request was made. If the  
3136 | managed care plan or MediPass, as a result of the grievance

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3137 process, approves an enrollee's request to disenroll, the agency  
3138 is not required to make a determination in the case. The agency  
3139 must make a determination and take final action on a recipient's  
3140 request so that disenrollment occurs no later than the first day  
3141 of the second month after the month the request was made. If the  
3142 agency fails to act within the specified timeframe, the  
3143 recipient's request to disenroll is deemed to be approved as of  
3144 the date agency action was required. Recipients who disagree  
3145 with the agency's finding that cause does not exist for  
3146 disenrollment shall be advised of their right to pursue a  
3147 Medicaid fair hearing to dispute the agency's finding.

3148 (j) The agency shall apply for a federal waiver from the  
3149 Centers for Medicare and Medicaid Services to lock eligible  
3150 Medicaid recipients into a managed care plan or MediPass for 12  
3151 months after an open enrollment period. After 12 months'  
3152 enrollment, a recipient may select another managed care plan or  
3153 MediPass provider. However, nothing shall prevent a Medicaid  
3154 recipient from changing primary care providers within the  
3155 managed care plan or MediPass program during the 12-month  
3156 period.

3157 (k) When a Medicaid recipient does not choose a managed  
3158 care plan or MediPass provider, the agency shall assign the  
3159 Medicaid recipient to a managed care plan, except in those  
3160 counties in which there are fewer than two managed care plans  
3161 accepting Medicaid enrollees, in which case assignment shall be  
3162 to a managed care plan or a MediPass provider. Medicaid  
3163 recipients in counties with fewer than two managed care plans  
3164 accepting Medicaid enrollees who are subject to mandatory

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3165 assignment but who fail to make a choice shall be assigned to  
 3166 managed care plans until an enrollment of 35 percent in MediPass  
 3167 and 65 percent in managed care plans, of all those eligible to  
 3168 choose managed care, is achieved. Once that enrollment is  
 3169 achieved, the assignments shall be divided in order to maintain  
 3170 an enrollment in MediPass and managed care plans which is in a  
 3171 35 percent and 65 percent proportion, respectively. For purposes  
 3172 of this paragraph, when referring to assignment, the term  
 3173 "managed care plans" includes exclusive provider organizations,  
 3174 provider service networks, Children's Medical Services Network,  
 3175 minority physician networks, and pediatric emergency department  
 3176 diversion programs authorized by this chapter or the General  
 3177 Appropriations Act. When making assignments, the agency shall  
 3178 take into account the following criteria:

3179 1. A managed care plan has sufficient network capacity to  
 3180 meet the need of members.

3181 2. The managed care plan or MediPass has previously  
 3182 enrolled the recipient as a member, or one of the managed care  
 3183 plan's primary care providers or MediPass providers has  
 3184 previously provided health care to the recipient.

3185 3. The agency has knowledge that the member has previously  
 3186 expressed a preference for a particular managed care plan or  
 3187 MediPass provider as indicated by Medicaid fee-for-service  
 3188 claims data, but has failed to make a choice.

3189 4. The managed care plan's or MediPass primary care  
 3190 providers are geographically accessible to the recipient's  
 3191 residence.

3192 5. The agency has authority to make mandatory assignments

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3193 based on quality of service and performance of managed care  
 3194 plans.

3195 (1) If the Medicaid recipient is diagnosed with HIV/AIDS  
 3196 and resides in Broward, Miami-Dade, or Palm Beach Counties, the  
 3197 agency shall assign the Medicaid recipient to a managed care  
 3198 plan that is a health maintenance organization authorized under  
 3199 chapter 641, is under contract with the agency on July 1, 2011,  
 3200 and offers a delivery system through a university-based teaching  
 3201 and research-oriented organization that specializes in providing  
 3202 health care services and treatment for individuals diagnosed  
 3203 with HIV/AIDS.

3204 (m) ~~(l)~~ Notwithstanding the provisions of chapter 287, the  
 3205 agency may, at its discretion, renew cost-effective contracts  
 3206 for choice counseling services once or more for such periods as  
 3207 the agency may decide. However, all such renewals may not  
 3208 combine to exceed a total period longer than the term of the  
 3209 original contract.

3210  
 3211 This subsection expires October 1, 2014.

3212 (3) (a) The agency shall establish quality-of-care  
 3213 standards for managed care plans. These standards shall be based  
 3214 upon, but are not limited to:

- 3215 1. Compliance with the accreditation requirements as  
 3216 provided in s. 641.512.
- 3217 2. Compliance with Early and Periodic Screening,  
 3218 Diagnosis, and Treatment screening requirements.
- 3219 3. The percentage of voluntary disenrollments.
- 3220 4. Immunization rates.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3221           5. Standards of the National Committee for Quality  
 3222 Assurance and other approved accrediting bodies.  
 3223           6. Recommendations of other authoritative bodies.  
 3224           7. Specific requirements of the Medicaid program, or  
 3225 standards designed to specifically assist the unique needs of  
 3226 Medicaid recipients.  
 3227           8. Compliance with the health quality improvement system  
 3228 as established by the agency, which incorporates standards and  
 3229 guidelines developed by the Medicaid Bureau of the Health Care  
 3230 Financing Administration as part of the quality assurance reform  
 3231 initiative.  
 3232           (b) For the MediPass program, the agency shall establish  
 3233 standards which are based upon, but are not limited to:  
 3234           1. Quality-of-care standards which are comparable to those  
 3235 required of managed care plans.  
 3236           2. Credentialing standards for MediPass providers.  
 3237           3. Compliance with Early and Periodic Screening,  
 3238 Diagnosis, and Treatment screening requirements.  
 3239           4. Immunization rates.  
 3240           5. Specific requirements of the Medicaid program, or  
 3241 standards designed to specifically assist the unique needs of  
 3242 Medicaid recipients.  
 3243  
 3244 This subsection expires October 1, 2014.  
 3245           (4) (a) Each female recipient may select as her primary  
 3246 care provider an obstetrician/gynecologist who has agreed to  
 3247 participate as a MediPass primary care case manager.  
 3248           (b) The agency shall establish a complaints and grievance

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3249 process to assist Medicaid recipients enrolled in the MediPass  
 3250 program to resolve complaints and grievances. The agency shall  
 3251 investigate reports of quality-of-care grievances which remain  
 3252 unresolved to the satisfaction of the enrollee.

3253  
 3254 This subsection expires October 1, 2014.

3255 (5) (a) The agency shall work cooperatively with the Social  
 3256 Security Administration to identify beneficiaries who are  
 3257 jointly eligible for Medicare and Medicaid and shall develop  
 3258 cooperative programs to encourage these beneficiaries to enroll  
 3259 in a Medicare participating health maintenance organization or  
 3260 prepaid health plans.

3261 (b) The agency shall work cooperatively with the  
 3262 Department of Elderly Affairs to assess the potential cost-  
 3263 effectiveness of providing MediPass to beneficiaries who are  
 3264 jointly eligible for Medicare and Medicaid on a voluntary choice  
 3265 basis. If the agency determines that enrollment of these  
 3266 beneficiaries in MediPass has the potential for being cost-  
 3267 effective for the state, the agency shall offer MediPass to  
 3268 these beneficiaries on a voluntary choice basis in the counties  
 3269 where MediPass operates.

3270  
 3271 This subsection expires October 1, 2014.

3272 (6) MediPass enrolled recipients may receive up to 10  
 3273 visits of reimbursable services by participating Medicaid  
 3274 physicians licensed under chapter 460 and up to four visits of  
 3275 reimbursable services by participating Medicaid physicians  
 3276 licensed under chapter 461. Any further visits must be by prior

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3277 authorization by the MediPass primary care provider. However,  
 3278 nothing in this subsection may be construed to increase the  
 3279 total number of visits or the total amount of dollars per year  
 3280 per person under current Medicaid rules, unless otherwise  
 3281 provided for in the General Appropriations Act. This subsection  
 3282 expires October 1, 2014.

3283 ~~(7) The agency shall investigate the feasibility of~~  
 3284 ~~developing managed care plan and MediPass options for the~~  
 3285 ~~following groups of Medicaid recipients:~~

- 3286 ~~(a) Pregnant women and infants.~~
- 3287 ~~(b) Elderly and disabled recipients, especially those who~~  
 3288 ~~are at risk of nursing home placement.~~
- 3289 ~~(c) Persons with developmental disabilities.~~
- 3290 ~~(d) Qualified Medicare beneficiaries.~~
- 3291 ~~(e) Adults who have chronic, high-cost medical conditions.~~
- 3292 ~~(f) Adults and children who have mental health problems.~~
- 3293 ~~(g) Other recipients for whom managed care plans and~~  
 3294 ~~MediPass offer the opportunity of more cost-effective care and~~  
 3295 ~~greater access to qualified providers.~~

3296 ~~(8) (a) The agency shall encourage the development of~~  
 3297 ~~public and private partnerships to foster the growth of health~~  
 3298 ~~maintenance organizations and prepaid health plans that will~~  
 3299 ~~provide high-quality health care to Medicaid recipients.~~

3300 ~~(b) Subject to the availability of moneys and any~~  
 3301 ~~limitations established by the General Appropriations Act or~~  
 3302 ~~chapter 216, the agency is authorized to enter into contracts~~  
 3303 ~~with traditional providers of health care to low-income persons~~  
 3304 ~~to assist such providers with the technical aspects of~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3305 ~~cooperatively developing Medicaid prepaid health plans.~~

3306 ~~1. The agency may contract with disproportionate share~~  
 3307 ~~hospitals, county health departments, federally initiated or~~  
 3308 ~~federally funded community health centers, and counties that~~  
 3309 ~~operate either a hospital or a community clinic.~~

3310 ~~2. A contract may not be for more than \$100,000 per year,~~  
 3311 ~~and no contract may be extended with any particular provider for~~  
 3312 ~~more than 2 years. The contract is intended only as seed or~~  
 3313 ~~development funding and requires a commitment from the~~  
 3314 ~~interested party.~~

3315 ~~3. A contract must require participation by at least one~~  
 3316 ~~community health clinic and one disproportionate share hospital.~~

3317 (7) ~~(9)~~ (a) The agency shall develop and implement a  
 3318 comprehensive plan to ensure that recipients are adequately  
 3319 informed of their choices and rights under all Medicaid managed  
 3320 care programs and that Medicaid managed care programs meet  
 3321 acceptable standards of quality in patient care, patient  
 3322 satisfaction, and financial solvency.

3323 (b) The agency shall provide adequate means for informing  
 3324 patients of their choice and rights under a managed care plan at  
 3325 the time of eligibility determination.

3326 (c) The agency shall require managed care plans and  
 3327 MediPass providers to demonstrate and document plans and  
 3328 activities, as defined by rule, including outreach and followup,  
 3329 undertaken to ensure that Medicaid recipients receive the health  
 3330 care service to which they are entitled.

3331  
 3332 This subsection expires October 1, 2014.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3333        ~~(8)-(10)~~ The agency shall consult with Medicaid consumers  
 3334 and their representatives on an ongoing basis regarding  
 3335 measurements of patient satisfaction, procedures for resolving  
 3336 patient grievances, standards for ensuring quality of care,  
 3337 mechanisms for providing patient access to services, and  
 3338 policies affecting patient care. This subsection expires October  
 3339 1, 2014.

3340        ~~(9)-(11)~~ The agency may extend eligibility for Medicaid  
 3341 recipients enrolled in licensed and accredited health  
 3342 maintenance organizations for the duration of the enrollment  
 3343 period or for 6 months, whichever is earlier, provided the  
 3344 agency certifies that such an offer will not increase state  
 3345 expenditures. This subsection expires October 1, 2013.

3346        ~~(10)-(12)~~ A managed care plan that has a Medicaid contract  
 3347 shall at least annually review each primary care physician's  
 3348 active patient load and shall ensure that additional Medicaid  
 3349 recipients are not assigned to physicians who have a total  
 3350 active patient load of more than 3,000 patients. As used in this  
 3351 subsection, the term "active patient" means a patient who is  
 3352 seen by the same primary care physician, or by a physician  
 3353 assistant or advanced registered nurse practitioner under the  
 3354 supervision of the primary care physician, at least three times  
 3355 within a calendar year. Each primary care physician shall  
 3356 annually certify to the managed care plan whether or not his or  
 3357 her patient load exceeds the limits established under this  
 3358 subsection and the managed care plan shall accept such  
 3359 certification on face value as compliance with this subsection.  
 3360 The agency shall accept the managed care plan's representations

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3361 that it is in compliance with this subsection based on the  
3362 certification of its primary care physicians, unless the agency  
3363 has an objective indication that access to primary care is being  
3364 compromised, such as receiving complaints or grievances relating  
3365 to access to care. If the agency determines that an objective  
3366 indication exists that access to primary care is being  
3367 compromised, it may verify the patient load certifications  
3368 submitted by the managed care plan's primary care physicians and  
3369 that the managed care plan is not assigning Medicaid recipients  
3370 to primary care physicians who have an active patient load of  
3371 more than 3,000 patients. This subsection expires October 1,  
3372 2014.

3373 (11)~~(13)~~ Effective July 1, 2003, the agency shall adjust  
3374 the enrollee assignment process of Medicaid managed prepaid  
3375 health plans for those Medicaid managed prepaid plans operating  
3376 in Miami-Dade County which have executed a contract with the  
3377 agency for a minimum of 8 consecutive years in order for the  
3378 Medicaid managed prepaid plan to maintain a minimum enrollment  
3379 level of 15,000 members per month. When assigning enrollees  
3380 pursuant to this subsection, the agency shall give priority to  
3381 providers that initially qualified under this subsection until  
3382 such providers reach and maintain an enrollment level of 15,000  
3383 members per month. A prepaid health plan that has a statewide  
3384 Medicaid enrollment of 25,000 or more members is not eligible  
3385 for enrollee assignments under this subsection. This subsection  
3386 expires October 1, 2014.

3387 (12)~~(14)~~ The agency shall include in its calculation of  
3388 the hospital inpatient component of a Medicaid health

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3389 maintenance organization's capitation rate any special payments,  
 3390 including, but not limited to, upper payment limit or  
 3391 disproportionate share hospital payments, made to qualifying  
 3392 hospitals through the fee-for-service program. The agency may  
 3393 seek federal waiver approval or state plan amendment as needed  
 3394 to implement this adjustment.

3395 (13) The agency shall develop a process to enable any  
 3396 recipient with access to employer-sponsored health care coverage  
 3397 to opt out of all eligible plans in the Medicaid program and to  
 3398 use Medicaid financial assistance to pay for the recipient's  
 3399 share of cost in any such employer-sponsored coverage.

3400 Contingent on federal approval, the agency shall also enable  
 3401 recipients with access to other insurance or related products  
 3402 that provide access to health care services created pursuant to  
 3403 state law, including any plan or product available pursuant to  
 3404 the Florida Health Choices Program or any health exchange, to  
 3405 opt out. The amount of financial assistance provided for each  
 3406 recipient may not exceed the amount of the Medicaid premium that  
 3407 would have been paid to a plan for that recipient.

3408 (14) The agency shall maintain and operate the Medicaid  
 3409 Encounter Data System to collect, process, store, and report on  
 3410 covered services provided to all Florida Medicaid recipients  
 3411 enrolled in prepaid managed care plans.

3412 (a) Prepaid managed care plans shall submit encounter data  
 3413 electronically in a format that complies with the Health  
 3414 Insurance Portability and Accountability Act provisions for  
 3415 electronic claims and in accordance with deadlines established  
 3416 by the agency. Prepaid managed care plans must certify that the

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3417 data reported is accurate and complete.

3418 (b) The agency is responsible for validating the data  
 3419 submitted by the plans. The agency shall develop methods and  
 3420 protocols for ongoing analysis of the encounter data that  
 3421 adjusts for differences in characteristics of prepaid plan  
 3422 enrollees to allow comparison of service utilization among plans  
 3423 and against expected levels of use. The analysis shall be used  
 3424 to identify possible cases of systemic underutilization or  
 3425 denials of claims and inappropriate service utilization such as  
 3426 higher-than-expected emergency department encounters. The  
 3427 analysis shall provide periodic feedback to the plans and enable  
 3428 the agency to establish corrective action plans when necessary.  
 3429 One of the focus areas for the analysis shall be the use of  
 3430 prescription drugs.

3431 (15) The agency may establish a per-member, per-month  
 3432 payment for Medicare Advantage Special Needs members that are  
 3433 also eligible for Medicaid as a mechanism for meeting the  
 3434 state's cost-sharing obligation. The agency may also develop a  
 3435 per-member, per-month payment only for Medicaid-covered services  
 3436 for which the state is responsible. The agency shall develop a  
 3437 mechanism to ensure that such per-member, per-month payment  
 3438 enhances the value to the state and enrolled members by limiting  
 3439 cost sharing, enhances the scope of Medicare supplemental  
 3440 benefits that are equal to or greater than Medicaid coverage for  
 3441 select services, and improves care coordination.

3442 (16) The agency shall establish, and managed care plans  
 3443 shall use, a uniform method of accounting for and reporting  
 3444 medical and nonmedical costs.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3445 (a) Managed care plans shall submit financial data  
 3446 electronically in a format that complies with the uniform  
 3447 accounting procedures established by the agency. Managed care  
 3448 plans must certify that the data reported is accurate and  
 3449 complete.

3450 (b) The agency is responsible for validating the financial  
 3451 data submitted by the plans. The agency shall develop methods  
 3452 and protocols for ongoing analysis of data that adjusts for  
 3453 differences in characteristics of plan enrollees to allow  
 3454 comparison among plans and against expected levels of  
 3455 expenditures. The analysis shall be used to identify possible  
 3456 cases of overspending on administrative costs or under spending  
 3457 on medical services.

3458 (17) The agency shall establish and maintain an  
 3459 information system to make encounter data, financial data, and  
 3460 other measures of plan performance to the public and any  
 3461 interested party.

3462 (a) Information submitted by the managed care plans shall  
 3463 be available online as well as in other formats.

3464 (b) Periodic agency reports shall be published that  
 3465 include provide summary as well as plan specific measures of  
 3466 financial performance and service utilization.

3467 (c) Any release of the financial and encounter data  
 3468 submitted by managed care plans shall ensure the confidentiality  
 3469 of personal health information.

3470 (18) The agency may, on a case-by-case basis, exempt a  
 3471 recipient from mandatory enrollment in a managed care plan when  
 3472 the recipient has a unique, time-limited disease or condition-

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3473 related circumstance and managed care enrollment will interfere  
 3474 with ongoing care because the recipient's provider does not  
 3475 participate in the managed care plans available in the  
 3476 recipient's area.

3477 (19) The agency shall contract with a single provider  
 3478 service network to function as a managing entity for the  
 3479 MediPass program in all counties with fewer than two prepaid  
 3480 plans. The contractor shall be responsible for implementing  
 3481 preauthorization procedures, case management programs, and  
 3482 utilization management initiatives in order to improve care  
 3483 coordination and patient outcomes while reducing costs. The  
 3484 contractor may earn an administrative fee, if the fee is less  
 3485 than any savings determined by the reconciliation process  
 3486 pursuant to s. 409.912(4)(d)1. This subsection expires October  
 3487 1, 2014, or upon full implementation of the managed medical  
 3488 assistance program, whichever is sooner.

3489 (20) Subject to federal approval, the agency shall  
 3490 contract with a single provider service network to function as a  
 3491 third-party administrator and managing entity for the Medically  
 3492 Needy program in all counties. The contractor shall provide care  
 3493 coordination and utilization management in order to achieve more  
 3494 cost-effective services for Medically Needy enrollees. To  
 3495 facilitate the care management functions of the provider service  
 3496 network, enrollment in the network shall be for a continuous 6-  
 3497 month period or until the end of the contract between the  
 3498 provider service network and the agency, whichever is sooner.  
 3499 Beginning the second month after the determination of  
 3500 eligibility, the contractor may collect a monthly premium from

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3501 each Medically Needy recipient provided the premium does not  
 3502 exceed the enrollee's share of cost as determined by the  
 3503 Department of Children and Family Services. The contractor must  
 3504 provide a 90-day grace period before disenrolling a Medically  
 3505 Needy recipient for failure to pay premiums. The contractor may  
 3506 earn an administrative fee, if the fee is less than any savings  
 3507 determined by the reconciliation process pursuant to s.  
 3508 409.912(4)(d)1. Premium revenue collected from the recipients  
 3509 shall be deducted from the contractor's earned savings. This  
 3510 subsection expires October 1, 2014, or upon full implementation  
 3511 of the managed medical assistance program, whichever is sooner.

3512 Section 22. Subsection (15) of section 430.04, Florida  
 3513 Statutes, is amended to read:

3514 430.04 Duties and responsibilities of the Department of  
 3515 Elderly Affairs.—The Department of Elderly Affairs shall:

3516 (15) Administer all Medicaid waivers and programs relating  
 3517 to elders and their appropriations. The waivers include, but are  
 3518 not limited to:

3519 ~~(a) The Alzheimer's Dementia Specific Medicaid Waiver as~~  
 3520 ~~established in s. 430.502(7), (8), and (9).~~

3521 (a) ~~(b)~~ The Assisted Living for the Frail Elderly Waiver.

3522 (b) ~~(c)~~ The Aged and Disabled Adult Waiver.

3523 (c) ~~(d)~~ The Adult Day Health Care Waiver.

3524 (d) ~~(e)~~ The Consumer-Directed Care Plus Program as defined  
 3525 in s. 409.221.

3526 (e) ~~(f)~~ The Program of All-inclusive Care for the Elderly.

3527 (f) ~~(g)~~ The Long-Term Care Community-Based Diversion Pilot  
 3528 Project as described in s. 430.705.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3529 (g) ~~(h)~~ The Channeling Services Waiver for Frail Elders.

3530  
 3531 The department shall develop a transition plan for recipients  
 3532 receiving services in long-term care Medicaid waivers for elders  
 3533 or disabled adults on the date eligible plans become available  
 3534 in each recipient's region defined in s. 409.981(2) to enroll  
 3535 those recipients in eligible plans. This subsection expires  
 3536 October 1, 2014.

3537 Section 23. Section 430.2053, Florida Statutes, is amended  
 3538 to read:

3539 430.2053 Aging resource centers.—

3540 (1) The department, in consultation with the Agency for  
 3541 Health Care Administration and the Department of Children and  
 3542 Family Services, shall develop pilot projects for aging resource  
 3543 centers. ~~By October 31, 2004, the department, in consultation~~  
 3544 ~~with the agency and the Department of Children and Family~~  
 3545 ~~Services, shall develop an implementation plan for aging~~  
 3546 ~~resource centers and submit the plan to the Governor, the~~  
 3547 ~~President of the Senate, and the Speaker of the House of~~  
 3548 ~~Representatives. The plan must include qualifications for~~  
 3549 ~~designation as a center, the functions to be performed by each~~  
 3550 ~~center, and a process for determining that a current area agency~~  
 3551 ~~on aging is ready to assume the functions of an aging resource~~  
 3552 ~~center.~~

3553 ~~(2) Each area agency on aging shall develop, in~~  
 3554 ~~consultation with the existing community care for the elderly~~  
 3555 ~~lead agencies within their planning and service areas, a~~  
 3556 ~~proposal that describes the process the area agency on aging~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3557 ~~intends to undertake to transition to an aging resource center~~  
 3558 ~~prior to July 1, 2005, and that describes the area agency's~~  
 3559 ~~compliance with the requirements of this section. The proposals~~  
 3560 ~~must be submitted to the department prior to December 31, 2004.~~  
 3561 ~~The department shall evaluate all proposals for readiness and,~~  
 3562 ~~prior to March 1, 2005, shall select three area agencies on~~  
 3563 ~~aging which meet the requirements of this section to begin the~~  
 3564 ~~transition to aging resource centers. Those area agencies on~~  
 3565 ~~aging which are not selected to begin the transition to aging~~  
 3566 ~~resource centers shall, in consultation with the department and~~  
 3567 ~~the existing community care for the elderly lead agencies within~~  
 3568 ~~their planning and service areas, amend their proposals as~~  
 3569 ~~necessary and resubmit them to the department prior to July 1,~~  
 3570 ~~2005. The department may transition additional area agencies to~~  
 3571 ~~aging resource centers as it determines that area agencies are~~  
 3572 ~~in compliance with the requirements of this section.~~

3573 ~~(3) The Auditor General and the Office of Program Policy~~  
 3574 ~~Analysis and Government Accountability (OPPAGA) shall jointly~~  
 3575 ~~review and assess the department's process for determining an~~  
 3576 ~~area agency's readiness to transition to an aging resource~~  
 3577 ~~center.~~

3578 ~~(a) The review must, at a minimum, address the~~  
 3579 ~~appropriateness of the department's criteria for selection of an~~  
 3580 ~~area agency to transition to an aging resource center, the~~  
 3581 ~~instruments applied, the degree to which the department~~  
 3582 ~~accurately determined each area agency's compliance with the~~  
 3583 ~~readiness criteria, the quality of the technical assistance~~  
 3584 ~~provided by the department to an area agency in correcting any~~

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3585 ~~weaknesses identified in the readiness assessment, and the~~  
 3586 ~~degree to which each area agency overcame any identified~~  
 3587 ~~weaknesses.~~

3588 ~~(b) Reports of these reviews must be submitted to the~~  
 3589 ~~appropriate substantive and appropriations committees in the~~  
 3590 ~~Senate and the House of Representatives on March 1 and September~~  
 3591 ~~1 of each year until full transition to aging resource centers~~  
 3592 ~~has been accomplished statewide, except that the first report~~  
 3593 ~~must be submitted by February 1, 2005, and must address all~~  
 3594 ~~readiness activities undertaken through December 31, 2004. The~~  
 3595 ~~perspectives of all participants in this review process must be~~  
 3596 ~~included in each report.~~

3597 (2)~~(4)~~ The purposes of an aging resource center shall be:

3598 (a) To provide Florida's elders and their families with a  
 3599 locally focused, coordinated approach to integrating information  
 3600 and referral for all available services for elders with the  
 3601 eligibility determination entities for state and federally  
 3602 funded long-term-care services.

3603 (b) To provide for easier access to long-term-care  
 3604 services by Florida's elders and their families by creating  
 3605 multiple access points to the long-term-care network that flow  
 3606 through one established entity with wide community recognition.

3607 (3)~~(5)~~ The duties of an aging resource center are to:

3608 (a) Develop referral agreements with local community  
 3609 service organizations, such as senior centers, existing elder  
 3610 service providers, volunteer associations, and other similar  
 3611 organizations, to better assist clients who do not need or do  
 3612 not wish to enroll in programs funded by the department or the

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3613 agency. The referral agreements must also include a protocol,  
3614 developed and approved by the department, which provides  
3615 specific actions that an aging resource center and local  
3616 community service organizations must take when an elder or an  
3617 elder's representative seeking information on long-term-care  
3618 services contacts a local community service organization prior  
3619 to contacting the aging resource center. The protocol shall be  
3620 designed to ensure that elders and their families are able to  
3621 access information and services in the most efficient and least  
3622 cumbersome manner possible.

3623 (b) Provide an initial screening of all clients who  
3624 request long-term-care services to determine whether the person  
3625 would be most appropriately served through any combination of  
3626 federally funded programs, state-funded programs, locally funded  
3627 or community volunteer programs, or private funding for  
3628 services.

3629 (c) Determine eligibility for the programs and services  
3630 listed in subsection (9) ~~(11)~~ for persons residing within the  
3631 geographic area served by the aging resource center and  
3632 determine a priority ranking for services which is based upon  
3633 the potential recipient's frailty level and likelihood of  
3634 institutional placement without such services.

3635 (d) Manage the availability of financial resources for the  
3636 programs and services listed in subsection (9) ~~(11)~~ for persons  
3637 residing within the geographic area served by the aging resource  
3638 center.

3639 (e) When financial resources become available, refer a  
3640 client to the most appropriate entity to begin receiving

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3641 services. The aging resource center shall make referrals to lead  
 3642 agencies for service provision that ensure that individuals who  
 3643 are vulnerable adults in need of services pursuant to s.  
 3644 415.104(3)(b), or who are victims of abuse, neglect, or  
 3645 exploitation in need of immediate services to prevent further  
 3646 harm and are referred by the adult protective services program,  
 3647 are given primary consideration for receiving community-care-  
 3648 for-the-elderly services in compliance with the requirements of  
 3649 s. 430.205(5)(a) and that other referrals for services are in  
 3650 compliance with s. 430.205(5)(b).

3651 (f) Convene a work group to advise in the planning,  
 3652 implementation, and evaluation of the aging resource center. The  
 3653 work group shall be comprised of representatives of local  
 3654 service providers, Alzheimer's Association chapters, housing  
 3655 authorities, social service organizations, advocacy groups,  
 3656 representatives of clients receiving services through the aging  
 3657 resource center, and any other persons or groups as determined  
 3658 by the department. The aging resource center, in consultation  
 3659 with the work group, must develop annual program improvement  
 3660 plans that shall be submitted to the department for  
 3661 consideration. The department shall review each annual  
 3662 improvement plan and make recommendations on how to implement  
 3663 the components of the plan.

3664 (g) Enhance the existing area agency on aging in each  
 3665 planning and service area by integrating, either physically or  
 3666 virtually, the staff and services of the area agency on aging  
 3667 with the staff of the department's local CARES Medicaid ~~nursing~~  
 3668 ~~home~~ preadmission screening unit and a sufficient number of

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3669 staff from the Department of Children and Family Services'  
 3670 Economic Self-Sufficiency Unit necessary to determine the  
 3671 financial eligibility for all persons age 60 and older residing  
 3672 within the area served by the aging resource center that are  
 3673 seeking Medicaid services, Supplemental Security Income, and  
 3674 food assistance.

3675 (h) Assist clients who request long-term care services in  
 3676 being evaluated for eligibility for enrollment in the Medicaid  
 3677 long-term care managed care program as eligible plans become  
 3678 available in each of the regions pursuant to s. 409.981(2).

3679 (i) Provide enrollment and coverage information to  
 3680 Medicaid managed long-term care enrollees as qualified plans  
 3681 become available in each of the regions pursuant to s.  
 3682 409.981(2).

3683 (j) Assist Medicaid recipients enrolled in the Medicaid  
 3684 long-term care managed care program with informally resolving  
 3685 grievances with a managed care network and assist Medicaid  
 3686 recipients in accessing the managed care network's formal  
 3687 grievance process as eligible plans become available in each of  
 3688 the regions defined in s. 409.981(2).

3689 ~~(4) (6)~~ The department shall select the entities to become  
 3690 aging resource centers based on each entity's readiness and  
 3691 ability to perform the duties listed in subsection ~~(3) (5)~~ and  
 3692 the entity's:

3693 (a) Expertise in the needs of each target population the  
 3694 center proposes to serve and a thorough knowledge of the  
 3695 providers that serve these populations.

3696 (b) Strong connections to service providers, volunteer

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3697 agencies, and community institutions.

3698 (c) Expertise in information and referral activities.

3699 (d) Knowledge of long-term-care resources, including

3700 resources designed to provide services in the least restrictive

3701 setting.

3702 (e) Financial solvency and stability.

3703 (f) Ability to collect, monitor, and analyze data in a

3704 timely and accurate manner, along with systems that meet the

3705 department's standards.

3706 (g) Commitment to adequate staffing by qualified personnel

3707 to effectively perform all functions.

3708 (h) Ability to meet all performance standards established

3709 by the department.

3710 (5)~~(7)~~ The aging resource center shall have a governing

3711 body which shall be the same entity described in s. 20.41(7),

3712 and an executive director who may be the same person as

3713 described in s. 20.41(7). The governing body shall annually

3714 evaluate the performance of the executive director.

3715 (6)~~(8)~~ The aging resource center may not be a provider of

3716 direct services other than information and referral services,

3717 and screening.

3718 (7)~~(9)~~ The aging resource center must agree to allow the

3719 department to review any financial information the department

3720 determines is necessary for monitoring or reporting purposes,

3721 including financial relationships.

3722 (8)~~(10)~~ The duties and responsibilities of the community

3723 care for the elderly lead agencies within each area served by an

3724 aging resource center shall be to:

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3725 (a) Develop strong community partnerships to maximize the  
 3726 use of community resources for the purpose of assisting elders  
 3727 to remain in their community settings for as long as it is  
 3728 safely possible.

3729 (b) Conduct comprehensive assessments of clients that have  
 3730 been determined eligible and develop a care plan consistent with  
 3731 established protocols that ensures that the unique needs of each  
 3732 client are met.

3733 (9)~~(11)~~ The services to be administered through the aging  
 3734 resource center shall include those funded by the following  
 3735 programs:

3736 (a) Community care for the elderly.

3737 (b) Home care for the elderly.

3738 (c) Contracted services.

3739 (d) Alzheimer's disease initiative.

3740 (e) Aged and disabled adult Medicaid waiver. This  
 3741 paragraph expires October 1, 2013.

3742 (f) Assisted living for the frail elderly Medicaid waiver.  
 3743 This paragraph expires October 1, 2013.

3744 (g) Older Americans Act.

3745 (10)~~(12)~~ The department shall, prior to designation of an  
 3746 aging resource center, develop by rule operational and quality  
 3747 assurance standards and outcome measures to ensure that clients  
 3748 receiving services through all long-term-care programs  
 3749 administered through an aging resource center are receiving the  
 3750 appropriate care they require and that contractors and  
 3751 subcontractors are adhering to the terms of their contracts and  
 3752 are acting in the best interests of the clients they are

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3753 | serving, consistent with the intent of the Legislature to reduce  
 3754 | the use of and cost of nursing home care. The department shall  
 3755 | by rule provide operating procedures for aging resource centers,  
 3756 | which shall include:

3757 |       (a) Minimum standards for financial operation, including  
 3758 | audit procedures.

3759 |       (b) Procedures for monitoring and sanctioning of service  
 3760 | providers.

3761 |       (c) Minimum standards for technology utilized by the aging  
 3762 | resource center.

3763 |       (d) Minimum staff requirements which shall ensure that the  
 3764 | aging resource center employs sufficient quality and quantity of  
 3765 | staff to adequately meet the needs of the elders residing within  
 3766 | the area served by the aging resource center.

3767 |       (e) Minimum accessibility standards, including hours of  
 3768 | operation.

3769 |       (f) Minimum oversight standards for the governing body of  
 3770 | the aging resource center to ensure its continuous involvement  
 3771 | in, and accountability for, all matters related to the  
 3772 | development, implementation, staffing, administration, and  
 3773 | operations of the aging resource center.

3774 |       (g) Minimum education and experience requirements for  
 3775 | executive directors and other executive staff positions of aging  
 3776 | resource centers.

3777 |       (h) Minimum requirements regarding any executive staff  
 3778 | positions that the aging resource center must employ and minimum  
 3779 | requirements that a candidate must meet in order to be eligible  
 3780 | for appointment to such positions.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3781            ~~(11)~~~~(13)~~ In an area in which the department has designated  
 3782 an area agency on aging as an aging resource center, the  
 3783 department and the agency shall not make payments for the  
 3784 services listed in subsection (9) ~~(11)~~ and the Long-Term Care  
 3785 Community Diversion Project for such persons who were not  
 3786 screened and enrolled through the aging resource center. The  
 3787 department shall cease making payments for recipients in  
 3788 eligible plans as eligible plans become available in each of the  
 3789 regions defined in s. 409.981(2).

3790            ~~(12)~~~~(14)~~ Each aging resource center shall enter into a  
 3791 memorandum of understanding with the department for  
 3792 collaboration with the CARES unit staff. The memorandum of  
 3793 understanding shall outline the staff person responsible for  
 3794 each function and shall provide the staffing levels necessary to  
 3795 carry out the functions of the aging resource center.

3796            ~~(13)~~~~(15)~~ Each aging resource center shall enter into a  
 3797 memorandum of understanding with the Department of Children and  
 3798 Family Services for collaboration with the Economic Self-  
 3799 Sufficiency Unit staff. The memorandum of understanding shall  
 3800 outline which staff persons are responsible for which functions  
 3801 and shall provide the staffing levels necessary to carry out the  
 3802 functions of the aging resource center.

3803            ~~(14)~~~~(16)~~ If any of the state activities described in this  
 3804 section are outsourced, either in part or in whole, the contract  
 3805 executing the outsourcing shall mandate that the contractor or  
 3806 its subcontractors shall, either physically or virtually,  
 3807 execute the provisions of the memorandum of understanding  
 3808 instead of the state entity whose function the contractor or

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3809 subcontractor now performs.

3810 (15)~~(17)~~ In order to be eligible to begin transitioning to  
 3811 an aging resource center, an area agency on aging board must  
 3812 ensure that the area agency on aging which it oversees meets all  
 3813 of the minimum requirements set by law and in rule.

3814 ~~(18) The department shall monitor the three initial~~  
 3815 ~~projects for aging resource centers and report on the progress~~  
 3816 ~~of those projects to the Governor, the President of the Senate,~~  
 3817 ~~and the Speaker of the House of Representatives by June 30,~~  
 3818 ~~2005. The report must include an evaluation of the~~  
 3819 ~~implementation process.~~

3820 (16)~~(19)~~ (a) Once an aging resource center is operational,  
 3821 the department, in consultation with the agency, may develop  
 3822 capitation rates for any of the programs administered through  
 3823 the aging resource center. Capitation rates for programs shall  
 3824 be based on the historical cost experience of the state in  
 3825 providing those same services to the population age 60 or older  
 3826 residing within each area served by an aging resource center.  
 3827 Each capitated rate may vary by geographic area as determined by  
 3828 the department.

3829 (b) The department and the agency may determine for each  
 3830 area served by an aging resource center whether it is  
 3831 appropriate, consistent with federal and state laws and  
 3832 regulations, to develop and pay separate capitated rates for  
 3833 each program administered through the aging resource center or  
 3834 to develop and pay capitated rates for service packages which  
 3835 include more than one program or service administered through  
 3836 the aging resource center.

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3837 (c) Once capitation rates have been developed and  
 3838 certified as actuarially sound, the department and the agency  
 3839 may pay service providers the capitated rates for services when  
 3840 appropriate.

3841 (d) The department, in consultation with the agency, shall  
 3842 annually reevaluate and recertify the capitation rates,  
 3843 adjusting forward to account for inflation, programmatic  
 3844 changes.

3845 ~~(20) The department, in consultation with the agency,~~  
 3846 ~~shall submit to the Governor, the President of the Senate, and~~  
 3847 ~~the Speaker of the House of Representatives, by December 1,~~  
 3848 ~~2006, a report addressing the feasibility of administering the~~  
 3849 ~~following services through aging resource centers beginning July~~  
 3850 ~~1, 2007:~~

- 3851 ~~(a) Medicaid nursing home services.~~
- 3852 ~~(b) Medicaid transportation services.~~
- 3853 ~~(c) Medicaid hospice care services.~~
- 3854 ~~(d) Medicaid intermediate care services.~~
- 3855 ~~(e) Medicaid prescribed drug services.~~
- 3856 ~~(f) Medicaid assistive care services.~~
- 3857 ~~(g) Any other long-term care program or Medicaid service.~~

3858 ~~(17)(21)~~ This section shall not be construed to allow an  
 3859 aging resource center to restrict, manage, or impede the local  
 3860 fundraising activities of service providers.

3861 Section 24. Effective October 1, 2013, sections 430.701,  
 3862 430.702, 430.703, 430.7031, 430.704, 430.705, 430.706, 430.707,  
 3863 430.708, and 430.709, Florida Statutes, are repealed.

3864 Section 25. Sections 409.9301, 409.942, 409.944, 409.945,

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3865 409.946, 409.953, and 409.9531, Florida Statutes, are renumbered  
 3866 as sections 402.81, 402.82, 402.83, 402.84, 402.85, 402.86, and  
 3867 402.87, Florida Statutes, respectively.

3868 Section 26. Paragraph (a) of subsection (1) of section  
 3869 443.111, Florida Statutes, is amended to read:

3870 443.111 Payment of benefits.—

3871 (1) MANNER OF PAYMENT.—Benefits are payable from the fund  
 3872 in accordance with rules adopted by the Agency for Workforce  
 3873 Innovation, subject to the following requirements:

3874 (a) Benefits are payable by mail or electronically.  
 3875 Notwithstanding s. 402.82(4) ~~s. 409.942(4)~~, the agency may  
 3876 develop a system for the payment of benefits by electronic funds  
 3877 transfer, including, but not limited to, debit cards, electronic  
 3878 payment cards, or any other means of electronic payment that the  
 3879 agency deems to be commercially viable or cost-effective.  
 3880 Commodities or services related to the development of such a  
 3881 system shall be procured by competitive solicitation, unless  
 3882 they are purchased from a state term contract pursuant to s.  
 3883 287.056. The agency shall adopt rules necessary to administer  
 3884 the system.

3885 Section 27. Subsection (4) of section 641.386, Florida  
 3886 Statutes, is amended to read:

3887 641.386 Agent licensing and appointment required;  
 3888 exceptions.—

3889 (4) All agents and health maintenance organizations shall  
 3890 comply with and be subject to the applicable provisions of ss.  
 3891 641.309 and 409.912(20) ~~(21)~~, and all companies and entities  
 3892 appointing agents shall comply with s. 626.451, when marketing

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3893 | for any health maintenance organization licensed pursuant to  
 3894 | this part, including those organizations under contract with the  
 3895 | Agency for Health Care Administration to provide health care  
 3896 | services to Medicaid recipients or any private entity providing  
 3897 | health care services to Medicaid recipients pursuant to a  
 3898 | prepaid health plan contract with the Agency for Health Care  
 3899 | Administration.

3900 |       Section 28. Subsections (6) and (7) of section 766.118,  
 3901 | Florida Statutes, are renumbered as subsections (7) and (8),  
 3902 | respectively, and a new subsection (6) is added to that section,  
 3903 | to read:

3904 |       766.118 Determination of noneconomic damages.—

3905 |       (6) LIMITATION ON NONECONOMIC DAMAGES FOR NEGLIGENCE OF A  
 3906 | PRACTITIONER PROVIDING SERVICES AND CARE TO A MEDICAID  
 3907 | RECIPIENT.—Notwithstanding subsections (2), (3), and (5), with  
 3908 | respect to a cause of action for personal injury or wrongful  
 3909 | death arising from medical negligence of a practitioner  
 3910 | committed in the course of providing medical services and  
 3911 | medical care to a Medicaid recipient, regardless of the number  
 3912 | of such practitioner defendants providing the services and care,  
 3913 | noneconomic damages may not exceed \$300,000 per claimant, unless  
 3914 | the claimant pleads and proves, by clear and convincing  
 3915 | evidence, that the practitioner acted in a wrongful manner. A  
 3916 | practitioner providing medical services and medical care to a  
 3917 | Medicaid recipient is not liable for more than \$200,000 in  
 3918 | noneconomic damages, regardless of the number of claimants,  
 3919 | unless the claimant pleads and proves, by clear and convincing  
 3920 | evidence, that the practitioner acted in a wrongful manner. The

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3921 fact that a claimant proves that a practitioner acted in a  
 3922 wrongful manner does not preclude the application of the  
 3923 limitation on noneconomic damages prescribed elsewhere in this  
 3924 section. For purposes of this subsection:

3925 (a) The terms "medical services," "medical care," and  
 3926 "Medicaid recipient" have the same meaning as provided in s.  
 3927 409.901.

3928 (b) The term "practitioner," in addition to the meaning  
 3929 prescribed in subsection (1), includes any hospital, ambulatory  
 3930 surgical center, or mobile surgical facility as defined and  
 3931 licensed under chapter 395.

3932 (c) The term "wrongful manner" means in bad faith or with  
 3933 malicious purpose or in a manner exhibiting wanton and willful  
 3934 disregard of human rights, safety, or property, and shall be  
 3935 construed in conformity with the standard set forth in s.  
 3936 768.28(9)(a).

3937 Section 29. The Agency for Health Care Administration  
 3938 shall develop a plan for implementing a plan for medically needy  
 3939 Medicaid enrollees pursuant to s. 409.975(8), Florida Statutes,  
 3940 as created in HB 7107 or similar legislation that is adopted in  
 3941 the same legislative session or an extension thereof and becomes  
 3942 law, and shall immediately seek federal approval to implement  
 3943 that subsection. The plan shall include a preliminary  
 3944 calculation of actuarially sound rates and estimated fiscal  
 3945 impact.

3946 Section 30. The Agency for Health Care Administration  
 3947 shall develop a reorganization plan for realignment of  
 3948 administrative resources of the Medicaid program to respond to

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3949 changes in functional responsibilities and priorities necessary  
 3950 for implementation of HB 7107 or similar legislation that is  
 3951 adopted in the same legislative session or an extension thereof  
 3952 and becomes law. The plan shall assess the agency's current  
 3953 capabilities, identify shifts in staffing and other resources  
 3954 necessary to strengthen procurement and contract monitoring  
 3955 functions, and establish an implementation timeline. The plan  
 3956 shall be submitted to the Governor, the Speaker of the House of  
 3957 Representatives, and the President of the Senate by August 1,  
 3958 2011.

3959 Section 31. Subsection (1) of section 393.0662, Florida  
 3960 Statutes, is amended to read:

3961 393.0662 Individual budgets for delivery of home and  
 3962 community-based services; iBudget system established.—The  
 3963 Legislature finds that improved financial management of the  
 3964 existing home and community-based Medicaid waiver program is  
 3965 necessary to avoid deficits that impede the provision of  
 3966 services to individuals who are on the waiting list for  
 3967 enrollment in the program. The Legislature further finds that  
 3968 clients and their families should have greater flexibility to  
 3969 choose the services that best allow them to live in their  
 3970 community within the limits of an established budget. Therefore,  
 3971 the Legislature intends that the agency, in consultation with  
 3972 the Agency for Health Care Administration, develop and implement  
 3973 a comprehensive redesign of the service delivery system using  
 3974 individual budgets as the basis for allocating the funds  
 3975 appropriated for the home and community-based services Medicaid  
 3976 waiver program among eligible enrolled clients. The service

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

3977 delivery system that uses individual budgets shall be called the  
 3978 iBudget system.

3979 (1) The agency shall establish an individual budget,  
 3980 referred to as an iBudget, for each individual served by the  
 3981 home and community-based services Medicaid waiver program. The  
 3982 funds appropriated to the agency shall be allocated through the  
 3983 iBudget system to eligible, Medicaid-enrolled clients. For the  
 3984 iBudget system, eligible clients shall include individuals with  
 3985 a diagnosis of Down syndrome or a developmental disability as  
 3986 defined in s. 393.063. The iBudget system shall be designed to  
 3987 provide for: enhanced client choice within a specified service  
 3988 package; appropriate assessment strategies; an efficient  
 3989 consumer budgeting and billing process that includes  
 3990 reconciliation and monitoring components; a redefined role for  
 3991 support coordinators that avoids potential conflicts of  
 3992 interest; a flexible and streamlined service review process; and  
 3993 a methodology and process that ensures the equitable allocation  
 3994 of available funds to each client based on the client's level of  
 3995 need, as determined by the variables in the allocation  
 3996 algorithm.

3997 (a) In developing each client's iBudget, the agency shall  
 3998 use an allocation algorithm and methodology. The algorithm shall  
 3999 use variables that have been determined by the agency to have a  
 4000 statistically validated relationship to the client's level of  
 4001 need for services provided through the home and community-based  
 4002 services Medicaid waiver program. The algorithm and methodology  
 4003 may consider individual characteristics, including, but not  
 4004 limited to, a client's age and living situation, information

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

4005 from a formal assessment instrument that the agency determines  
4006 is valid and reliable, and information from other assessment  
4007 processes.

4008 (b) The allocation methodology shall provide the algorithm  
4009 that determines the amount of funds allocated to a client's  
4010 iBudget. The agency may approve an increase in the amount of  
4011 funds allocated, as determined by the algorithm, based on the  
4012 client having one or more of the following needs that cannot be  
4013 accommodated within the funding as determined by the algorithm  
4014 and having no other resources, supports, or services available  
4015 to meet the need:

4016 1. An extraordinary need that would place the health and  
4017 safety of the client, the client's caregiver, or the public in  
4018 immediate, serious jeopardy unless the increase is approved. An  
4019 extraordinary need may include, but is not limited to:

4020 a. A documented history of significant, potentially life-  
4021 threatening behaviors, such as recent attempts at suicide,  
4022 arson, nonconsensual sexual behavior, or self-injurious behavior  
4023 requiring medical attention;

4024 b. A complex medical condition that requires active  
4025 intervention by a licensed nurse on an ongoing basis that cannot  
4026 be taught or delegated to a nonlicensed person;

4027 c. A chronic comorbid condition. As used in this  
4028 subparagraph, the term "comorbid condition" means a medical  
4029 condition existing simultaneously but independently with another  
4030 medical condition in a patient; or

4031 d. A need for total physical assistance with activities  
4032 such as eating, bathing, toileting, grooming, and personal

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

4033 hygiene.

4034

4035 However, the presence of an extraordinary need alone does not  
 4036 warrant an increase in the amount of funds allocated to a  
 4037 client's iBudget as determined by the algorithm.

4038         2. A significant need for one-time or temporary support or  
 4039 services that, if not provided, would place the health and  
 4040 safety of the client, the client's caregiver, or the public in  
 4041 serious jeopardy, unless the increase is approved. A significant  
 4042 need may include, but is not limited to, the provision of  
 4043 environmental modifications, durable medical equipment, services  
 4044 to address the temporary loss of support from a caregiver, or  
 4045 special services or treatment for a serious temporary condition  
 4046 when the service or treatment is expected to ameliorate the  
 4047 underlying condition. As used in this subparagraph, the term  
 4048 "temporary" means a period of fewer than 12 continuous months.  
 4049 However, the presence of such significant need for one-time or  
 4050 temporary supports or services alone does not warrant an  
 4051 increase in the amount of funds allocated to a client's iBudget  
 4052 as determined by the algorithm.

4053         3. A significant increase in the need for services after  
 4054 the beginning of the service plan year that would place the  
 4055 health and safety of the client, the client's caregiver, or the  
 4056 public in serious jeopardy because of substantial changes in the  
 4057 client's circumstances, including, but not limited to, permanent  
 4058 or long-term loss or incapacity of a caregiver, loss of services  
 4059 authorized under the state Medicaid plan due to a change in age,  
 4060 or a significant change in medical or functional status which

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

4061 requires the provision of additional services on a permanent or  
 4062 long-term basis that cannot be accommodated within the client's  
 4063 current iBudget. As used in this subparagraph, the term "long-  
 4064 term" means a period of 12 or more continuous months. However,  
 4065 such significant increase in need for services of a permanent or  
 4066 long-term nature alone does not warrant an increase in the  
 4067 amount of funds allocated to a client's iBudget as determined by  
 4068 the algorithm.

4069  
 4070 The agency shall reserve portions of the appropriation for the  
 4071 home and community-based services Medicaid waiver program for  
 4072 adjustments required pursuant to this paragraph and may use the  
 4073 services of an independent actuary in determining the amount of  
 4074 the portions to be reserved.

4075 (c) A client's iBudget shall be the total of the amount  
 4076 determined by the algorithm and any additional funding provided  
 4077 pursuant to paragraph (b). A client's annual expenditures for  
 4078 home and community-based services Medicaid waiver services may  
 4079 not exceed the limits of his or her iBudget. The total of all  
 4080 clients' projected annual iBudget expenditures may not exceed  
 4081 the agency's appropriation for waiver services.

4082 Section 32. Section 409.902, Florida Statutes, is amended  
 4083 to read:

4084 409.902 Designated single state agency; payment  
 4085 requirements; program title; release of medical records.—

4086 (1) The Agency for Health Care Administration is  
 4087 designated as the single state agency authorized to make  
 4088 payments for medical assistance and related services under Title

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

4089 XIX of the Social Security Act. These payments shall be made,  
 4090 subject to any limitations or directions provided for in the  
 4091 General Appropriations Act, only for services included in the  
 4092 program, shall be made only on behalf of eligible individuals,  
 4093 and shall be made only to qualified providers in accordance with  
 4094 federal requirements for Title XIX of the Social Security Act  
 4095 and the provisions of state law. This program of medical  
 4096 assistance is designated the "Medicaid program." The Department  
 4097 of Children and Family Services is responsible for Medicaid  
 4098 eligibility determinations, including, but not limited to,  
 4099 policy, rules, and the agreement with the Social Security  
 4100 Administration for Medicaid eligibility determinations for  
 4101 Supplemental Security Income recipients, as well as the actual  
 4102 determination of eligibility. As a condition of Medicaid  
 4103 eligibility, subject to federal approval, the Agency for Health  
 4104 Care Administration and the Department of Children and Family  
 4105 Services shall ensure that each recipient of Medicaid consents  
 4106 to the release of her or his medical records to the Agency for  
 4107 Health Care Administration and the Medicaid Fraud Control Unit  
 4108 of the Department of Legal Affairs.

4109 (2) Eligibility is restricted to United States citizens  
 4110 and to lawfully admitted noncitizens who meet the criteria  
 4111 provided in s. 414.095(3).

4112 (a) Citizenship or immigration status must be verified.  
 4113 For noncitizens, this includes verification of the validity of  
 4114 documents with the United States Citizenship and Immigration  
 4115 Services using the federal SAVE verification process.

4116 (b) State funds may not be used to provide medical

ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

4117 services to individuals who do not meet the requirements of this  
 4118 subsection unless the services are necessary to treat an  
 4119 emergency medical condition or are for pregnant women. Such  
 4120 services are authorized only to the extent provided under  
 4121 federal law and in accordance with federal regulations as  
 4122 provided in 42 C.F.R. s. 440.255.

4123 Section 33. Subsection (22) is added to section 641.19,  
 4124 Florida Statutes, to read:

4125 641.19 Definitions.—As used in this part, the term:

4126 (22) "Provider service network" means a network authorized  
 4127 under s. 409.912(4)(d), reimbursed on a prepaid basis, operated  
 4128 by a health care provider or group of affiliated health care  
 4129 providers, and which directly provides health care services  
 4130 under a Medicare, Medicaid, or Healthy Kids contract.

4131 Section 34. Section 641.2019, Florida Statutes, is created  
 4132 to read:

4133 641.2019 Provider service network certificate of  
 4134 authority.—A prepaid provider service network that applies for  
 4135 and obtains a health care provider certificate pursuant to part  
 4136 III of this chapter, meets the surplus requirements of s.  
 4137 641.225, and meets all other applicable requirements of this  
 4138 part may obtain a certificate of authority under s. 641.21. A  
 4139 certified provider service network has the same rights and  
 4140 responsibilities as a health maintenance organization certified  
 4141 under this part.

4142 Section 35. Subsection (2) of section 641.2261, Florida  
 4143 Statutes, is amended to read:

4144 641.2261 Application of solvency requirements to provider-

## ENROLLED

CS/HB 7109, Engrossed 3

2011 Legislature

4145 sponsored organizations and Medicaid provider service networks.—

4146 (2) Except for a provider service network seeking to  
4147 obtain a certificate of authority under s. 641.2019, the  
4148 solvency requirements in 42 C.F.R. s. 422.350, subpart H, and  
4149 the solvency requirements established in approved federal  
4150 waivers pursuant to chapter 409 apply to a Medicaid provider  
4151 service network rather than the solvency requirements of this  
4152 part.

4153 Section 36. If any provision of this act or its  
4154 application to any person or circumstance is held invalid, the  
4155 invalidity does not affect other provisions or applications of  
4156 the act which can be given effect without the invalid provision  
4157 or application, and to this end the provisions of this act are  
4158 severable.

4159 Section 37. Except as otherwise expressly provided in this  
4160 act, this act shall take effect July 1, 2011, if HB 7107 or  
4161 similar legislation is adopted in the same legislative session  
4162 or an extension thereof and becomes law.