

Committee Substitute for Senate Bill No. 2404

An act relating to substance abuse and mental health; amending s. 394.74, F.S.; authorizing the Department of Children and Family Services to adopt by rule new payment methodologies and to eliminate unit-based methodologies for mental health and substance abuse services; authorizing the department to adopt rules for local match based on new methodologies; prohibiting changes to the ratio of state to local matching resources or to the sources of local match and prohibiting the increase in the amount of local matching funds required; creating s. 394.655, F.S.; providing legislative intent; creating the Florida Substance Abuse and Mental Health Corporation, Inc.; providing that the corporation be administratively housed within the Department of Children and Family Services; specifying responsibilities for the corporation; specifying direction to the department regarding the corporation; requiring a memorandum of understanding between the corporation and the department; specifying the composition of the corporation; providing for appointments by the Governor, President of the Senate and the Speaker of the House of Representatives; providing direction to the corporation regarding its operation; authorizing advisory committees; requiring financial disclosure by corporation members; authorizing the corporation to employ and purchase staff support within funds appropriated; providing for additional staff support to be provided by the department; directing the corporation to develop and submit a budget request for its operation; providing for an annual financial audit; specifying that funds for the corporation be appropriated in a special category; providing for an annual evaluation and report by the corporation; providing for expiration of s. 394.655, F.S., created by this act on October 1, 2006, unless reenacted by the Legislature; providing for the expiration of ss. 20.19(2)(c) and 20.19(4)(b)6. and 8. on October 1, 2006, unless reenacted by the Legislature; directing the Office of Program and Policy Analysis and Government Accountability and the Auditor General to conduct an evaluation; specifying the evaluation's focus; requiring an initial report on February 1, 2005 and a final report on February 1, 2006, to the Governor and Legislature; amending s. 20.19, F.S.; directing the Secretary of the department to appoint certain positions; providing for the organization of the mental health and substance abuse programs within the department; providing for implementation within available resources; amending s. 394.741, F.S.; amending accreditation requirements for providers of behavioral health care services; requiring the Department of Children and Family Services and the Agency for Health Care Administration to follow only properly adopted and applicable statutes and rules in monitoring contracted providers; requiring the department to file a State Project Compliance Supplement; amending s. 394.9082, F.S.; modifying the services for which a managing entity is accountable; establishing data system requirements; providing for establishment of a single managing entity for the delivery of substance abuse services to child protective services

recipients in specified districts of the department; requires the inclusion of certain not-for-profit providers of child welfare services in the network; providing for a contract; requiring certain information to be kept; requiring an evaluative study; providing for reports to the Governor and Legislature; revising provisions relating to delivery of state-funded mental health services; amending s. 409.912, F.S.; requiring the agency to work with the department to ensure mental health and substance abuse services are accessible to children and families in the child protection system; requiring the Agency for Health Care Administration to seek federal approval to contract with single entities to provide comprehensive behavioral health care services to Medicaid recipients in AHCA areas; requiring the agency to submit a plan for fully implementing capitated prepaid behavioral health care in all areas of the state; providing for implementation of the plan that would vary by the size of the eligible population; authorizing the agency to adjust the capitation rate under specified circumstances; requiring the agency to develop policies and procedures that allow for certification of local funds; requiring current providers of child welfare services be provided an opportunity to participate in the provider network; requiring the agency and the department to develop a plan to implement new Medicaid procedure codes for specified services; providing that match requirements for those procedure codes are met by certifying general revenue with contracted providers; requiring the plan to address specific procedure codes to be implemented, a projection of procedures to be delivered and a financial analysis; requiring approval by the Legislative Budget Commission prior to implementation; directing the plan to be submitted for consideration by the 2004 Legislature if not approved by December 31, 2004; requiring approval by the Legislative Budget Commission prior to implementation; providing effective dates.

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

Section 1. Paragraph (b) of subsection (2) of section 394.74, Florida Statutes, is amended to read:

394.74 Contracts for provision of local substance abuse and mental health programs.—

(2)

(b) Notwithstanding s. 394.76(3)(a) and (c), the department may use unit cost methods of payment in contracts for purchasing mental health and substance abuse services. The unit cost contracting system must account for those patient fees that are paid on behalf of a specific client and those that are earned and used by the provider for those services funded in whole or in part by the department. The department is authorized to implement through administrative rule fee-for-service, prepaid case rate, and prepaid capitation contract methodologies to purchase mental health and substance abuse services. Fee-for-service, prepaid case rate, or prepaid capitation mechanisms shall not be implemented statewide without the elimination of

the unit cost method of payment. Notwithstanding the provisions of s. 394.76(3), the department may adopt administrative rules that account for local match in a manner that is consistent with fee-for-service, prepaid case rate, and prepaid capitated payment methodologies. Such provisions may not result in a change of the ratio of state to local matching resources or in the sources of local matching funds and may not increase the amount of required local matching funds. It is the intent of the Legislature that the provisions to account for local match be consistent with the financial principles adopted for the payment of state funds.

Section 2. Section 394.655, Florida Statutes is created to read:

394.655 The Substance Abuse and Mental Health Corporation; powers and duties; composition; evaluation and reporting requirements.—

(1) It is the intent of the Legislature to provide substance abuse and mental health services that are coordinated and consistent throughout the state, that reflect the current state of knowledge regarding quality and effectiveness, and that are responsive to service recipients and the needs of communities in this state. In order to accomplish this intent, there is created a not-for-profit corporation, to be known as the “Florida Substance Abuse and Mental Health Corporation, Inc.,” which shall be registered, incorporated, organized, and operated in compliance with chapter 617 and which shall not be a unit or entity of state government. The Florida Substance Abuse and Mental Health Corporation, hereafter referred to as “the corporation,” shall be administratively housed within the Department of Children and Family Services. Though the corporation is not subject to the control of the department, the corporation shall work collaboratively with the department to improve the state’s mental health and substance abuse systems. As used in this section, “the department” means the Department of Children and Family Services.

(2) The Legislature finds that public policy and the State Constitution require that the corporation and any committees it forms be subject to the provisions of chapter 119 relating to public records and the provisions of chapter 286 relating to public meetings.

(3)(a) The Florida Substance Abuse and Mental Health Corporation shall be responsible for oversight of the publicly funded substance abuse and mental health systems and for making policy and resources recommendations which will improve the coordination, quality and efficiency of the system. Subject to and consistent with direction set by the Legislature, the corporation shall exercise the following responsibilities:

1. Review and assess the collection and analysis of needs assessment data as described in s. 394.82.

2. Review and assess the status of the publicly funded mental health and substance abuse systems and recommend policy designed to improve coordination and effectiveness.

3. Provide mechanisms for substance abuse and mental health stakeholders, including consumers, family members, providers, and advocates to provide input concerning the management of the overall system.

4. Recommend priorities for service expansion.

5. Prepare budget recommendations to be submitted to the appropriate departments for consideration in the development of their legislative budget requests and provide copies to the Governor, President of the Senate and Speaker of the House of Representatives for their consideration.

6. Review data regarding the performance of the publicly funded substance abuse and mental health systems.

7. Make recommendations concerning strategies for improving the performance of the systems.

8. Review, assess and forecast substance abuse and mental health manpower needs and work with the department and the educational system to establish policies, consistent with the direction of the Legislature, which will ensure that the state has the personnel it needs to continuously implement and improve its services.

(b) The corporation shall work with the department and the Agency for Health Care Administration to assure, to the maximum extent possible, that Medicaid and department-funded services are delivered in a coordinated manner, using common service definitions, standards, and accountability mechanisms.

(c) The corporation shall also work with other agencies of state government which provide, purchase, or fund substance abuse and mental health programs and services in order to work toward fully developed and integrated, when appropriate, substance abuse and mental health systems that reflect current knowledge regarding efficacy and efficiency and use best practices identified within this state or other states.

(d) The corporation shall develop memoranda of understanding that describe how it will coordinate with other programmatic areas within the department and with other state agencies that deliver or purchase substance abuse or mental health services.

(4) Unless otherwise prohibited by state or federal law, and pursuant to the agreement provided in the contract required in subsection (5), the department shall provide information requested by the corporation in a reasonable manner that allows for timely review by the corporation for items as set forth in subsection (3) and specified in the contract provided for in subsection (5).

(5) The corporation and the department must enter into a memorandum of understanding that specifies how the department will consider and respond to the recommendations of the corporation and describes how the department will respond to the corporation's requests for documents, reports, and proposals needed by the corporation in order for it to carry out its responsibilities as described in paragraph (3)(a).

(6)(a) The corporation shall be comprised of 12 members, each appointed to a 2-year term, with not more than three subsequent reappointments,

except that initial legislative appointments shall be for 3-year terms. Four members shall be appointed by the Governor, four members shall be appointed by the President of the Senate, and four members shall be appointed by the Speaker of the House of Representatives.

1. The four members appointed by the Governor must be prominent community or business leaders, two of whom must have experience and interest in substance abuse and two of whom must have experience and interest in mental health.

2. Of the four members appointed by the President of the Senate, one member must represent the perspective of community-based care under chapter 409, one member must be a former client or family member of a client of a publicly funded mental health program, and two members must be prominent community or business leaders, one of whom must have experience and interest in substance abuse and one of whom must have experience and interest in mental health.

3. Of the four members appointed by the Speaker of the House of Representatives, one member must be a former client or family member of a client of a publicly funded substance abuse program, one member must represent the perspective of the criminal justice system, and two members must be prominent community or business leaders, one of whom must have experience and interest in substance abuse and one of whom must have experience and interest in mental health. The Secretary of the Department of Children and Family Services, or his or her designee, the Secretary of the Agency for Health Care Administration, or his or her designee, and a representative of local government designated by the Florida Association of Counties shall serve as ex officio members of the corporation.

(b) The corporation shall be chaired by a member designated by the Governor who may not be a public sector employee.

(c) Persons who derive their income from resources controlled by the Department of Children and Family Services or the Agency for Health Care Administration may not be members of the corporation.

(d) The Governor, the President of the Senate, and the Speaker of the House of Representatives shall make their respective appointments within 60 days after the effective date of this act.

(e) A member of the corporation may be removed by the appointing party for cause. Absence from three consecutive meetings shall result in automatic removal. The chairperson of the corporation shall notify the appointing party of such absences.

(f) The corporation shall develop by-laws that describe how it will conduct its work.

(g) The corporation shall meet at least quarterly and at other times upon the call of its chair. Corporation meetings may be held via teleconference or other electronic means.

(h) A majority of the total current membership of the corporation constitutes a quorum of the corporation. The corporation may only meet and take action when a quorum is present.

(i) Within resources appropriated by the Legislature and other funds available to the corporation, the chairperson of the corporation may appoint advisory committees to address and advise the corporation on particular issues within its scope of responsibility. Members of advisory committees are not subject to the prohibition in paragraph (c).

(j) Members of the corporation and its committees shall serve without compensation but are entitled to reimbursement for travel and per diem expenses pursuant to s. 112.061.

(k) Each member of the corporation who is not otherwise required to file a financial disclosure statement pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 must file disclosure of financial interests pursuant to s. 112.3145.

(7) Funds for the corporation shall be appropriated in a special category. The corporation may purchase expert consultation and staff support services necessary to perform its duties from funds appropriated to the department for this purpose. In addition, within resources appropriated to the department for the corporation, the corporation may appoint one employee who shall serve as the liaison between the corporation, the state agencies and organizations with which the corporation contracts or enters into memoranda of agreement. This employee shall be appointed by and serve at the pleasure of the corporation and is an employee of the corporation, not of the state. Provision of other staff support required by the corporation shall be provided by the department as negotiated in the contract developed pursuant to subsection (5).

(8) The corporation must develop a budget request for its operation and must submit the request to the Governor and the Legislature pursuant to chapter 216 through the secretary of the department.

(9) The corporation shall provide for an annual financial audit of its financial accounts and records by an independent certified public accountant. The annual audit report shall include a management letter in accordance with s. 11.45 and a detailed supplemental schedule of expenditures for each expenditure category. The annual audit report must be submitted to the Governor, the department, and the Auditor General for review.

(10) The corporation must annually evaluate and, in December of each year, report to the Legislature and the Governor on the status of the state's publicly funded substance abuse and mental health systems. The corporation's first report must be submitted in December, 2004. Each public sector agency that delivers, or contracts for the provision of, substance abuse or mental health services must cooperate with the corporation in the development of this annual evaluation and report. As part of the annual report, the corporation and department shall each certify as to whether the corporation and the department are complying with the terms of the contract required

in subsection (5) in a manner that is consistent with the goals and purposes of the corporation and in the best interest of the state.

(11) This section expires on October 1, 2006, unless reviewed and reenacted by the Legislature before that date.

Section 3. Section 20.19 (2)(c), Florida Statutes, as created by this act, and section 20.19(4)(b)6. and 8., Florida Statutes, shall expire on October 1, 2006, unless reviewed and reenacted by the Legislature before that date.

Section 4. By February 1, 2006, the Office of Program Policy Analysis and Government Accountability and the Auditor General shall jointly conduct an evaluation of the state's substance abuse and mental health systems and its management. The evaluation shall, at a minimum, address the extent to which the corporation has carried out its responsibilities as described in section 394.655 (3)(a), Florida Statutes, the degree to which the department and other affected state agencies have cooperated with the corporation as directed in section 394.655, Florida Statutes, and the impact the organizational changes described in sections 20.19 (2)(c) and 394.655, Florida Statutes, as created by this act have had on the substance abuse and mental health systems in the following areas:

1. The coordination of services delivered or paid for by the various departments involved in delivering or purchasing state funded mental health or substance abuse services.

2. The efficiency of service delivery to clients for whom the responsibility for care moves from one department of state government to another.

3. The overall quality of publicly funded substance abuse and mental health services and its consistency across departments.

4. The use of common evidence-based standards.

5. The collection and analysis of common information which describes the services delivered and outcomes achieved for individuals receiving state funded mental health and substance abuse services.

6. The satisfaction of service recipients and of Florida's communities with the state funded mental health and substance abuse service delivery system. The evaluation shall commence with the initial operation of the corporation. An initial report and a final report of the evaluation must be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives by February 1, 2005 and 2006, respectively. The final report must include recommendations concerning the future of the corporation and the structure of the state's mental health and substance abuse authority and their placement.

Section 5. Present paragraph (c) of subsection (2) of section 20.19, Florida Statutes, is redesignated as paragraph (d), and a new paragraph (c) is added to that subsection, to read:

20.19 Department of Children and Family Services.—There is created a Department of Children and Family Services.

(2) SECRETARY OF CHILDREN AND FAMILY SERVICES; DEPUTY SECRETARY.—

(c)1. The secretary shall appoint an Assistant Secretary for Substance Abuse and Mental Health. The assistant secretary shall serve at the pleasure of the secretary and must have expertise in both areas of responsibility.

2. The secretary shall appoint a Program Director for Substance Abuse and a Program Director for Mental Health who have the requisite expertise and experience in their respective fields to head the state's substance abuse and mental health programs.

a. Each program director shall have line authority over all district substance abuse and mental health program management staff.

b. The assistant secretary shall enter into a memorandum of understanding with each district or region administrator, which must be approved by the secretary or the secretary's designee, describing the working relationships within each geographic area.

c. The mental health institutions shall report to the Program Director for Mental Health.

d. Each program director shall have direct control over the program's budget and contracts for services. Support staff necessary to manage budget and contracting functions within the department shall be placed under the supervision of the program directors.

Section 6. Except as otherwise provided, this act shall be implemented within available resources.

Section 7. Section 394.741, Florida Statutes, is amended to read:

394.741 Accreditation requirements for providers of behavioral health care services.—

(1) As used in this section, the term “behavioral health care services” means mental health and substance abuse treatment services.

(2) Notwithstanding any provision of law to the contrary, accreditation shall be accepted by the agency and department in lieu of the agency's and department's facility licensure onsite review requirements and shall be accepted as a substitute for the department's administrative and program monitoring requirements, except as required by subsections (3) and (4), for:

(a) Any organization from which the department purchases behavioral health care services that is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the Council on Accreditation for Children and Family Services, or has those services that are being purchased by the department accredited by CARF—the Rehabilitation Accreditation Commission.

(b) Any mental health facility licensed by the agency or any substance abuse component licensed by the department that is accredited by the Joint

Commission on Accreditation of Healthcare Organizations, CARF—the Rehabilitation Accreditation Commission, or the Council on Accreditation of Children and Family Services.

(c) Any network of providers from which the department or the agency purchases behavioral health care services accredited by the Joint Commission on Accreditation of Healthcare Organizations, CARF—the Rehabilitation Accreditation Commission, the Council on Accreditation of Children and Family Services, or the National Committee for Quality Assurance. A provider organization, which is part of an accredited network, is afforded the same rights under this part.

(3) For organizations accredited as set forth in subsection (2). Before the department or the agency conducts additional monitoring for mental health services, the department and the agency must adopt rules ~~mental health services, the department and the agency may adopt rules~~ that establish:

(a) Additional standards for monitoring and licensing accredited programs and facilities that the department and the agency have determined are not specifically and distinctly covered by the accreditation standards and processes. These standards and the associated monitoring must not duplicate the standards and processes already covered by the accrediting bodies.

(b) An onsite monitoring process between 24 months and 36 months after accreditation for nonresidential facilities to assure that accredited organizations exempt from licensing and monitoring activities under this part continue to comply with critical standards.

(c) An onsite monitoring process between 12 months and 24 months after accreditation for residential facilities to assure that accredited organizations exempt from licensing and monitoring activities under this part continue to comply with critical standards.

(4) For substance abuse services, the department shall conduct full licensure inspections every 3 years and shall develop in rule criteria which would justify more frequent inspections.

(5) The department and the agency shall be given access to all accreditation reports, corrective action plans, and performance data submitted to the accrediting organizations. When major deficiencies, as defined by the accrediting organization, are identified through the accreditation process, the department and the agency may perform followup monitoring to assure that such deficiencies are corrected and that the corrections are sustained over time. Proof of compliance with fire and health safety standards will be submitted as required by rule.

(6) The department or agency, by accepting the survey or inspection of an accrediting organization, does not forfeit its rights to monitor for the purpose of ensuring that services for which the department has paid were provided. The department may investigate complaints or suspected problems and to monitor the provider's compliance with negotiated terms and conditions, including provisions relating to consent decrees, which are unique to a specific contract and are not statements of general applicability.

The department may monitor compliance with federal and state statutes, federal regulations, or state administrative rules, if such monitoring does not duplicate the review of accreditation standards or independent audits pursuant to subsections (3) and (8), perform inspections at any time, including contract monitoring to ensure that deliverables are provided in accordance with the contract.

(7) For purposes of licensure and monitoring of facilities under contract with the department, the department shall rely only upon properly adopted and applicable federal and state statutes and rules.

(8) The department shall file a State Projects Compliance Supplement pursuant to s. 215.97 for behavioral health care services. In monitoring the financial operations of its contractors, the department shall rely upon certified public accountant audits, if required. The department shall perform a desk review of its contractor's most recent independent audit and may conduct onsite monitoring only of problems identified by these audits, or by other sources of information documenting problems with contractor's financial management. Certified public accountants employed by the department may conduct an on-site test of the validity of a contractor's independent audit every third year.

(9)(7) The department and the agency shall report to the Legislature by January 1, 2003, on the viability of mandating all organizations under contract with the department for the provision of behavioral health care services, or licensed by the agency or department to be accredited. The department and the agency shall also report to the Legislature by January 1, 2003, on the viability of privatizing all licensure and monitoring functions through an accrediting organization.

(10)(8) The accreditation requirements of this section shall apply to contracted organizations that are already accredited immediately upon becoming law.

Section 8. Paragraphs (a) and (d) of subsection (4) and subsection (5) of section 394.9082, Florida Statutes, are amended, present subsection (8) of that section is renumbered as subsection (9) and amended, and a new subsection (8) is added to that section, to read:

394.9082 Behavioral health service delivery strategies.—

(4) CONTRACT FOR SERVICES.—

(a) The Department of Children and Family Services and the Agency for Health Care Administration may contract for the provision or management of behavioral health services with a managing entity in at least two geographic areas. Both the Department of Children and Family Services and the Agency for Health Care Administration must contract with the same managing entity in any distinct geographic area where the strategy operates. This managing entity shall be accountable at a minimum for the delivery of behavioral health services specified and funded by the department and the agency ~~for children, adolescents, and adults~~. The geographic area must be of sufficient size in population and have enough public funds for

behavioral health services to allow for flexibility and maximum efficiency. Notwithstanding the provisions of s. 409.912(3)(b)1. and 2., at least one service delivery strategy must be in one of the service districts in the catchment area of G. Pierce Wood Memorial Hospital.

(d) Under both strategies, the Department of Children and Family Services and the Agency for Health Care Administration may:

1. Establish benefit packages based on the level of severity of illness and level of client functioning;

2. Align and integrate procedure codes, standards, or other requirements if it is jointly determined that these actions will simplify or improve client services and efficiencies in service delivery;

3. Use prepaid per capita and prepaid aggregate fixed-sum payment methodologies; and

4. Modify their current procedure codes to increase clinical flexibility, encourage the use of the most effective interventions, and support rehabilitative activities; and

5. Establish or develop data management and reporting systems that promote efficient use of data by the service delivery system. Data management and reporting systems must address the management and clinical care needs of the service providers and managing entities and provide information needed by the department for required state and federal reporting. In order to develop and test the application of new data systems, a strategy implementation area is not required to provide information that matches all current statewide reporting requirements if the strategy's data systems include client demographic, admission, discharge, enrollment, service events, performance outcome information, and functional assessment.

(5) ~~STATEWIDE ACTIONS.—If Medicaid appropriations for Community Mental Health Services or Mental Health Targeted Case Management are reduced in fiscal year 2001-2002, The agency and the department shall jointly develop and implement strategies that reduce service costs in a manner that mitigates the impact on persons in need of those services. The agency and department may employ any methodologies on a regional or statewide basis necessary to achieve the reduction, including but not limited to use of case rates, prepaid per capita contracts, utilization management, expanded use of care management, use of waivers from the Centers for Medicare and Medicaid Services Health Care Financing Administration to maximize federal matching of current local and state funding, modification or creation of additional procedure codes, and certification of match or other management techniques. The department may contract with a single managing entity or provider network that shall be responsible for delivering state-funded mental health and substance-abuse services. Any not-for-profit agency providing Medicaid reimbursed mental health or substance abuse services to dependent children as of May 1, 2003, shall be included in the network. The managing entity shall coordinate its delivery of mental health and substance-abuse services with all prepaid mental health plans in the region or the district. The department may include in its contract with the~~

managing entity data-management and data-reporting requirements, clinical program management, and administrative functions. Before the department contracts for these functions with the provider network, the department shall determine that the entity has the capacity and capability to assume these functions. The roles and responsibilities of each party must be clearly delineated in the contract.

(8) EXPANSION IN DISTRICTS 4 AND 12.—The department shall work with community agencies to establish a single managing entity for districts 4 and 12 accountable for the delivery of substance abuse services to child protective services recipients in the two districts. The purpose of this strategy is to enhance the coordination of substance abuse services with community-based care agencies and the department. The department shall work with affected stakeholders to develop and implement a plan that allows the phase-in of services beginning with the delivery of substance abuse services, with phase-in of subsequent substance abuse services agreed upon by the managing entity and authorized by the department, providing the necessary technical assistance to assure provider and district readiness for implementation. When a single managing entity is established and meets readiness requirements, the department may enter into a noncompetitive contract with the entity. The department shall maintain detailed information on the methodology used for selection and a justification for the selection. Performance objectives shall be developed which ensure that services that are delivered directly affect and complement the child's permanency plan. During the initial planning and implementation phase of this project, the requirements in subsections (6) and (7) are waived. Considering the critical substance abuse problems experienced by many families in the child protection system, the department shall initiate the implementation of the substance abuse delivery component of this program without delay and furnish status reports to the appropriate substantive committees of the Senate and the House of Representatives no later than February 29, 2004, and February 28, 2005. The integration of all services agreed upon by the managing entity and authorized by the department must be completed within 2 years after project initiation. Ongoing monitoring and evaluation of this strategy shall be conducted in accordance with subsection (9).

(9)(8) MONITORING AND EVALUATION.—The Department of Children and Family Services and the Agency for Health Care Administration shall provide routine monitoring and oversight of and technical assistance to the managing entities. The Louis de la Parte Florida Mental Health Institute shall conduct an ongoing formative evaluation of each strategy to identify the most effective methods and techniques used to manage, integrate, and deliver behavioral health services. The entity conducting the evaluation shall report to the Department of Children and Family Services, the Agency for Health Care Administration, the Executive Office of the Governor, and the Legislature every 12 months regarding the status of the implementation of the service delivery strategies. The report must include a summary of activities that have occurred during the past 12 months of implementation and any problems or obstacles that ~~have in the past, or may in the future, prevent~~ prevented, or may prevent in the future, the managing entity from achieving performance goals ~~and measures~~. The first status report is due January 1, 2002. After the service delivery strategies have been

operational for 1 year, the status report must include an analysis of administrative costs and the status of the achievement of performance outcomes. By December 31, 2006, the Louis de la Parte Florida Mental Health Institute, as a part of the ongoing formative evaluation of each strategy, must conduct a study of the strategies established in Districts 1, 8, 4, and 12 under this section, and must include an assessment of best practice models in other states. The study must address programmatic outcomes that include, but are not limited to, timeliness of service delivery, effectiveness of treatment services, cost-effectiveness of selected models, and customer satisfaction with services. Based upon the results of this study, the department and the Agency for Health Care Administration, in consultation with the managing entities, must provide a report to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives. This report must contain recommendations for the statewide implementation of successful strategies, including any modifications to the strategies, the identification and prioritization of strategies to be implemented, and timeframes for statewide completion that include target dates to complete milestones as well as a date for full statewide implementation. Upon receiving the annual report from the evaluator, the Department of Children and Family Services and the Agency for Health Care Administration shall jointly make any recommendations to the Executive Office of the Governor regarding changes in the service delivery strategies or in the implementation of the strategies, including timeframes.

Section 9. Present subsections (1), (2), and (3) of section 409.912, Florida Statutes, are redesignated as subsections (2), (3), and (4), respectively, and a new subsection (1) is added to that section, present subsection (3) of that section is amended, present subsections (4) through (40) are redesignated as subsections (6) through (42), respectively, and a new subsection (5) is added to that section to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services. The agency may establish prior authorization requirements for certain populations of Medicaid beneficiaries, certain drug classes, or particular drugs to prevent fraud, abuse, overuse, and possible dangerous drug interactions. The Pharmaceutical and Therapeutics Committee shall make recommendations to the agency on drugs for which prior authorization is required. The agency shall inform the Pharmaceutical and Therapeutics Committee of its decisions regarding drugs subject to prior authorization.

(1) The agency shall work with the Department of Children and Family Services to ensure access of children and families in the child protection

system to needed and appropriate mental health and substance abuse services.

(4)(3) The agency may contract with:

(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county health department, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III by January 1, 1998, and until then are exempt from the provisions of part I of chapter 641. An entity recognized under this paragraph which demonstrates to the satisfaction of the Department of Insurance that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225.

(b) An entity that is providing comprehensive behavioral health care services to certain Medicaid recipients through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such an entity must be licensed under chapter 624, chapter 636, or chapter 641 and must possess the clinical systems and operational competence to manage risk and provide comprehensive behavioral health care to Medicaid recipients. As used in this paragraph, the term “comprehensive behavioral health care services” means covered mental health and substance abuse treatment services that are available to Medicaid recipients. The secretary of the Department of Children and Family Services shall approve provisions of procurements related to children in the department’s care or custody prior to enrolling such children in a prepaid behavioral health plan. Any contract awarded under this paragraph must be competitively procured. In developing the behavioral health care prepaid plan procurement document, the agency shall ensure that the procurement document requires the contractor to develop and implement a plan to ensure compliance with s. 394.4574 related to services provided to residents of licensed assisted living facilities that hold a limited mental health license. The agency shall seek federal approval to contract with a single entity meeting these requirements to provide comprehensive behavioral health care services to all Medicaid recipients in an AHCA area. Each entity must offer sufficient choice of providers in its network to ensure recipient access to care and the opportunity to select a provider with whom they are satisfied. The network shall include all public mental health hospitals. The agency must ensure that Medicaid recipients have available the choice of at least two managed care plans for their behavioral health care services. To ensure unimpaired access to behavioral health care services by Medicaid recipients, all contracts issued pursuant to this paragraph shall require 80 percent of the capitation paid to the managed care plan, including health maintenance organizations, to be expended for the provision of behavioral health care services. In the event the managed care plan expends less than 80 percent of the capitation paid pursuant to this paragraph for the provision of behavioral health care services, the difference shall be returned to the agency. The agency shall provide the managed care plan with a certification letter indicating the amount of capitation paid during each calendar year for the provision of behavioral health

care services pursuant to this section. The agency may reimburse for substance-abuse-treatment services on a fee-for-service basis until the agency finds that adequate funds are available for capitated, prepaid arrangements.

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

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

3. By July 1, 2006, the agency and the Department of Children and Family Services shall contract with managed care entities in each AHCA area except area 6 or arrange to provide comprehensive inpatient and outpatient mental health and substance abuse services through capitated prepaid arrangements to all Medicaid recipients who are eligible to participate in such plans under federal law and regulation. In AHCA areas where eligible individuals number less than 150,000, the agency shall contract with a single managed care plan. The agency may contract with more than one plan in AHCA areas where the eligible population exceeds 150,000. Contracts awarded pursuant to this section shall be competitively procured. Both for-profit and not-for-profit corporations shall be eligible to compete.

4. By October 1, 2003, the agency and the department shall submit a plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives which provides for the full implementation of capitated prepaid behavioral health care in all areas of the state. The plan shall include provisions which ensure that children and families receiving foster care and other related services are appropriately served and that these services assist the community based care lead agencies in meeting the goals and outcomes of the child welfare system. The plan will be developed with the participation of community based lead agencies, community alliances, sheriffs and community providers serving dependent children.

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

b. If the agency determines that the proposed capitation rate in any area is insufficient to provide appropriate services, the agency may adjust the capitation rate to ensure that care will be available. The agency and the department may use existing general revenue to address any additional required match but may not over-obligate existing funds on an annualized basis.

c. Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall

develop policies and procedures that allow for certification of local and state funds.

~~2. By December 31, 2001, the agency shall contract with entities providing comprehensive behavioral health care services to Medicaid recipients through capitated, prepaid arrangements in Charlotte, Collier, DeSoto, Escambia, Glades, Hendry, Lee, Okaloosa, Pasco, Pinellas, Santa Rosa, Sarasota, and Walton Counties. The agency may contract with entities providing comprehensive behavioral health care services to Medicaid recipients through capitated, prepaid arrangements in Alachua County. The agency may determine if Sarasota County shall be included as a separate catchment area or included in any other agency geographic area.~~

5.3. Children residing in a statewide inpatient psychiatric program, or in a Department of Juvenile Justice or a Department of Children and Family Services residential program approved as a Medicaid behavioral health overlay services provider shall not be included in a behavioral health care prepaid health plan pursuant to this paragraph.

6.4. In converting to a prepaid system of delivery, the agency shall in its procurement document require an entity providing comprehensive behavioral health care services to prevent the displacement of indigent care patients by enrollees in the Medicaid prepaid health plan providing behavioral health care services from facilities receiving state funding to provide indigent behavioral health care, to facilities licensed under chapter 395 which do not receive state funding for indigent behavioral health care, or reimburse the unsubsidized facility for the cost of behavioral health care provided to the displaced indigent care patient.

7.5. Traditional community mental health providers under contract with the Department of Children and Family Services pursuant to part IV of chapter 394, child welfare providers under contract with the Department of Children and Families and inpatient mental health providers licensed pursuant to chapter 395 must be offered an opportunity to accept or decline a contract to participate in any provider network for prepaid behavioral health services.

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. Such prepaid health care services entity must be licensed under parts I and III of chapter 641, but shall be prohibited from serving Medicaid recipients on a prepaid basis, until such licensure has been obtained. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (14) and (15).

(d) No more than four provider service networks for demonstration projects to test Medicaid direct contracting. The demonstration projects may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must meet appropriate financial reserve, quality assurance, and patient rights requirements as established by the

agency. The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care. Medicaid recipients assigned to a demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. A demonstration project awarded pursuant to this paragraph shall be for 4 years from the date of implementation.

(e) An entity that provides comprehensive behavioral health care services to certain Medicaid recipients through an administrative services organization agreement. Such an entity must possess the clinical systems and operational competence to provide comprehensive health care to Medicaid recipients. As used in this paragraph, the term “comprehensive behavioral health care services” means covered mental health and substance abuse treatment services that are available to Medicaid recipients. Any contract awarded under this paragraph must be competitively procured. The agency must ensure that Medicaid recipients have available the choice of at least two managed care plans for their behavioral health care services.

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

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

(h) An entity authorized in s. 430.205 to contract with the agency and the Department of Elderly Affairs to provide health care and social services on a prepaid or fixed-sum basis to elderly recipients. Such prepaid health care services entities are exempt from the provisions of part I of chapter 641 for the first 3 years of operation. An entity recognized under this paragraph that demonstrates to the satisfaction of the Department of Insurance that it is backed by the full faith and credit of one or more counties in which it operates may be exempted from s. 641.225.

(i) A Children’s Medical Services network, as defined in s. 391.021.

(5) By October 1, 2003, the agency and the department shall, to the extent feasible, develop a plan for implementing new Medicaid procedure codes for emergency and crisis care, supportive residential services, and other services designed to maximize the use of Medicaid funds for Medicaid-eligible recipients. The agency shall include in the agreement developed

pursuant to subsection (4) a provision that ensures that the match requirements for these new procedure codes are met by certifying eligible general revenue or local funds that are currently expended on these services by the department with contracted alcohol, drug abuse, and mental health providers. The plan must describe specific procedure codes to be implemented, a projection of the number of procedures to be delivered during fiscal year 2003-2004, and a financial analysis that describes the certified match procedures, and accountability mechanisms, projects the earnings associated with these procedures, and describes the sources of state match. This plan may not be implemented in any part until approved by the Legislative Budget Commission. If such approval has not occurred by December 31, 2003, the plan shall be submitted for consideration by the 2004 Legislature.

Section 10. Except as otherwise provided, this act shall be implemented within available resources.

Section 11. This act shall take effect upon becoming a law.

Approved by the Governor July 11, 2003.

Filed in Office Secretary of State July 11, 2003.