

## Committee Substitute for Senate Bill No. 1226

An act relating to the long-term-care service delivery system; requiring the Department of Elderly Affairs to report to the Governor and the Legislature the results of the department's monitoring of the activities of the area agencies on aging; amending s. 400.441, F.S.; requiring the Department of Children and Family Services and the Department of Health, in consultation with the agency, to adopt rules, policies, and procedures that include standards regarding elopement of residents; amending s. 409.912, F.S.; requiring the Department of Elderly Affairs to assess certain nursing home residents to facilitate their transition to a community-based setting; amending s. 430.04, F.S.; providing that the department may take intermediate measures against an area agency on aging if it exceeds its authority or fails to adhere to the terms of its contract with the department, adhere to the statutory provisions or departmental rules, properly determine client eligibility, or manage program budgets; amending s. 430.041, F.S.; locating the Office of Long-Term-Care Policy within the Department of Elderly Affairs for administrative purposes only; providing that the office and its director shall not be subject to control, supervision, or direction by the department; revising the purpose of the office; replacing the advisory council with an interagency coordinating team; specifying the composition of the interagency coordinating team; revising reporting requirements; amending s. 430.203, F.S.; redefining the terms "community care service system" and "lead agency"; amending s. 430.205, F.S.; requiring the Department of Elderly Affairs and the Agency for Health Care Administration to develop an integrated long-term-care service-delivery system; requiring the Department of Elderly Affairs and the agency to phase in implementation of the integrated long-term-care system; specifying timeframes and activities for each implementation phase; authorizing the agency to seek federal waivers to implement the changes; requiring the department to integrate certain database systems; requiring development of pilot projects; requiring the agency and the department to develop capitation rates for certain services; providing rulemaking authority to the agency and the department; requiring reports to the Governor and the Legislature; creating s. 430.2053, F.S.; requiring pilot projects for aging resource centers; requiring an implementation plan; requiring that area agencies on aging submit proposals for transition to aging resource centers; requiring a review of the department's process for determining readiness; specifying purposes and duties of an aging resource center; requiring integration of certain functions of other state agencies; specifying criteria for selection of entities to become aging resource centers; specifying the duties and responsibilities of community-care-for-the-elderly providers in an area served by an aging resource center; specifying programs administered by an aging resource center; requiring rules; allowing capitated payments; requiring reports; amending s. 430.502, F.S.; establishing a memory disorder clinic at a hospital in Pinellas County; amending s. 430.703,

F.S.; revising a definition; amending s. 430.7031, F.S.; requiring the department and the agency to review the case files of a specified percentage of Medicaid nursing home residents annually for the purpose of determining whether the residents are able to move to community placements; amending s. 430.705, F.S.; providing additional eligibility requirements for entities that provide services under the long-term-care community diversion pilot projects; requiring the annual evaluation and certification of capitation rates; providing additional requirements to be used in developing capitation rates for the pilot projects; amending s. 430.701, F.S.; prescribing duties of the agency with respect to limiting the diversion provider network; providing an effective date.

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

Section 1. By January 1 of each year, the Department of Elderly Affairs shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a summary of the results of the department's monitoring of the activities of area agencies on aging. The report must include information about each area agency's compliance with state and federal rules pertaining to all programs administered by the area agency, information about each area agency's financial management of state and federally funded programs, information about each agency's compliance with the terms of its contracts with the department, and a summary of corrective action required by the department.

Section 2. Paragraph (1) is added to subsection (1) of section 400.441, Florida Statutes, to read:

400.441 Rules establishing standards.—

(1) It is the intent of the Legislature that rules published and enforced pursuant to this section shall include criteria by which a reasonable and consistent quality of resident care and quality of life may be ensured and the results of such resident care may be demonstrated. Such rules shall also ensure a safe and sanitary environment that is residential and noninstitutional in design or nature. It is further intended that reasonable efforts be made to accommodate the needs and preferences of residents to enhance the quality of life in a facility. In order to provide safe and sanitary facilities and the highest quality of resident care accommodating the needs and preferences of residents, the department, in consultation with the agency, the Department of Children and Family Services, and the Department of Health, shall adopt rules, policies, and procedures to administer this part, which must include reasonable and fair minimum standards in relation to:

(1) The establishment of specific policies and procedures on resident elopement. Facilities shall conduct a minimum of two resident elopement drills each year. All administrators and direct care staff shall participate in the drills. Facilities shall document the drills.

Section 3. Subsection (15) of section 409.912, Florida Statutes, is amended 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.

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

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

(c) Prior to making payment for nursing facility services for a Medicaid recipient, the agency must verify that the nursing facility preadmission screening program has determined that the individual requires nursing facility care and that the individual cannot be safely served in community-based programs. The nursing facility preadmission screening program shall refer a Medicaid recipient to a community-based program if the individual could be safely served at a lower cost and the recipient chooses to participate in such program.

(d) For the purpose of initiating immediate prescreening and diversion assistance for individuals residing in nursing homes and in order to make families aware of alternative long-term care resources so that they may choose a more cost-effective setting for long-term placement, CARES staff shall conduct an assessment and review of a sample of individuals whose nursing home stay is expected to exceed 20 days, regardless of the initial funding source for the nursing home placement. CARES staff shall provide counseling and referral services to these individuals regarding choosing

appropriate long-term care alternatives. This paragraph does not apply to continuing care facilities licensed under chapter 651 or to retirement communities that provide a combination of nursing home, independent living, and other long-term care services.

(e)(d) By January 15 ~~1~~ of each year, the agency shall submit a report to the Legislature and the Office of Long-Term-Care Policy describing the operations of the CARES program. The report must describe:

1. Rate of diversion to community alternative programs;
2. CARES program staffing needs to achieve additional diversions;
3. Reasons the program is unable to place individuals in less restrictive settings when such individuals desired such services and could have been served in such settings;
4. Barriers to appropriate placement, including barriers due to policies or operations of other agencies or state-funded programs; and
5. Statutory changes necessary to ensure that individuals in need of long-term care services receive care in the least restrictive environment.

(f) The Department of Elderly Affairs shall track individuals over time who are assessed under the CARES program and who are diverted from nursing home placement. By January 15 of each year, the department shall submit to the Legislature and the Office of Long-Term-Care Policy, a longitudinal study of the individuals who are diverted from nursing home placement. The study must include:

1. The demographic characteristics of the individuals assessed and diverted from nursing home placement, including, but not limited to, age, race, gender, frailty, caregiver status, living arrangements, and geographic location;
2. A summary of community services provided to individuals for 1 year after assessment and diversion;
3. A summary of inpatient hospital admissions for individuals who have been diverted; and
4. A summary of the length of time between diversion and subsequent entry into a nursing home or death.

(g) By July 1, 2005, the department and the Agency for Health Care Administration shall report to the President of the Senate and the Speaker of the House of Representatives regarding the impact to the state of modifying level-of-care criteria to eliminate the Intermediate II level of care.

Section 4. Subsection (2) of section 430.04, Florida Statutes, is amended to read:

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

(2) Be responsible for ensuring that each area agency on aging operates in a manner to ensure that the elderly of this state receive the best services possible. The department shall rescind designation of an area agency on aging or take intermediate measures against the agency, including corrective action, unannounced special monitoring, temporary assumption of operation of one or more programs by the department, placement on probationary status, imposing a moratorium on agency action, imposing financial penalties for nonperformance, or other administrative action pursuant to chapter 120, if the department finds that:

(a) An intentional or negligent act of the agency has materially affected the health, welfare, or safety of clients, or substantially and negatively affected the operation of an aging services program.

(b) The agency lacks financial stability sufficient to meet contractual obligations or that contractual funds have been misappropriated.

(c) The agency has committed multiple or repeated violations of legal and regulatory requirements or department standards.

(d) The agency has failed to continue the provision or expansion of services after the declaration of a state of emergency.

(e) The agency has exceeded its authority or otherwise failed to adhere to the terms of its contract with the department or has exceeded its authority or otherwise failed to adhere to the provisions specifically provided by statute or rule adopted by the department.

(f) The agency has failed to properly determine client eligibility as defined by the department or efficiently manage program budgets.

Section 5. Section 430.041, Florida Statutes, is amended to read:

430.041 Office of Long-Term-Care Policy.—

(1) There is established ~~in the Department of Elderly Affairs~~ the Office of Long-Term-Care Policy to evaluate the state's long-term-care service delivery system, ~~and make recommendations to increase the efficiency and effectiveness of government-funded long-term-care programs for availability and the use of noninstitutional settings to provide care to the elderly, and to ensure coordination among the agencies responsible for setting policies for funding and for administering long-term-care programs for the elderly.~~ The office shall be located in the Department of Elderly Affairs for administrative purposes only and shall not be subject to control, supervision, or direction by the department the long-term-care continuum.

(2) The purpose of the Office of Long-Term-Care Policy is to:

(a) Ensure close communication and coordination among state agencies involved in developing and administering a more efficient and coordinated long-term-care service delivery system in this state;

~~(b) Identify duplication and unnecessary service provision in the long-term-care system and make recommendations to decrease inappropriate service provision;~~

~~(b)(e)~~ Review current programs providing long-term-care services to the elderly, including those in home, community-based, and institutional settings, and review program evaluations to determine whether the programs are cost effective, of high quality, and operating efficiently and make recommendations to increase consistency and effectiveness in the state's long-term-care programs;

~~(c)(d)~~ Develop specific implementation strategies and funding recommendations for promoting and implementing cost-effective home and community-based services as an alternative to institutional care, when appropriate, which coordinate and integrate the continuum of care needs of the elderly; and

~~(d)~~ Recommend roles for state agencies that are responsible for administering long-term-care programs for the elderly and an organization framework for the planning, coordination, implementation, and evaluation of long-term-care programs for the elderly.

~~(e)~~ Assist the Office of Long-Term-Care Policy Advisory Council as necessary to help implement this section.

(3) The Director of the Office of Long-Term-Care Policy shall be appointed by, and serve at the pleasure of, the Governor. ~~The director shall report to, and be under the general supervision of, the Secretary of Elderly Affairs and shall not be subject to supervision by any other employee of the department.~~

~~(4)~~ ~~The Office of Long-Term-Care Policy shall have an advisory council. The purposes of the advisory council are to provide assistance and direction to the office and to ensure that the appropriate state agencies are properly implementing recommendations from the office.~~

~~(a)~~ ~~The advisory council shall consist of:~~

- ~~1.~~ A member of the Senate, appointed by the President of the Senate;
- ~~2.~~ A member of the House of Representatives, appointed by the Speaker of the House of Representatives;
- ~~3.~~ The Secretary of Health Care Administration;
- ~~4.~~ The Secretary of Elderly Affairs;
- ~~5.~~ The Secretary of Children and Family Services;
- ~~6.~~ The Secretary of Health;
- ~~7.~~ The Executive Director of the Department of Veterans' Affairs;
- ~~8.~~ Three people with broad knowledge and experience in the delivery of long-term-care services, appointed by the Governor from groups representing elderly persons; and
- ~~9.~~ Two representatives of people using long-term-care services, appointed by the Governor from groups representing elderly persons.

~~(b) The council shall elect a chair from among its membership to serve for a 1-year term. A chair may not serve more than two consecutive terms.~~

~~(c) Members shall serve without compensation, but are entitled to receive reimbursement for travel and per diem as provided in s. 112.061.~~

~~(d) The advisory council shall meet at the call of its chair or at the request of a majority of its members. During its first year of existence, the advisory council shall meet at least monthly.~~

~~(e) Members of the advisory council appointed by the Governor shall serve at the pleasure of the Governor and shall be appointed to 4-year staggered terms in accordance with s. 20.052.~~

~~(4)(5)(a) The Department of Elderly Affairs shall provide administrative support and services to the Office of Long-Term-Care Policy.~~

~~(b) The office shall call upon appropriate agencies of state government, including the centers on aging in the State University System, for assistance needed in discharging its duties.~~

~~(c) Each state agency represented on the Office of Long-Term-Care Policy Advisory Council shall make at least one employee available to work with the Office of Long-Term-Care Policy. All state agencies and universities shall assist the office in carrying out its responsibilities prescribed by this section.~~

~~(d) The Secretary of Health Care Administration, the Secretary of Elderly Affairs, the Secretary of Children and Family Services, the Secretary of Health, and the Executive Director of the Department of Veterans' Affairs shall each appoint at least one high-level employee with the authority to recommend and implement agency policy and with experience in the area of long-term-care service delivery and financing to work with the Office of Long-Term-Care Policy, as part of an interagency coordinating team. The interagency coordinating team shall meet monthly with the director of the Office of Long-Term-Care Policy to implement the purposes of the office.~~

~~(e)(d) Each state agency shall pay from its own funds any expenses related to its support of the Office of Long-Term-Care Policy and its participation on the advisory council. The Department of Elderly Affairs shall be responsible for expenses related to participation on the advisory council by members appointed by the Governor.~~

~~(6)(a) By December 31 of each year 1, 2002, the office shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives a advisory council a preliminary report of its activities, progress made in findings and recommendations on improving the long-term-care continuum in this state and make recommendations. The report shall contain the activities completed by the office during the calendar year, a plan of activities for the following year, recommendations and implementation proposals for policy changes, and as well as legislative and funding recommendations that will make the system more effective and efficient. The report shall contain a specific implementation strategies, with time-lines, plan for accomplishing the recommendations and proposals set out in~~

~~the report. Thereafter, the office shall revise and update the report annually and resubmit it to the advisory council for review and comments by November 1 of each year.~~

~~(b) The advisory council shall review and recommend any suggested changes to the preliminary report, and each subsequent annual update of the report, within 30 days after the receipt of the preliminary report. Suggested revisions, additions, or deletions shall be made to the Director of the Office of Long-Term-Care Policy.~~

~~(c) The office shall submit its final report, and each subsequent annual update of the report, to the Governor and the Legislature within 30 days after the receipt of any revisions, additions, or deletions suggested by the advisory council, or after the time such comments are due to the office.~~

Section 6. Subsection (3) and paragraphs (b) and (c) of subsection (9) of section 430.203, Florida Statutes, are amended to read:

430.203 Community care for the elderly; definitions.—As used in ss. 430.201-430.207, the term:

(3) “Community care service system” means a service network comprising a variety of home-delivered services, day care services, and other basic services, hereinafter referred to as “core services,” for functionally impaired elderly persons which are provided by or through several agencies under the direction of a single lead agency. Its purpose is to provide a continuum of care encompassing a full range of preventive, maintenance, and restorative services for functionally impaired elderly persons.

(9) “Lead agency” means an agency designated at least once every 3 years by an area agency on aging as the result of a request for proposal process to be in place no later than the state fiscal year 1996-1997.

(b) The area agency on aging, in consultation with the department, shall ~~may~~ exempt from the competitive bid process any contract with a provider who meets or exceeds established minimum standards, as determined by the department.

(c) In each community care service system the lead agency must be given the authority and responsibility to coordinate some or all of the services, either directly or through subcontracts, for functionally impaired elderly persons. These services must include case management, and may include ~~and may include~~ homemaker and chore services, respite care, adult day care, personal care services, home-delivered meals, counseling, information and referral, and emergency home repair services. The lead agency must compile community care statistics and monitor, when applicable, subcontracts with agencies providing core services.

Section 7. Subsection (6) of section 430.205, Florida Statutes, is amended to read:

430.205 Community care service system.—



(6) ~~Notwithstanding other requirements of this chapter, the Department of Elderly Affairs and the Agency for Health Care Administration shall develop an a model system to transition all state-funded services for elderly individuals in one of the department's planning and service areas to a managed, integrated long-term-care delivery system under the direction of a single entity.~~

(a) The duties of the integrated model system shall include organizing and administering service delivery for the elderly, obtaining contracts for services with providers in each service the area, monitoring the quality of services provided, determining levels of need and disability for payment purposes, and other activities determined by the department and the agency in order to operate an integrated ~~the model~~ system.

(b) During the 2004-2005 state fiscal year:

1. The agency, in consultation with the department, shall develop an implementation plan to integrate the Frail Elder Option into the Nursing Home Diversion pilot project and each program's funds into one capitated program serving the aged. Beginning July 1, 2004, the agency may not enroll additional individuals in the Frail Elder Option.

2. The agency, in consultation with the department, shall integrate the Aged and Disabled Adult Medicaid waiver program and the Assisted Living for the Elderly Medicaid waiver program and each program's funds into one fee-for-service Medicaid waiver program serving the aged and disabled. Once the programs are integrated, funding to provide care in assisted-living facilities under the new waiver may not be less than the amount appropriated in the 2003-2004 fiscal year for the Assisted Living for the Elderly Medicaid waiver.

a. The agency shall seek federal waivers necessary to integrate these waiver programs.

b. The agency and the department shall reimburse providers for case management services on a capitated basis and develop uniform standards for case management in this fee-for-service Medicaid waiver program. The coordination of acute and chronic medical services for individuals shall be included in the capitated rate for case management services.

c. The agency and the department shall adopt any rules necessary to comply with or administer these requirements, effect and implement interagency agreements between the department and the agency, and comply with federal requirements.

3. The Legislature finds that preservation of the historic aging network of lead agencies is essential to the well-being of Florida's elderly population. The Legislature finds that the Florida aging network constitutes a system of essential community providers which should be nurtured and assisted to develop systems of operations which allow the gradual assumption of responsibility and financial risk for managing a client through the entire continuum of long-term care services within the area the lead agency is

currently serving, and which allow lead agency providers to develop managed systems of service delivery. The department, in consultation with the agency, shall therefore:

a. Develop a demonstration project in which existing community care for the elderly lead agencies are assisted in transferring their business model and the service delivery system within their current community care service area, to enable assumption over a period of time, of full risk as a community diversion pilot project contractor providing long-term care services in the areas of operation. The department, in consultation with the agency and the Department of Children and Family Services, shall develop an implementation plan for no more than three lead agencies by October 31, 2004.

b. In the demonstration area, a community care for the elderly lead agency shall be initially reimbursed on a prepaid or fixed-sum basis for services provided under the newly integrated fee-for-service Medicaid waiver. By the end of the third year of operation, the demonstration shall include all services under the long-term care community diversion pilot project.

c. During the first year of operation, the department, in consultation with the agency may place providers at risk to provide nursing home services for the enrolled individuals who are participating in the demonstration project. During the 3-year development period, the agency and the department may limit the level of custodial nursing home risk that the administering entities assume. Under risk-sharing arrangements, during the first 3 years of operation, the department, in consultation with the agency, may reimburse the administering entity for the cost of providing nursing home care for Medicaid-eligible participants who have been permanently placed and remain in a nursing home for more than 1 year, or may disenroll such participants from the demonstration project.

d. The agency, in consultation with the department, shall develop reimbursement rates based on the historical cost experience of the state in providing long-term care and nursing home services under Medicaid waiver programs to the population 65 years of age and older in the area served by the pilot project.

e. The department, in consultation with the agency, shall ensure that the entity or entities receiving prepaid or fixed-sum reimbursement are assisted in developing internal management and financial control systems necessary to manage the risk associated with providing services under a prepaid or fixed-sum rate system.

f. If the department and the agency share risk of custodial nursing home placement, payment rates during the first 3 years of operation shall be set at not more than 100 percent of the costs to the agency and the department of providing equivalent services to the population within the area of the pilot project for the year prior to the year in which the pilot project is implemented, adjusted forward to account for inflation and policy changes in the Medicaid program. In subsequent years, the rate shall be negotiated, based on the cost experience of the entity in providing contracted services, but may

not exceed 95 percent of the amount that would have been paid in the pilot project area absent the prepaid or fixed sum reimbursement methodology.

g. Community care for the elderly lead agencies that have operated for a period of at least 20 years, which provide Medicare-certified services to elders, and which have developed a system of service provision by health care volunteers shall be given priority in the selection of the pilot project if they meet the minimum requirements specified in the competitive procurement.

h. The agency and the department shall adopt rules necessary to comply with or administer these requirements, effect and implement interagency agreements between the agency and the department, and comply with federal requirements.

i. The department and the agency shall seek federal waivers necessary to implement the requirements of this section.

j. The Department of Elderly Affairs shall conduct or contract for an evaluation of the demonstration project. The department shall submit the evaluation to the Governor and the Legislature by January 1, 2007. The evaluation must address the effectiveness of the pilot project in providing a comprehensive system of appropriate and high-quality long-term care services to elders in the least restrictive setting and make recommendations on expanding the project to other parts of the state.

4. The department, in consultation with the agency, shall study the integration of the database systems for the Comprehensive Assessment and Review of Long-Term Care (CARES) program and the Client Information and Referral Tracking System (CIRTS) and develop a plan for database integration. The department shall submit the plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31, 2004.

5. The agency, in consultation with the department, shall work with the fiscal agent for the Medicaid program to develop a service utilization reporting system that operates through the fiscal agent for the capitated plans.

(c) During the 2005-2006 state fiscal year:

1. The agency, in consultation with the department, shall monitor the newly integrated programs and report on the progress of those programs to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2006. The report must include an initial evaluation of the programs in their early stages following the evaluation plan developed by the department, in consultation with the agency and the selected contractor.

2. The department shall monitor the pilot projects for resource centers on aging and report on the progress of those projects to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30, 2006. The report must include an evaluation of the implementation process in its early stages.

3. The department, in consultation with the agency, shall integrate the database systems for the Comprehensive Assessment and Review of Long-Term Care (CARES) program and the Client Information and Referral Tracking System (CIRTS) into a single operating assessment information system by June 30, 2006.

4. The agency, in consultation with the department shall integrate the Frail Elder Option into the Nursing Home Diversion pilot project and each program's funds into one capitated program serving the aged.

a. The department, in consultation with the agency, shall develop uniform standards for case management in this newly integrated capitated system.

b. The agency shall seek federal waivers necessary to integrate these programs.

c. The department, in consultation with the agency, shall adopt any rules necessary to comply with or administer these requirements, effect and implement interagency agreements between the department and the agency, and comply with federal requirements.

(d) During the 2006-2007 state fiscal year:

1. The agency, in consultation with the department, shall evaluate the Alzheimer's Disease waiver program and the Adult Day Health Care waiver program to assess whether providing limited intensive services through these waiver programs produce better outcomes for individuals than providing those services through the fee-for-service or capitated programs that provide a larger array of services.

2. The agency, in consultation with the department, shall begin discussions with the federal Centers for Medicare and Medicaid Services regarding the inclusion of Medicare into the integrated long-term care system. By December 31, 2006, the agency shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a plan for including Medicare in the integrated long-term care system.

~~(b) The agency and the department shall integrate all funding for services to individuals over the age of 65 in the model planning and service areas into a single per-person per-month payment rate, except that funds for Medicaid behavioral health care services are exempt from this section. The funds to be integrated shall include:~~

~~1. Community care for the elderly funds;~~

~~2. Home care for the elderly funds;~~

~~3. Local services program funds;~~

~~4. Contracted services funds;~~

~~5. Alzheimer's disease initiative funds;~~

- ~~6. Medicaid home and community-based waiver services funds;~~
- ~~7. Funds for all Medicaid services authorized in ss. 409.905 and 409.906, including Medicaid nursing home services; and~~
- ~~8. Funds paid for Medicare premiums, coinsurance and deductibles for persons dually eligible for Medicaid and Medicare as prescribed in s. 409.908(13).~~

The department and the agency shall not make payments for services for people age 65 and older except through the model delivery system.

~~(c) The entity selected to administer the model system shall develop a comprehensive health and long-term care service delivery system through contracts with providers of medical, social, and long-term care services sufficient to meet the needs of the population age 65 and older. The entity selected to administer the model system shall not directly provide services other than intake, assessment, and referral services.~~

~~(d) The department shall determine which of the department's planning and services areas is to be designated as a model area by means of a request for proposals. The department shall select an area to be designated as a model area and the entity to administer the model system based on demonstration of capacity of the entity to:~~

~~1. Develop contracts with providers currently under contract with the department, area agencies on aging, or community care for the elderly lead agencies;~~

~~2. Provide a comprehensive system of appropriate medical and long-term care services that provides high-quality medical and social services to assist older individuals in remaining in the least restrictive setting;~~

~~3. Demonstrate a quality assurance and quality improvement system satisfactory to the department and the agency;~~

~~4. Develop a system to identify participants who have special health care needs such as polypharmacy, mental health and substance abuse problems, falls, chronic pain, nutritional deficits, and cognitive deficits, in order to respond to and meet these needs;~~

~~5. Use a multidisciplinary team approach to participant management which ensures that information is shared among providers responsible for delivering care to a participant;~~

~~6. Ensure medical oversight of care plans and service delivery, regular medical evaluation of care plans, and the availability of medical consultation for case managers and service coordinators;~~

~~7. Develop, monitor, and enforce quality-of-care requirements;~~

~~8. Secure subcontracts with providers of medical, nursing home, and community-based long-term care services sufficient to assure access to and choice of providers;~~

~~9.— Ensure a system of case management and service coordination which includes educational and training standards for case managers and service coordinators;~~

~~10.— Develop a business plan that considers the ability of the applicant to organize and operate a risk-bearing entity;~~

~~11.— Furnish evidence of adequate liability insurance coverage or an adequate plan of self-insurance to respond to claims for injuries arising out of the furnishing of health care; and~~

~~12.— Provide, through contract or otherwise, for periodic review of its medical facilities as required by the department and the agency.~~

~~The department shall give preference in selecting an area to be designated as a model area to that in which the administering entity is an existing area agency on aging or community care for the elderly lead agency demonstrating the ability to perform the functions described in this paragraph.~~

~~(c) The department in consultation with the selected entity shall develop a statewide proposal regarding the long-term use and structure of a program that addresses a risk pool to reduce financial risk.~~

~~(f) The department and the agency shall develop capitation rates based on the historical cost experience of the state in providing acute and long-term care services to the population over 65 years of age in the area served.~~

~~1.— Payment rates in the first 2 years of operation shall be set at no more than 100 percent of the costs to the state of providing equivalent services to the population of the model area for the year prior to the year in which the model system is implemented, adjusted forward to account for inflation and population growth. In subsequent years, the rate shall be negotiated based on the cost experience of the model system in providing contracted services, but may not exceed 95 percent of the amount that would have been paid by the state in the model planning and service area absent the model integrated service delivery system.~~

~~2.— The agency and the department may develop innovative risk-sharing agreements that limit the level of custodial nursing home risk that the administering entity assumes, consistent with the intent of the Legislature to reduce the use and cost of nursing home care. Under risk-sharing arrangements, the agency and the department may reimburse the administering entity for the cost of providing nursing home care for Medicaid-eligible participants who have been permanently placed and remain in nursing home care for more than 1 year.~~

~~(g) The department and the Agency for Health Care Administration shall seek federal waivers necessary to implement the requirements of this section.~~

~~(h) The Department of Children and Family Services shall develop a streamlined and simplified eligibility system and shall outstation a sufficient number and quality of eligibility determination staff with the adminis-~~

tering entity to assure determination of Medicaid eligibility for the integrated service delivery system in the model planning and service area within 10 days after receipt of a complete application.

~~(i) The Department of Elderly Affairs shall make arrangements to outstation a sufficient number of nursing home preadmission screening staff with the administering entity to assure timely assessment of level of need for long-term care services in the model area.~~

~~(j) The Department of Elderly Affairs shall conduct or contract for an evaluation of the pilot project. The department shall submit the evaluation to the Governor and the Legislature by January 1, 2005. The evaluation must address the effects of the pilot project on the effectiveness of the entity providing a comprehensive system of appropriate and high-quality medical and long-term care services to elders in the least restrictive setting and make recommendations on a phased-in implementation expansion for the rest of the state.~~

Section 8. Section 430.2053, Florida Statutes, is created to read:

430.2053 Aging resource centers.—

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

(2) Each area agency on aging shall develop, in consultation with the existing community care for the elderly lead agencies within their planning and service areas, a proposal that describes the process the area agency on aging intends to undertake to transition to an aging resource center prior to July 1, 2005, and that describes the area agency's compliance with the requirements of this section. The proposals must be submitted to the department prior to December 31, 2004. The department shall evaluate all proposals for readiness and, prior to March 1, 2005, shall select three area agencies on aging which meet the requirements of this section to begin the transition to aging resource centers. Those area agencies on aging which are not selected to begin the transition to aging resource centers shall, in consultation with the department and the existing community care for the elderly lead agencies within their planning and service areas, amend their proposals as necessary and resubmit them to the department prior to July 1, 2005. The department may transition additional area agencies to aging resource centers as it determines that area agencies are in compliance with the requirements of this section.

(3) The Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall jointly review and assess the

department's process for determining an area agency's readiness to transition to an aging resource center.

(a) The review must, at a minimum, address the appropriateness of the department's criteria for selection of an area agency to transition to an aging resource center, the instruments applied, the degree to which the department accurately determined each area agency's compliance with the readiness criteria, the quality of the technical assistance provided by the department to an area agency in correcting any weaknesses identified in the readiness assessment, and the degree to which each area agency overcame any identified weaknesses.

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

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

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

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

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

(a) Develop referral agreements with local community service organizations, such as senior centers, existing elder service providers, volunteer associations, and other similar organizations, to better assist clients who do not need or do not wish to enroll in programs funded by the department or the agency. The referral agreements must also include a protocol, developed and approved by the department, which provides specific actions that an aging resource center and local community service organizations must take when an elder or an elder's representative seeking information on long-term-care services contacts a local community service organization prior to contacting the aging resource center. The protocol shall be designed to ensure that elders and their families are able to access information and services in the most efficient and least cumbersome manner possible.

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



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

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

(e) When financial resources become available, refer a client to the most appropriate entity to begin receiving services. The aging resource center shall make referrals to lead agencies for service provision that ensure that individuals who are vulnerable adults in need of services pursuant to s. 415.104(3)(b), or who are victims of abuse, neglect, or exploitation in need of immediate services to prevent further harm and are referred by the adult protective services program, are given primary consideration for receiving community-care-for-the-elderly services in compliance with the requirements of s. 430.205(5)(a) and that other referrals for services are in compliance with s. 430.205(5)(b).

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

(g) Enhance the existing area agency on aging in each planning and service area by integrating, either physically or virtually, the staff and services of the area agency on aging with the staff of the department's local CARES Medicaid nursing home preadmission screening unit and a sufficient number of staff from the Department of Children and Family Services' Economic Self Sufficiency Unit necessary to determine the financial eligibility for all persons age 60 and older residing within the area served by the aging resource center that are seeking Medicaid services, Supplemental Security Income, and food stamps.

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

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

(b) Strong connections to service providers, volunteer agencies, and community institutions.

- (c) Expertise in information and referral activities.
  - (d) Knowledge of long-term-care resources, including resources designed to provide services in the least restrictive setting.
  - (e) Financial solvency and stability.
  - (f) Ability to collect, monitor, and analyze data in a timely and accurate manner, along with systems that meet the department's standards.
  - (g) Commitment to adequate staffing by qualified personnel to effectively perform all functions.
  - (h) Ability to meet all performance standards established by the department.
- (7) The aging resource center shall have a governing body which shall be the same entity described in s. 20.41(7), and an executive director who may be the same person as described in s. 20.41(8). The governing body shall annually evaluate the performance of the executive director.
- (8) The aging resource center may not be a provider of direct services other than information and referral services and screening.
- (9) The aging resource center must agree to allow the department to review any financial information the department determines is necessary for monitoring or reporting purposes, including financial relationships.
- (10) The duties and responsibilities of the community care for the elderly lead agencies within each area served by an aging resource center shall be to:
- (a) Develop strong community partnerships to maximize the use of community resources for the purpose of assisting elders to remain in their community settings for as long as it is safely possible.
  - (b) Conduct comprehensive assessments of clients that have been determined eligible and develop a care plan consistent with established protocols that ensures that the unique needs of each client are met.
- (11) The services to be administered through the aging resource center shall include those funded by the following programs:
- (a) Community care for the elderly.
  - (b) Home care for the elderly.
  - (c) Contracted services.
  - (d) Alzheimer's disease initiative.
  - (e) Aged and disabled adult Medicaid waiver.
  - (f) Assisted living for the frail elderly Medicaid waiver.

(g) Older Americans Act.

(12) The department shall, prior to designation of an aging resource center, develop by rule operational and quality assurance standards and outcome measures to ensure that clients receiving services through all long-term-care programs administered through an aging resource center are receiving the appropriate care they require and that contractors and subcontractors are adhering to the terms of their contracts and are acting in the best interests of the clients they are serving, consistent with the intent of the Legislature to reduce the use of and cost of nursing home care. The department shall by rule provide operating procedures for aging resource centers, which shall include:

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

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

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

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

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

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

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

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

(13) In an area in which the department has designated an area agency on aging as an aging resource center, the department and the agency shall not make payments for the services listed in subsection (11) and the Long-Term Care Community Diversion Project for such persons who were not screened and enrolled through the aging resource center.

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

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

(16) If any of the state activities described in this section are outsourced, either in part or in whole, the contract executing the outsourcing shall mandate that the contractor or its subcontractors shall, either physically or virtually, execute the provisions of the memorandum of understanding instead of the state entity whose function the contractor or subcontractor now performs.

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

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

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

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

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

(d) The department, in consultation with the agency, shall annually re-evaluate and recertify the capitation rates, adjusting forward to account for inflation, programmatic changes.

(20) The department, in consultation with the agency, shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives, by December 1, 2006, a report addressing the feasibility of

administering the following services through aging resource centers beginning July 1, 2007:

- (a) Medicaid nursing home services.
- (b) Medicaid transportation services.
- (c) Medicaid hospice care services.
- (d) Medicaid intermediate care services.
- (e) Medicaid prescribed drug services.
- (f) Medicaid assistive care services.
- (g) Any other long-term-care program or Medicaid service.

(21) This section shall not be construed to allow an aging resource center to restrict, manage or impede the local fund-raising activities of service providers.

Section 9. Subsection (1) of section 430.502, Florida Statutes, is amended to read:

430.502 Alzheimer's disease; memory disorder clinics and day care and respite care programs.—

(1) There is established:

(a) A memory disorder clinic at each of the three medical schools in this state;

(b) A memory disorder clinic at a major private nonprofit research-oriented teaching hospital, and may fund a memory disorder clinic at any of the other affiliated teaching hospitals;

(c) A memory disorder clinic at the Mayo Clinic in Jacksonville;

(d) A memory disorder clinic at the West Florida Regional Medical Center;

(e) The East Central Florida Memory Disorder Clinic at the Joint Center for Advanced Therapeutics and Biomedical Research of the Florida Institute of Technology and Holmes Regional Medical Center, Inc.;

(f) A memory disorder clinic at the Orlando Regional Healthcare System, Inc.;

(g) A memory disorder center located in a public hospital that is operated by an independent special hospital taxing district that governs multiple hospitals and is located in a county with a population greater than 800,000 persons;

(h) A memory disorder clinic at St. Mary's Medical Center in Palm Beach County;

- (i) A memory disorder clinic at Tallahassee Memorial Healthcare;
- (j) A memory disorder clinic at Lee Memorial Hospital created by chapter 63-1552, Laws of Florida, as amended; ~~and~~
- (k) A memory disorder clinic at Sarasota Memorial Hospital in Sarasota County; and,
- (l) A memory disorder clinic at Morton Plant Hospital, Clearwater, in Pinellas County,

for the purpose of conducting research and training in a diagnostic and therapeutic setting for persons suffering from Alzheimer's disease and related memory disorders. However, memory disorder clinics funded as of June 30, 1995, shall not receive decreased funding due solely to subsequent additions of memory disorder clinics in this subsection.

Section 10. Subsection (7) of section 430.703, Florida Statutes, is amended to read:

430.703 Definitions.—As used in this act, the term:

(7) “Other qualified provider” means an entity licensed under chapter 400 that demonstrates a long-term care continuum, ~~posts a \$500,000 performance bond, and meets all the financial and quality assurance requirements for a provider service network as specified in s. 409.912 and all requirements pursuant to an interagency agreement between the agency and the department.~~

Section 11. Subsection (2) of section 430.7031, Florida Statutes, is amended to read:

430.7031 Nursing home transition program.—The department and the Agency for Health Care Administration:

(2) Shall collaboratively work to identify ~~long-stay~~ nursing home residents who are able to move to community placements, and to provide case management and supportive services to such individuals while they are in nursing homes to assist such individuals in moving to less expensive and less restrictive settings. CARES program staff shall annually review at least 20 percent of the case files for nursing home residents who are Medicaid recipients to determine which nursing home residents are able to move to community placements.

Section 12. Section 430.705, Florida Statutes, is amended to read:

430.705 Implementation of the long-term care community diversion pilot projects.—

(1) In designing and implementing the community diversion pilot projects, the department shall work in consultation with the agency.

(2) The department shall select projects whose design and providers demonstrate capacity to maximize the placement of participants in the least

restrictive appropriate care setting. The department shall select providers that have a plan administrator who is dedicated to the diversion pilot project and project staff who perform the necessary project administrative functions, including data collection, reporting, and analysis. The department shall select providers that:

(a) Are determined by the Department of Financial Services to:

1. Meet surplus requirements specified in s. 641.225;
2. Demonstrate the ability to comply with the standards for financial solvency specified in s. 641.285;
3. Demonstrate the ability to provide for the prompt payment of claims as specified in s. 641.3155; and
4. Demonstrate the ability to provide technology with the capability for data collection that meets the security requirements of the federal Health Insurance Portability and Accountability Act of 1996, 42 C.F.R. ss. 160 and 164.

(b) Demonstrate the ability to contract with multiple providers that provide the same type of service.

(3) The agency shall seek federal waivers necessary to place a cap on the number of diversion pilot project providers in each geographic area.

(4) Pursuant to 42 C.F.R. s. 438.6(c), the agency, in consultation with the department, shall annually reevaluate and recertify the capitation rates for the diversion pilot projects. The agency, in consultation with the department, shall secure the utilization and cost data for Medicaid and Medicare beneficiaries served by the program which shall be used in developing rates for the diversion pilot projects.

(5) In order to achieve rapid enrollment into the program and efficient diversion of applicants from nursing home care, the department and the agency shall allow enrollment of Medicaid beneficiaries on the date that eligibility for the community diversion pilot project is approved. The provider shall receive a prorated capitated rate for those enrollees who are enrolled after the first of each month.

(6)(3) The department shall provide to prospective participants a choice of participating in a community diversion pilot project or any other appropriate placement available. To the extent possible, individuals shall be allowed to choose their care providers, including long-term care service providers affiliated with an individual's religious faith or denomination.

(7)(4) The department shall enroll participants. Providers shall not directly enroll participants in community diversion pilot projects.

(5) In selecting the pilot project area, the department shall consider the following factors in the area:

- ~~(a) The nursing home occupancy level.~~
- ~~(b) The number of certificates of need awarded for nursing home beds for which renovation, expansion, or construction has not begun.~~
- ~~(c) The annual number of additional nursing home beds.~~
- ~~(d) The annual number of nursing home admissions.~~
- ~~(e) The adequacy of community-based long-term care service providers.~~
- (8)(6) The department may require participants to contribute to their cost of care in an amount not to exceed the cost-sharing required of Medicaid-eligible nursing home residents.
- (9)(7) Community diversion pilot projects must:
  - (a) Provide services for participants that are of sufficient quality, quantity, type, and duration to prevent or delay nursing facility placement.
  - (b) Integrate acute and long-term care services, and the funding sources for such services, as feasible.
  - (c) Encourage individuals, families, and communities to plan for their long-term care needs.
  - (d) Provide skilled and intermediate nursing facility care for participants who cannot be adequately cared for in noninstitutional settings.

Section 13. Section 430.701, Florida Statutes, is amended to read:

430.701 Legislative findings and intent.—

(1) The Legislature finds that state expenditures for long-term care services continue to increase at a rapid rate and that Florida faces increasing pressure in its efforts to meet the long-term care needs of the public. It is the intent of the Legislature that the Department of Elderly Affairs, in consultation with the Agency for Health Care Administration, implement long-term care community diversion pilot projects to test the effectiveness of managed care and outcome-based reimbursement principles when applied to long-term care.

(2) The agency may seek federal approval in advance of approval of its formal waiver application to limit the diversion provider network by freezing enrollment of providers at current levels when an area already has three or more providers or, in an expansion area, when enrollment reaches a level of three providers. This subsection does not prevent the department from approving a provider to expand service to additional counties within a planning and service area for which the provider is already approved to serve.

Section 14. This act shall take effect upon becoming a law.

Approved by the Governor June 30, 2004.

Filed in Office Secretary of State June 30, 2004.