

House Bill No. 1525

An act relating to elderly affairs; amending s. 430.205, F.S.; deleting provisions relating to implementation plans to integrate certain functions of the Agency for Health Care Administration; providing for development of uniform case management standards within the Aged and Disabled Adult Medicaid waiver program; authorizing, rather than requiring, coordination of acute and chronic medical service between the agency and the Department of Elderly Affairs to be included in the capitated rate for case management services; requiring the agency to consult with the department before adopting rules relating to reimbursement of providers and case management standards; revising provisions relating to certain reimbursement rates; deleting obsolete provisions; providing that evaluation of a specified pilot project relating to elder care is subject to an appropriation; amending s. 430.7031, F.S.; deleting provision that requires the department and 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.; revising eligibility requirements relating to financial solvency for entities that provide services under the long-term care community diversion pilot projects; providing definitions; authorizing the department to make rules; amending s. 430.707, F.S.; requiring project providers to report quarterly to the department regarding compliance with financial requirements; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (6) of section 430.205, Florida Statutes, are 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 integrated long-term-care delivery 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 within the Aged and Disabled Adult ~~in this fee-for-service~~ Medicaid waiver program. The coordination of acute and chronic medical services for individuals may ~~shall~~ be included in the capitated rate for case management services.

~~e. The agency, in consultation with 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.~~

~~2.3.~~ 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 all home and community-based services provided under the long-term care community diversion pilot project ~~newly integrated fee-for-service Medicaid waiver~~. By the end of the third year of operation, the lead agency shall be reimbursed on a prepaid or fixed-sum basis for demonstration project ~~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 federally approved, actuarially certified rate methodology for the long-term care community diversion pilot project 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. This subparagraph is subject to an appropriation by the Legislature.

~~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.~~

3.5. 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 for ~~of~~ Long-Term Care Services (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.~~

~~e. 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.~~

Section 2. 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 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 to move 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 3. Subsection (2) of section 430.705, Florida Statutes, is amended, and subsection (10) is added to said section, to read:

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

(2)(a) The department shall select projects whose design and providers demonstrate capacity to maximize the placement of participants in the least restrictive appropriate care setting.

(b) The department shall select providers that meet all of the following criteria. Providers shall:

1. 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:

2. Demonstrate the ability to provide program enrollees with a choice of care provider by contracting with multiple providers that provide the same type of service.

3. Demonstrate through performance or other documented means the capacity for prompt payment of claims as specified under s. 641.3155.

4. Maintain an insolvency protection account in a bank or savings and loan association located in the state with a balance of at least \$100,000 into which monthly deposits equal to at least 5 percent of premiums received under the project are made until the balance equals 2 percent of the total contract amount. The account shall be established with such terms as to ensure that funds may only be withdrawn with the signature approval of designated department representatives.

5. Maintain a surplus of at least \$1.5 million as determined by the department. Each applicant and each provider shall furnish to the department initial and annual unqualified audited financial statements prepared by a certified public accountant that expressly confirm that the applicant or provider satisfies this surplus requirement. The department may approve

a waiver of compliance with the surplus requirement for an existing diversion provider. The department's approval of this waiver must be contingent on the provider demonstrating proof to the department that the entity has posted and maintains a \$1.5 million performance bond, which is written by an insurer licensed to transact insurance in this state, in lieu of meeting the surplus requirement. The department may not approve a waiver of compliance with the surplus requirement that extends beyond June 30, 2006. As used in this subparagraph, the term:

a. "Existing diversion provider" means an entity that is approved by the department on or before June 30, 2005, to provide services to consumers through any long-term care community diversion pilot project authorized under ss. 430.701-430.709.

b. "Surplus" has the same meaning as in s. 641.19(19).

(c) The requirements of paragraph (b) do not apply to entities selected to provide services to the pilot projects authorized under s. 430.205(6)(b)2. The department, in consultation with the agency, shall develop by rule minimum financial solvency and reporting standards for these providers that are reflective of the amount of risk the provider will assume under the pilot project. The standards adopted by rule shall ensure safety for the pilot project enrollees and financial protection for the state in the event of a provider's inability to continue providing services to the project.

~~(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.~~

(10) The department, in consultation with the agency, is authorized to adopt any rules necessary to implement and administer the long-term care community diversion pilot projects authorized under ss. 430.701-430.709.

Section 4. Subsection (1) of section 430.707, Florida Statutes, is amended to read:

430.707 Contracts.—

(1) The department, in consultation with the agency, shall select and contract with managed care organizations and, on a prepaid basis, with

other qualified providers as defined in s. 430.703(7) to provide long-term care within community diversion pilot project areas. All providers ~~The agency shall evaluate and report quarterly to the department regarding the entity's compliance by other qualified providers~~ with all the financial and quality assurance requirements of the contract.

Section 5. This act shall take effect upon becoming a law.

Approved by the Governor June 10, 2005.

Filed in Office Secretary of State June 10, 2005.