

Council Substitute for  
Council Substitute for House Bill No. 1175

An act relating to transportation services for the transportation disadvantaged; amending s. 409.908, F.S.; authorizing the Agency for Health Care Administration to continue to contract for Medicaid nonemergency transportation services in a specified agency service area with managed care plans under certain conditions; amending s. 427.011, F.S.; revising definitions; defining the term “purchasing agency”; amending s. 427.012, F.S.; revising the number of members required for a quorum at a meeting of the Commission for the Transportation Disadvantaged; amending s. 427.013, F.S.; revising responsibilities of the commission; deleting a requirement that the commission establish by rule acceptable ranges of trip costs; removing a provision for functioning and oversight of the quality assurance and management review program; requiring the commission to incur expenses for promotional services and items; amending s. 427.0135, F.S.; revising and creating duties and responsibilities for agencies that purchase transportation services for the transportation disadvantaged; providing requirements for the payment of rates; requiring an agency to negotiate with the commission before procuring transportation disadvantaged services; requiring an agency to identify its allocation for transportation disadvantaged services in its legislative budget request; amending s. 427.015, F.S.; revising provisions relating to the function of the metropolitan planning organization or designated official planning agency; amending s. 427.0155, F.S.; revising duties of community transportation coordinators; amending s. 427.0157, F.S.; revising duties of coordinating boards; amending s. 427.0158, F.S.; deleting provisions requiring the school board to provide information relating to school buses to the transportation coordinator; providing for the transportation coordinator to request certain information regarding public transportation; amending s. 427.0159, F.S.; revising provisions relating to the Transportation Disadvantaged Trust Fund; providing for the deposit of funds by an agency purchasing transportation services; amending s. 427.016, F.S.; providing for construction and application of specified provisions to certain acts of a purchasing agency in lieu of the Medicaid agency; requiring that an agency identify the allocation of funds for transportation disadvantaged services in its legislative budget request; providing an effective date.

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

Section 1. Subsection (18) of section 409.908, Florida Statutes, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules

of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. If a provider is reimbursed based on cost reporting and submits a cost report late and that cost report would have been used to set a lower reimbursement rate for a rate semester, then the provider's rate for that semester shall be retroactively calculated using the new cost report, and full payment at the recalculated rate shall be effected retroactively. Medicare-granted extensions for filing cost reports, if applicable, shall also apply to Medicaid cost reports. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(18) Unless otherwise provided for in the General Appropriations Act, a provider of transportation services shall be reimbursed the lesser of the amount billed by the provider or the Medicaid maximum allowable fee established by the agency, except when the agency has entered into a direct contract with the provider, or with a community transportation coordinator, for the provision of an all-inclusive service, or when services are provided pursuant to an agreement negotiated between the agency and the provider. The agency, as provided for in s. 427.0135, shall purchase transportation services through the community coordinated transportation system, if available, unless the agency, after consultation with the commission, determines that it cannot reach mutually acceptable contract terms with the commission. The agency may then contract for the same transportation services provided in a more cost-effective manner and of comparable or higher quality and standards determines a more cost-effective method for Medicaid clients. Nothing in this subsection shall be construed to limit or preclude the agency from contracting for services using a prepaid capitation rate or from establishing maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, prior authorization, competitive bidding, increased use of mass transit, or any other mechanism that the agency considers efficient and effective for the purchase of services on behalf of Medicaid clients, including implementing a transportation eligibility process. The agency shall not be required to contract with any community transportation coordinator or transportation operator that has been determined by the agency, the Department of Legal Affairs Medicaid Fraud Control Unit, or any other state or federal agency to have engaged in any abusive or fraudulent billing activities. The agency is authorized to competitively procure transportation services or make other changes necessary to secure approval of federal waivers needed to permit federal financing of Medicaid transportation services at the service matching rate rather than the administrative matching rate. Notwithstanding chapter 427, the agency is authorized to continue contracting for Medicaid nonemergency transportation ser-

vices in agency service area 11 with managed care plans that were under contract for those services before July 1, 2004.

Section 2. Subsections (8), (12), and (13) of section 427.011, Florida Statutes, are amended to read:

427.011 Definitions.—For the purposes of ss. 427.011-427.017:

(8) “Purchasing agency” “Member department” means a department or agency whose head is an ex officio, nonvoting advisor to a member of the commission, or an agency that purchases transportation services for the transportation disadvantaged.

~~(12) “Annual budget estimate” means a budget estimate of funding resources available for providing transportation services to the transportation disadvantaged and which is prepared annually to cover a period of 1 state fiscal year.~~

~~(12)(13) “Nonsponsored transportation disadvantaged services” means transportation disadvantaged services that are not sponsored or subsidized by any funding source other than the Transportation Disadvantaged Trust Fund.~~

Section 3. Subsection (4) of section 427.012, Florida Statutes, is amended to read:

427.012 The Commission for the Transportation Disadvantaged.—There is created the Commission for the Transportation Disadvantaged in the Department of Transportation.

(4) The commission shall meet at least quarterly, or more frequently at the call of the chairperson. ~~Four~~ Five members of the commission constitute a quorum, and a majority vote of the members present is necessary for any action taken by the commission.

Section 4. Subsections (7), (8), (9), (14), and (26) of section 427.013, Florida Statutes, are amended, and subsection (29) is added to that section, to read:

427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.—The purpose of the commission is to accomplish the coordination of transportation services provided to the transportation disadvantaged. The goal of this coordination ~~is shall be~~ to assure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single operator systems or for-profit transportation operators. In carrying out this purpose, the commission shall:

(7) ~~Unless otherwise provided by state or federal law, ensure~~ Assure that all procedures, guidelines, and directives issued by purchasing agencies ~~member departments~~ are conducive to the coordination of transportation services.

(8)(a) Ensure ~~Assure~~ that purchasing agencies member departments purchase all trips within the coordinated system, unless they have fulfilled the requirements of s. 427.0135(3) and use a more cost-effective alternative provider that meets comparable quality and standards.

(b) Unless the purchasing agency has negotiated with the commission pursuant to the requirements of s. 427.0135(3), provide, by rule, criteria and procedures for purchasing agencies member departments to use if they wish to use an alternative provider. Agencies Departments must demonstrate either that the proposed alternative provider can provide a trip of comparable acceptable quality and standards for the clients at a lower cost than that provided within the coordinated system, or that the coordinated system cannot accommodate the agency's department's clients.

(9) Unless the purchasing agency has negotiated with the commission pursuant to the requirements of s. 427.0135(3), develop by rule standards for community transportation coordinators and any transportation operator or coordination contractor from whom service is purchased or arranged by the community transportation coordinator covering coordination, operation, safety, insurance, eligibility for service, costs, and utilization of transportation disadvantaged services. These standards and rules must include, but are not limited to:

~~(a) Inclusion, by rule, of acceptable ranges of trip costs for the various modes and types of transportation services provided.~~

~~(a)(b) Minimum performance standards for the delivery of services. These standards must be included in coordinator contracts and transportation operator contracts with clear penalties for repeated or continuing violations.~~

~~(b)(e) Minimum liability insurance requirements for all transportation services purchased, provided, or coordinated for the transportation disadvantaged through the community transportation coordinator.~~

~~(14) Consolidate, for each state agency, the annual budget estimates for transportation disadvantaged services, and the amounts of each agency's actual expenditures, together with the actual expenditures annual budget estimates of each official planning agency, local government, and directly federally funded agency and the amounts collected by each official planning agency issue a report.~~

~~(26) Develop a quality assurance and management review program to monitor, based upon approved commission standards, services contracted for by an agency, and those provided by a community transportation operator pursuant to s. 427.0155. Staff of the quality assurance and management review program shall function independently and be directly responsible to the executive director.~~

(29) Incur expenses for the purchase of advertisements, marketing services, and promotional items.

Section 5. Section 427.0135, Florida Statutes, is amended to read:

427.0135 Purchasing agencies Member departments; duties and responsibilities.—Each purchasing agency member department, in carrying out the policies and procedures of the commission, shall:

(1)(a) Use the coordinated transportation system for provision of services to its clients, unless each department or purchasing agency meets the criteria outlined in rule or statute to use an alternative provider.

~~(b) Subject to the provisions of s. 409.908(18), the Medicaid agency shall purchase transportation services through the community coordinated transportation system unless a more cost-effective method is determined by the agency for Medicaid clients or unless otherwise limited or directed by the General Appropriations Act.~~

(2) Pay the rates established in the service plan or negotiated statewide contract, unless the purchasing agency has completed the procedure for using an alternative provider and demonstrated that a proposed alternative provider can provide a more cost-effective transportation service of comparable quality and standards or unless the agency has satisfied the requirements of subsection (3).

(3) Not procure transportation disadvantaged services without initially negotiating with the commission, as provided in s. 287.057(5)(f)13., or unless otherwise authorized by statute. If the purchasing agency, after consultation with the commission, determines that it cannot reach mutually acceptable contract terms with the commission, the purchasing agency may contract for the same transportation services provided in a more cost-effective manner and of comparable or higher quality and standards. The Medicaid agency shall implement this subsection in a manner consistent with s. 409.908(18) and as otherwise limited or directed by the General Appropriations Act.

(4) Identify in the legislative budget request provided to the Governor each year for the General Appropriations Act the specific amount of money the purchasing agency will allocate to provide transportation disadvantaged services.

~~(5)(2)~~ Provide the commission, by September 15 of each year, an accounting of all funds spent as well as how many trips were purchased with agency funds.

~~(6)(3)~~ Assist communities in developing coordinated transportation systems designed to serve the transportation disadvantaged. However, a purchasing agency member department may not serve as the community transportation coordinator in any designated service area.

~~(7)(4)~~ Ensure ~~Assure~~ that its rules, procedures, guidelines, and directives are conducive to the coordination of transportation funds and services for the transportation disadvantaged.

~~(8)(5)~~ Provide technical assistance, as needed, to community transportation coordinators or transportation operators or participating agencies.

Section 6. Subsections (2) and (3) of section 427.015, Florida Statutes, are amended to read:

427.015 Function of the metropolitan planning organization or designated official planning agency in coordinating transportation for the transportation disadvantaged.—

(2) Each metropolitan planning organization or designated official planning agency shall recommend to the commission a single community transportation coordinator. However, a ~~purchasing agency member department~~ may not serve as the community transportation coordinator in any designated service area. The coordinator may provide all or a portion of needed transportation services for the transportation disadvantaged but shall be responsible for the provision of those coordinated services. Based on approved commission evaluation criteria, the coordinator shall subcontract or broker those services that are more cost-effectively and efficiently provided by subcontracting or brokering. The performance of the coordinator shall be evaluated based on the commission's approved evaluation criteria by the coordinating board at least annually. A copy of the evaluation shall be submitted to the metropolitan planning organization or the designated official planning agency, and the commission. The recommendation or termination of any community transportation coordinator shall be subject to approval by the commission.

(3) Each metropolitan planning organization or designated official planning agency shall request each local government in its jurisdiction to provide ~~the actual expenditures an estimate~~ of all local and direct federal funds to be expended for transportation for the disadvantaged. The metropolitan planning organization or designated official planning agency shall consolidate this information into a single report and forward it, by September 15 ~~the beginning of each fiscal year~~, to the commission.

Section 7. Subsection (7) of section 427.0155, Florida Statutes, is amended to read:

427.0155 Community transportation coordinators; powers and duties.—Community transportation coordinators shall have the following powers and duties:

(7) In cooperation with the coordinating board and pursuant to criteria developed by the Commission for the Transportation Disadvantaged, establish eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

Section 8. Subsection (4) of section 427.0157, Florida Statutes, is amended to read:

427.0157 Coordinating boards; powers and duties.—The purpose of each coordinating board is to develop local service needs and to provide information, advice, and direction to the community transportation coordinators on the coordination of services to be provided to the transportation disadvantaged. The commission shall, by rule, establish the membership of coordinat-

ing boards. The members of each board shall be appointed by the metropolitan planning organization or designated official planning agency. The appointing authority shall provide each board with sufficient staff support and resources to enable the board to fulfill its responsibilities under this section. Each board shall meet at least quarterly and shall:

(4) Assist the community transportation coordinator in establishing eligibility guidelines and priorities with regard to the recipients of nonsponsored transportation disadvantaged services that are purchased with Transportation Disadvantaged Trust Fund moneys.

Section 9. Subsections (2) and (3) of section 427.0158, Florida Statutes, are amended to read:

427.0158 School bus and public transportation.—

(2) The school boards shall cooperate in the utilization of their vehicles to enhance coordinated ~~disadvantaged~~ transportation disadvantaged services by providing the information as requested by the community transportation coordinator required by this section and by allowing the use of their vehicles at actual cost upon request when those vehicles are available for such use and are not transporting students. ~~Semiannually, no later than October 1 and April 30, a designee from the local school board shall provide the community transportation coordinator with copies to the coordinated transportation board, the following information for vehicles not scheduled 100 percent of the time for student transportation use:~~

~~(a) The number and type of vehicles by adult capacity, including days and times, that the vehicles are available for coordinated transportation disadvantaged services;~~

~~(b) The actual cost per mile by vehicle type available;~~

~~(c) The actual driver cost per hour;~~

~~(d) Additional actual cost associated with vehicle use outside the established workday or workweek of the entity; and~~

~~(e) Notification of lead time required for vehicle use.~~

(3) The public transit fixed route or fixed schedule system shall cooperate in the utilization of its regular service to enhance coordinated transportation disadvantaged services by providing the information as requested by the community transportation coordinator required by this section. ~~Annually, no later than October 1, a designee from the local public transit fixed route or fixed schedule system shall provide~~ The community transportation coordinator may request, without limitation, with copies to the coordinated transportation board, the following information:

(a) A copy of all current schedules, route maps, system map, and fare structure;

(b) A copy of the current charter policy;

- (c) A copy of the current charter rates and hour requirements; and
- (d) Required notification time to arrange for a charter.

Section 10. Subsection (4) is added to section 427.0159, Florida Statutes, to read:

427.0159 Transportation Disadvantaged Trust Fund.—

(4) A purchasing agency may deposit funds into the Transportation Disadvantaged Trust Fund for the commission to implement, manage, and administer the purchasing agency's transportation disadvantaged funds, as defined in s. 427.011(10).

Section 11. Paragraph (b) of subsection (1) and subsection (2) of section 427.016, Florida Statutes, are amended to read:

427.016 Expenditure of local government, state, and federal funds for the transportation disadvantaged.—

(1)

(b) Nothing in This subsection does not shall be construed to limit or preclude a purchasing the Medicaid agency from establishing maximum fee schedules, individualized reimbursement policies by provider type, negotiated fees, competitive bidding, or any other mechanism, including contracting after initial negotiation with the commission, which that the agency considers more cost-effective and of comparable or higher quality and standards than those of the commission efficient and effective for the purchase of services on behalf of its Medicaid clients if it has fulfilled the requirements of s. 427.0135(3) or the procedure for using an alternative provider. State and local agencies shall not contract for any transportation disadvantaged services, including Medicaid reimbursable transportation services, with any community transportation coordinator or transportation operator that has been determined by the Agency for Health Care Administration, the Department of Legal Affairs Medicaid Fraud Control Unit, or any state or federal agency to have engaged in any abusive or fraudulent billing activities.

(2) Each year, each agency, whether or not it is an ex officio, nonvoting advisor to a member of the Commission for the Transportation Disadvantaged, shall identify in the legislative budget request provided to the Governor for the General Appropriations Act inform the commission in writing, before the beginning of each fiscal year, of the specific amount of any money the agency will allocate allocated for the provision of transportation disadvantaged services. Additionally, each state agency shall, by September 15 of each year, provide the commission with an accounting of the actual amount of funds expended and the total number of trips purchased.

Section 12. This act shall take effect July 1, 2008.

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.