

CHAPTER 2010-158

House Bill No. 5305

An act relating to child welfare; amending s. 402.302, F.S.; defining the term “child welfare provider”; creating s. 402.7306, F.S.; requiring the Department of Children and Family Services, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, and community-based care lead agencies to adopt policies for the administrative monitoring of child welfare providers; authorizing private-sector entities to establish an Internet-based data warehouse and archive for the maintenance of specified records of child welfare providers; providing agency and provider requirements; providing for access to the data warehouse under certain conditions; amending s. 402.7305, F.S.; providing a limitation on the frequency of monitoring of child-caring and child-placing service providers; prohibiting certain duplicative monitoring; amending s. 409.1451, F.S.; providing the Department of Children and Family Services with rulemaking authority with respect to payments and conditions relating to youth and young adults in the independent living transition services program; repealing s. 409.1663, F.S., relating to adoption benefits for qualifying adoptive employees of state agencies; amending s. 409.1671, F.S.; revising provisions relating to funding for contracts established between the Department of Children and Family Services and community-based care lead agencies; authorizing the department to outsource certain functions; authorizing a community-based care lead agency to make certain expenditures; amending s. 409.166, F.S.; deleting a reference to conform to changes made by the act; authorizing the Department of Children and Family Services to provide services to certain dependent children; providing exceptions; authorizing the department and the participating dependency court to develop eligibility criteria; providing an effective date.

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

Section 1. Subsections (4) through (16) of section 402.302, Florida Statutes, are renumbered as subsections (5) through (17), respectively, and a new subsection (4) is added to that section to read:

402.302 Definitions.—

(4) “Child welfare provider” means a licensed child-caring or child-placing agency.

Section 2. Section 402.7306, Florida Statutes, is created to read:

402.7306 Administrative monitoring for child welfare providers.—The Department of Children and Family Services, the Department of Health, the Agency for Persons with Disabilities, the Agency for Health Care Administration, and community-based care lead agencies shall identify and

implement changes that improve the efficiency of administrative monitoring of child welfare services. To assist with that goal, each such agency shall adopt the following policies:

(1) Limit administrative monitoring to once every 3 years if the child welfare provider is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the Commission on Accreditation of Rehabilitation Facilities, or the Council on Accreditation of Children and Family Services. If the accrediting body does not require documentation that the state agency requires, that documentation shall be requested by the state agency and may be posted by the provider on the data warehouse for the agency's review. Notwithstanding the survey or inspection of an accrediting organization specified in this subsection, an agency specified in and subject to this section may continue to monitor the provider as necessary with respect to:

(a) Ensuring that services for which the agency is paying are being provided.

(b) Investigating complaints or suspected problems and monitoring the provider's compliance with any resulting negotiated terms and conditions, including provisions relating to consent decrees that are unique to a specific service and are not statements of general applicability.

(c) Ensuring compliance with federal and state laws, federal regulations, or state rules if such monitoring does not duplicate the accrediting organization's review pursuant to accreditation standards.

Medicaid certification and precertification reviews are exempt from this subsection to ensure Medicaid compliance.

(2) Allow private-sector development and implementation of an Internet-based, secure, and consolidated data warehouse and archive for maintaining corporate, fiscal, and administrative records of child welfare providers. A provider shall ensure that the data is up to date and accessible to the applicable agency under this section and the appropriate agency subcontractor. A provider shall submit any revised, updated information to the data warehouse within 10 business days after receiving the request. An agency that conducts administrative monitoring of child welfare providers under this section must use the data warehouse for document requests. If the information provided to the agency by the provider's data warehouse is not current or is unavailable from the data warehouse and archive, the agency may contact the provider directly. A provider that fails to comply with an agency's requested documents may be subject to a site visit to ensure compliance. Access to the data warehouse must be provided without charge to an applicable agency under this section. At a minimum, the records must include the provider's:

(a) Articles of incorporation.

- (b) Bylaws.
- (c) Governing board and committee minutes.
- (d) Financial audits.
- (e) Expenditure reports.
- (f) Compliance audits.
- (g) Organizational charts.
- (h) Governing board membership information.
- (i) Human resource policies and procedures.
- (j) Staff credentials.
- (k) Monitoring procedures, including tools and schedules.
- (l) Procurement and contracting policies and procedures.
- (m) Monitoring reports.

Section 3. Subsection (4) of section 402.7305, Florida Statutes, is amended to read:

402.7305 Department of Children and Family Services; procurement of contractual services; contract management.—

(4) CONTRACT MONITORING REQUIREMENTS AND PROCESS.— The department shall establish contract monitoring units staffed by career service employees who report to a member of the Selected Exempt Service or Senior Management Service and who have been properly trained to perform contract monitoring,⁵ ~~with~~ At least one member of the contract monitoring unit ~~must possess~~ possessing specific knowledge and experience in the contract’s program area. The department shall establish a contract monitoring process that includes ~~must include~~, but is ~~need~~ not be limited to, the following requirements:

- (a) Performing a risk assessment at the start of each fiscal year and preparing an annual contract monitoring schedule that considers ~~includes~~ ~~consideration for~~ the level of risk assigned. The department may monitor any contract at any time regardless of whether such monitoring was originally included in the annual contract monitoring schedule.
- (b) Preparing a contract monitoring plan, including sampling procedures, before performing onsite monitoring at external locations of a service provider. The plan must include a description of the programmatic, fiscal, and administrative components that will be monitored on site. If appropriate, clinical and therapeutic components may be included.

(c) Conducting analyses of the performance and compliance of an external service provider by means of desk reviews if the external service provider will not be monitored on site during a fiscal year.

(d) Unless the department sets forth in writing the need for an extension, providing a written report presenting the results of the monitoring within 30 days after the completion of the onsite monitoring or desk review.

(e) Developing and maintaining a set of procedures describing the contract monitoring process.

Notwithstanding any other provision of this section, the department shall limit monitoring of a child-caring or child-placing services provider under this subsection to only once per year. Such monitoring may not duplicate administrative monitoring that is included in the survey of a child welfare provider conducted by a national accreditation organization specified under s. 402.7306(1).

Section 4. Subsection (10) of section 409.1451, Florida Statutes, is amended to read:

409.1451 Independent living transition services.—

(10) RULEMAKING.—The department shall adopt by rule procedures to administer this section, including balancing the goals of normalcy and safety for the youth and providing the caregivers with as much flexibility as possible to enable the youth to participate in normal life experiences. The department shall not adopt rules relating to reductions in awards. The department shall engage in appropriate planning to prevent, to the extent possible, a reduction in awards after issuance. The department shall adopt rules to govern the payments and conditions related to payments for services to youth or young adults provided under this section.

Section 5. Section 409.1663, Florida Statutes, is repealed.

Section 6. Subsections (8), (9), (10), and (11) of section 409.1671, Florida Statutes, are renumbered as subsections (10), (14), (15), and (16), respectively, and new subsections (8), (9), (11), (12), and (13) are added to that section to read:

409.1671 Foster care and related services; outsourcing.—

(8) A contract established between the department and a community-based care lead agency under this section must be funded by a grant of general revenue, other applicable state funds, or applicable federal funding sources. A community-based care lead agency may carry forward documented unexpended state funds from one fiscal year to the next; however, the cumulative amount carried forward may not exceed 8 percent of the total contract. Any unexpended state funds in excess of that percentage must be returned to the department. The funds carried forward may not be used in any way that would create increased recurring future obligations, and such

funds may not be used for any type of program or service that is not currently authorized by the existing contract with the department. Expenditures of funds carried forward must be separately reported to the department. Any unexpended funds that remain at the end of the contract period shall be returned to the department. Funds carried forward may be retained through any contract renewals and any new procurements as long as the same community-based care lead agency is retained by the department.

(9) The method of payment for a fixed-price contract with a community-based care lead agency shall provide for a 2-month advance payment at the beginning of each fiscal year and equal monthly payments thereafter.

(11) Notwithstanding subsection (10), the amount of the annual contract for a community-based care lead agency may be increased by excess federal funds earned in accordance with s. 216.181(11).

(12) The department may outsource programmatic, administrative, or fiscal monitoring oversight of community-based care lead agencies.

(13) Notwithstanding any other provision of law, a community-based care lead agency may make expenditures for staff cellular telephone allowances, contracts requiring deferred payments and maintenance agreements, security deposits for office leases, related agency professional membership dues other than personal professional membership dues, promotional materials, and grant writing services. Expenditures for food and refreshments, other than those provided to clients in the care of the agency or to foster parents, adoptive parents, and caseworkers during training sessions, are not allowable.

Section 7. Paragraph (b) of subsection (2) of section 409.166, Florida Statutes, is amended to read:

409.166 Children within the child welfare system; adoption assistance program.—

(2) DEFINITIONS.—As used in this section, the term:

(b) “Adoption assistance” means financial assistance and services provided to a child and his or her adoptive family. Such assistance may include a maintenance subsidy, medical assistance, Medicaid assistance, and reimbursement of nonrecurring expenses associated with the legal adoption. The term also includes a tuition exemption at a postsecondary career program, community college, or state university, and a state employee adoption benefit under s. 409.1663.

Section 8. The Department of Children and Family Services may serve dependent children deemed to be in need of family-centered, cognitive-behavioral interventions designed to mitigate out-of-home placements. Treatment services may be evidenced-based with family therapy and group therapy components for youth for whom these services are appropriate. Dependent youth at risk of out-of-home placement or currently within

the foster care system are eligible for these family therapy and group therapy services. The services shall be provided as an alternative to specialized therapeutic foster or group care. A child who has been adjudicated delinquent, had adjudication withheld, or committed any violent crime, except for females adjudicated delinquent for domestic violence, any first-degree felony, or any felony direct-filed in adult court, may not be served by the program. The department and each participating dependency court may jointly develop eligibility criteria to identify youth appropriate for services in this program.

Section 9. This act shall take effect July 1, 2010.

Approved by the Governor May 28, 2010.

Filed in Office Secretary of State May 28, 2010.