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****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2002-35, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON HEALTH REGULATION
FINAL ANALYSIS**

BILL #: CS/HB 1415 (**PASSED AS CS/SB 2048**)
RELATING TO: Organ-transplant Services/Medicaid
SPONSOR(S): Fiscal Responsibility Council; Representative McGriff and others
TIED BILL(S): None.

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH REGULATION YEAS 7 NAYS 0
 - (2) FISCAL RESPONSIBILITY YEAS 22 NAYS 0
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

The Committee Substitute for SB 2048 requires the Agency for Health Care Administration Medicaid program to pay for medically necessary lung transplant services, subject to the availability of funds and subject to any limitations or directions provided for in the General Appropriations Act or ch. 216, F.S. The bill exempts adult lung transplants from the requirement for county contributions to Medicaid for inpatient hospitalization.

HB 27-E, the 2002 General Appropriations Act as passed by the legislature, provided a total of \$1,680,225 for Medicaid coverage for lung transplants effect January 1, 2003.

The bill is effective July 1, 2002 and is enrolled as Chapter 2002-35, Laws of Florida.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Lung transplantation is the treatment of choice for adults and children who will die from end-stage lung disease. The primary diagnoses for individuals with chronic lung disease receiving transplants nationally are cystic fibrosis, idiopathic pulmonary fibrosis, chronic obstructive pulmonary disease, and emphysema. Approximately 60 percent of transplants performed are single lung transplants and 40 percent are double lung transplants.

The Medicaid Program

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The federal government, the state, and the counties jointly fund the program. The federal government, through law and regulations, has established extensive requirements for the Medicaid Program. The Agency for Health Care Administration (AHCA) is the single state agency responsible for the Florida Medicaid Program. The Department of Children and Family Services is responsible for determining Medicaid eligibility and managing Medicaid eligibility policy, with approval of any changes by AHCA.

The statutory provisions for the Medicaid Program appear in ss. 409.901 through 409.9205, F.S. Section 409.903, F.S., specifies categories of individuals who are required by federal law to be covered, if determined eligible, by the Medicaid Program (mandatory coverage groups). Section 409.904, F.S., specifies categories of individuals who the federal government gives state Medicaid programs the choice of covering (optional coverage groups). Sections 409.905 and 409.906, F.S., specify the medical and other services the state may provide under the state Medicaid plan.

Medicaid is an entitlement program. Federal laws and regulations require that states make all Medicaid services available to all categorically eligible recipients regardless of diagnosis. If the Medicaid recipient is a child, however, Medicaid is required to provide additional services (which may not be available to adult Medicaid recipients) to treat an illness identified through health screening.

Medicaid currently covers transplants of kidneys, pancreas, liver, heart, lung and intestines for children. For recipients over the age of 21, Medicaid provides coverage for kidney, liver and heart transplants only. This limitation creates a unique situation in the case of children who have cystic fibrosis and pediatric idiopathic pulmonary fibrosis, since treatments developed in the early 1990s can now be used slow the lung deterioration. For example, in cystic fibrosis, 30 years ago the median life expectancy was about 8 years. Today, thanks to medical advances, the median life

expectancy is just under 30 years and increasing. These advances in medical treatment have thus had the effect of delaying the onset of the life-threatening stage of the disease during the childhood and adolescent years until the child passes the age of 21 at which point Medicaid will no longer cover the necessary transplantation.

Payment for transplantation services primarily involves reimbursement for physician services, hospital inpatient services, hospital outpatient services, and prescribed drugs. Under the Florida Medicaid program, coverage for adult inpatient hospital services is limited to 45 days per year. This limitation is problematic for facilities that are performing organ transplants, since individuals in need of organ transplants are frequently in very poor health before the transplant and may exhaust their 45 days of coverage before the transplant episode is complete. According to the Agency for Health Care Administration, the result is a net loss to providers of approximately \$152,000 per adult Medicaid transplant recipient.

Several states, including Texas, Wisconsin, and Florida (for adult heart transplants only), reimburse for transplants on a global payment basis, which covers the evaluation, transplant and the follow-up care required. Under global reimbursement mechanisms, the transplant facility submits the request for the global payment, and then reimburses the other providers involved in the procedure, including physician services, from the global payment received.

County Contributions to Medicaid

Counties must pay 35 percent of the total cost for inpatient hospital days beginning on day 11 and ending on day 45 for a Medicaid-eligible resident of the county. Costs for pregnant women and for children whose incomes are above the federal poverty level but who are not eligible for the Medicaid Medically Needy program are exempt from county participation. Counties pay 35 percent of the cost for nursing facility or intermediate facility care in excess of \$170 per month, but that cost is capped at \$55 per month per resident in care. Skilled nursing home care for children is exempt.

C. EFFECT OF PROPOSED CHANGES:

See "Section-By-Section" portion of this analysis.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates a short title of the bill, which is cited as the "Jennifer Knight Medicaid Lung Transplant Act."

Section 2. Requires the Agency for Health Care Administration Medicaid program to pay for medically necessary lung transplant services for Medicaid recipients, subject to the availability of funds and subject to any limitations or directions provided for in the General Appropriations Act or ch. 216, F.S.

Section 3. Amends s. 409.915, F.S., to exempt lung transplant services for adults from the required county contributions to Medicaid for inpatient hospitalization.

Section 4. Provides that the bill will take effect July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The Agency for Health Care Administration estimates that the bill will provide coverage for transplants for 39 individuals at a total cost of \$3,360,450. The state General Revenue required for the additional coverage will be \$1,390,218. See table below for details.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill provides coverage for services not currently reimbursed by Medicaid. Providers who have been rendering these services as uncompensated care will receive additional revenues; however, if the transplant services are reimbursed on a fee-for-service basis subject to limits on covered hospital days, rather than on a global payment basis, providers may experience uncompensated costs in providing the necessary care.

According to AHCA: "This bill may affect staffing situations, as a result of an inflow of patients as stated previously for lung transplant services. These patients have a high acuity level for care and staffing may not be prepared for this rapid influx of individuals. Employers of institutions, clinics, laboratories, and other health care providers who deal with individuals with pre-existing/progressive lung diseases may have an influx of patients in their care."¹

D. FISCAL COMMENTS:

(See following page)

¹ Agency for Health Care Administration 2002 Bill Analysis and Economic Impact Statement for SB 2048, by Madeleine Noble.

Estimated Cost for Coverage of Adult Lung Transplant Services by Medicaid

Cost for Lung Transplants for Children:

	Physician	Hospital Inpatient	Hospital Outpatient	Prescribed Drugs	Total
Lung-Double	\$13,758.21	\$85,891.64	\$10,227.90	\$17,857.13	\$127,734.88
Lung-Double, By-Pass	\$95,820.76	\$439,332.91	\$47,453.35	\$65,382.42	\$647,989.44
Lung-Single	\$18,901.05	\$120,857.00	\$7,941.17	\$8,644.95	\$156,344.17
Total	\$128,480.02	\$646,081.55	\$65,622.42	\$91,884.50	\$932,068.49
Recipients	11	11	10	10	
Average Cost/Recipient	\$11,680.00	\$58,734.69	\$6,562.24	\$9,188.45	\$86,165.38
Estimated Cost for Adults:					
Estimated Adult Recipients	39	39	39	39	39
Estimated Cost	\$455,520.00	\$2,290,653.00	\$255,927.00	\$358,350.00	\$3,360,450.00
State Share	\$188,449.00	\$947,643.00	\$105,877.00	\$148,249.00	\$1,390,218.00
Federal Share	\$267,071.00	\$1,343,010.00	\$150,050.00	\$210,101.00	\$1,970,232.00

There is some concern that the estimated potential adult recipients identified in the Medicaid files may be understated because of the use of inconsistent diagnosis codes. The children's caseload in FY 00-01 was 286 for cystic fibrosis.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require a city or county to expend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the amount of state tax shared with a county or city.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The intent of the bill is to provide medically necessary lung transplants to all Medicaid recipients regardless of age. However, the bill reads that "...the Agency for Health Care Administration Medicaid program shall pay for medically necessary lung transplant services" without limiting the services to those currently enrolled in Medicaid.

Therefore, to make the intent of the Legislature clear, it is recommended that the bill be amended after the word "services" to add the phrase "for Medicaid recipients."

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 21, 2002, the Committee on Health Regulation adopted a "strike everything" amendment. The amendment keeps the original intent of the bill and addresses constitutional issues by broadening the language of the bill. The "strike everything" amendment addresses any equal protection interest by requiring AHCA to pay for all adult lung transplants. The "strike everything" amendment also addresses constitutional county mandate matters by amending s. 409.915, F.S., exempting counties from contributing to Medicaid funds paying for adult lung transplants.

On February 27, 2002, the Fiscal Responsibility Council unanimously passed a council substitute to HB 1415 that incorporated the "strike everything" amendment.

VII. SIGNATURES:

COMMITTEE ON HEALTH REGULATION:

Prepared by:

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Staff Director:

Lucretia Shaw Collins

AS REVISED BY THE FISCAL RESPONSIBILITY COUNCIL:

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON HEALTH REGULATION:

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