

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 194

SPONSOR: Senator Wasserman Schultz

SUBJECT: Developmental Disabilities

DATE: January 26, 2004

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collins</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable</u>
2.	<u>Parham</u>	<u>Wilson</u>	<u>HC</u>	<u>Favorable</u>
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

This bill directs the Agency for Health Care Administration (AHCA or the agency) and the Department of Children and Families (DCF or the department) to develop a model Medicaid home and community-based waiver program to serve children diagnosed with Familial Dysautonomia, which is also known as Riley-Day Syndrome. The agency is further directed to seek a federal waiver and, upon approval, implement the program subject to the availability of funds and any limitations provided in the General Appropriations Act. The bill authorizes the agency to adopt the rules necessary to administer this waiver program.

This bill amends s. 409.912, F.S.

## II. Present Situation:

### Familial Dysautonomia

Familial Dysautonomia (FD), which is also known as the Riley-Day Syndrome, is a genetic disease that is present from birth which results in incomplete development of the nervous system causing a decreased number of nerve cells. The affected nerve cells are those which control certain sensations and autonomic functions. The sensory nerve cells which are most severely affected are those responsible for pain, heat perception, and taste. The autonomic nerve cells control bodily functions such as sweating, swallowing, regulation of blood pressure and body temperature, and the ability to cry tears. Secondary problems associated with the disease may include feeding problems, vomiting, poor growth, spinal curvature, and lung problems.

Familial Dysautonomia is a recessive genetic disease meaning that both parents carry the gene despite a lack of outward signs. The recessive gene causing FD occurs with a remarkable high carrier frequency in individuals of Eastern European Jewish ancestry (Ashkenazi Jewish

extraction). The rate of incidence of the disease within the Ashkenazi Jewish population is one in 3,600, based on an estimated carrier frequency of one in 32. Affected individuals usually are of normal intelligence. Familial Dysautonomia patients can be expected to function independently if treatment is begun early and major disabilities are avoided.

Familial Dysautonomia does not express itself in a consistent manner, and the costs for treatment vary depending upon the severity and types of symptoms experienced by the individual. Symptoms vary by age, as well. Some of the more commonly needed treatments are as follows:

- Artificial tears,
- Special feeding techniques,
- Special therapies (feeding, occupational, physical, speech),
- Special drug management of autonomic manifestations,
- Respiratory care,
- Protecting the child from injury (coping with decreased taste, temperature and pain perception),
- Treatment of orthopedic problems (tibial torsion and spinal curvature), and
- Compensating for labile blood pressures.

The FD Foundation in New York reports that based on the FD world-wide registry, there are currently 331 surviving persons with FD, and 178 of those persons reside in the United States. Seventy percent of these persons reside in New York (68), New Jersey (24), Florida (17), and California (15). New York is the only state that includes FD as a chronic developmental disability.

Familial Dysautonomia manifests itself as a chronic lung disease, closely related to cystic fibrosis. AHCA currently administers a Cystic Fibrosis Waiver for adults.

### **Coverage for Familial Dysautonomia**

Persons with FD are not currently served by the Developmental Disabilities program in the Department of Children and Families. According to the department, FD has not been approved by the federal Centers for Medicaid and Medicare Services (CMS) as a developmental disability for which medical services may be reimbursed under the Developmental Services Home and Community-Based Services (DS/HCBS) waiver program. However, children suffering from this disorder may currently receive health care services from the Children's Medical Services program through the Department of Health until age 21 if they meet certain financial eligibility requirements.

### **Medicaid Home and Community-Based Waivers**

Home and community-based service delivery programs have become a growing part of states' Medicaid programs, serving as an alternative to care in institutional settings such as nursing homes. To provide these services, states obtain waivers from certain federal statutory requirements for Medicaid. States often operate multiple waiver programs serving different population groups, such as the elderly, persons with mental retardation or developmental disabilities, persons with physical disabilities, and children with special care needs.

States may apply to CMS for section 1915(c) waivers to provide home and community-based services as an alternative to institutional care in a hospital, nursing home, or intermediate care facility for the mentally retarded. If approved, the waivers allow states to limit the availability of services geographically, to target services to specific populations or medical/disease conditions, or to limit the number of persons served; actions not allowed under Medicaid state plan services. Under a 1915(c) waiver, states determine the types of services they wish to offer and any provider who is interested and meets application requirements can provide services. Waivers may offer a variety of skilled services to only a few individuals with a particular condition, such as persons with traumatic brain injury, or they may offer only a few unskilled services to a large number of people, such as the aged or disabled.

A benefit to the implementation of a federal waiver program is the Medicaid reimbursement of 58.93 percent for each state dollar spent. Federal waiver programs require the commitment of some state funding but reduce the amount of state funding necessary to support approved programs.

### **III. Effect of Proposed Changes:**

This bill amends s. 409.912, F.S., creating subsection (45). This subsection directs AHCA to work with DCF to develop a model Medicaid home and community-based waiver program that is designed to serve children with Familial Dysautonomia/Riley-Day Syndrome. The agency is also directed to apply for federal approval of a model waiver program and, if approved, implement the waiver program subject to the availability of funding and any limitations provided in the General Appropriations Act. Authorization is provided to the agency to adopt rules to administer the waiver program. The effective date of this legislation is July 1, 2004.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

#### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

#### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

### **V. Economic Impact and Fiscal Note:**

#### **A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Families with children who suffer with FD currently receive no financial assistance from the publicly funded Developmental Disabilities Program unless the condition is combined with a covered developmental disability. The bill could provide some assistance to these children and their families, assuming resources are available.

**C. Government Sector Impact:****Department of Children and Families**

Implementing a new waiver increases workload at DCF in the Developmental Services Program. Since funding levels are unknown and the program is not yet developed, it is impossible to estimate the fiscal impact at this time.

**Agency for Health Care Administration**

Assuming that the funding for the waiver will be appropriated in the same manner as most other Medicaid waivers, the General Revenue and federal funds for the waiver would be appropriated to DCF, and the Agency would be appropriated a similar amount in the Medical Care Trust Fund for 100 percent of the estimated cost (state and federal). Forty-one percent of any costs incurred by implementing the waiver program would have to be paid from General Revenue funding.

According to the agency, the fiscal impact of this bill is unknown. Currently, up to 17 individuals live in Florida that could become eligible for services depending upon their age. The potential cost for providing the needed services is unknown, as there is no historical cost data available. It is also unknown if any of these individuals would be eligible for Medicaid.

The development and implementation of a new waiver program will result in an increased workload for Agency staff.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.