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Proposed Committee Substitute by the Committee on Health Policy

1 A bill to be entitled

2 An act relating to Medicaid services for

3 children; amending s. 409.912, F.S.; providing

4 for children who are eligible for Medicaid and

5 who reside in an area in which a managed care

6 pilot program has been implemented to receive

7 behavioral health care services under the pilot

8 program rather than under a specialty prepaid

9 plan developed by the Agency for Health Care

10 Administration and the Department of Children

11 and Family Services; amending s. 409.91211,

12 F.S., relating to the Medicaid managed care

13 pilot program; revising duties of the agency

14 with respect to providing Medicaid services to

15 children; requiring that such services include

16 certain behavioral health services; requiring

17 that the service-delivery mechanisms be

18 implemented by a specified date; providing an

19 effective date.

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

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23 Section 1. Paragraph (b) of subsection (4) of section

24 409.912, Florida Statutes, is amended to read:

25 409.912 Cost-effective purchasing of health care.--The

26 agency shall purchase goods and services for Medicaid

27 recipients in the most cost-effective manner consistent with

28 the delivery of quality medical care. To ensure that medical

29 services are effectively utilized, the agency may, in any

30 case, require a confirmation or second physician's opinion of

31 the correct diagnosis for purposes of authorizing future

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1 services under the Medicaid program. This section does not
2 restrict access to emergency services or poststabilization
3 care services as defined in 42 C.F.R. part 438.114. Such
4 confirmation or second opinion shall be rendered in a manner
5 approved by the agency. The agency shall maximize the use of
6 prepaid per capita and prepaid aggregate fixed-sum basis
7 services when appropriate and other alternative service
8 delivery and reimbursement methodologies, including
9 competitive bidding pursuant to s. 287.057, designed to
10 facilitate the cost-effective purchase of a case-managed
11 continuum of care. The agency shall also require providers to
12 minimize the exposure of recipients to the need for acute
13 inpatient, custodial, and other institutional care and the
14 inappropriate or unnecessary use of high-cost services. The
15 agency shall contract with a vendor to monitor and evaluate
16 the clinical practice patterns of providers in order to
17 identify trends that are outside the normal practice patterns
18 of a provider's professional peers or the national guidelines
19 of a provider's professional association. The vendor must be
20 able to provide information and counseling to a provider whose
21 practice patterns are outside the norms, in consultation with
22 the agency, to improve patient care and reduce inappropriate
23 utilization. The agency may mandate prior authorization, drug
24 therapy management, or disease management participation for
25 certain populations of Medicaid beneficiaries, certain drug
26 classes, or particular drugs to prevent fraud, abuse, overuse,
27 and possible dangerous drug interactions. The Pharmaceutical
28 and Therapeutics Committee shall make recommendations to the
29 agency on drugs for which prior authorization is required. The
30 agency shall inform the Pharmaceutical and Therapeutics
31 Committee of its decisions regarding drugs subject to prior

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1 authorization. The agency is authorized to limit the entities
 2 it contracts with or enrolls as Medicaid providers by
 3 developing a provider network through provider credentialing.
 4 The agency may competitively bid single-source-provider
 5 contracts if procurement of goods or services results in
 6 demonstrated cost savings to the state without limiting access
 7 to care. The agency may limit its network based on the
 8 assessment of beneficiary access to care, provider
 9 availability, provider quality standards, time and distance
 10 standards for access to care, the cultural competence of the
 11 provider network, demographic characteristics of Medicaid
 12 beneficiaries, practice and provider-to-beneficiary standards,
 13 appointment wait times, beneficiary use of services, provider
 14 turnover, provider profiling, provider licensure history,
 15 previous program integrity investigations and findings, peer
 16 review, provider Medicaid policy and billing compliance
 17 records, clinical and medical record audits, and other
 18 factors. Providers shall not be entitled to enrollment in the
 19 Medicaid provider network. The agency shall determine
 20 instances in which allowing Medicaid beneficiaries to purchase
 21 durable medical equipment and other goods is less expensive to
 22 the Medicaid program than long-term rental of the equipment or
 23 goods. The agency may establish rules to facilitate purchases
 24 in lieu of long-term rentals in order to protect against fraud
 25 and abuse in the Medicaid program as defined in s. 409.913.
 26 The agency may seek federal waivers necessary to administer
 27 these policies.

- 28 (4) The agency may contract with:
- 29 (b) An entity that is providing comprehensive
- 30 behavioral health care services to certain Medicaid recipients
- 31 through a capitated, prepaid arrangement pursuant to the

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1 federal waiver provided for by s. 409.905(5). Such an entity
2 must be licensed under chapter 624, chapter 636, or chapter
3 641 and must possess the clinical systems and operational
4 competence to manage risk and provide comprehensive behavioral
5 health care to Medicaid recipients. As used in this paragraph,
6 the term "comprehensive behavioral health care services" means
7 covered mental health and substance abuse treatment services
8 that are available to Medicaid recipients. The secretary of
9 the Department of Children and Family Services shall approve
10 provisions of procurements related to children in the
11 department's care or custody prior to enrolling such children
12 in a prepaid behavioral health plan. Any contract awarded
13 under this paragraph must be competitively procured. In
14 developing the behavioral health care prepaid plan procurement
15 document, the agency shall ensure that the procurement
16 document requires the contractor to develop and implement a
17 plan to ensure compliance with s. 394.4574 related to services
18 provided to residents of licensed assisted living facilities
19 that hold a limited mental health license. Except as provided
20 in subparagraph 8., and except in counties where the Medicaid
21 managed care pilot program is authorized pursuant to s.
22 409.91211, the agency shall seek federal approval to contract
23 with a single entity meeting these requirements to provide
24 comprehensive behavioral health care services to all Medicaid
25 recipients not enrolled in a Medicaid managed care plan
26 authorized under s. 409.91211 or a Medicaid health maintenance
27 organization in an AHCA area. In an AHCA area where the
28 Medicaid managed care pilot program is authorized pursuant to
29 s. 409.91211 in one or more counties, the agency may procure a
30 contract with a single entity to serve the remaining counties
31 as an AHCA area or the remaining counties may be included with

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1 an adjacent AHCA area and shall be subject to this paragraph.
 2 Each entity must offer sufficient choice of providers in its
 3 network to ensure recipient access to care and the opportunity
 4 to select a provider with whom they are satisfied. The network
 5 shall include all public mental health hospitals. To ensure
 6 unimpaired access to behavioral health care services by
 7 Medicaid recipients, all contracts issued pursuant to this
 8 paragraph shall require 80 percent of the capitation paid to
 9 the managed care plan, including health maintenance
 10 organizations, to be expended for the provision of behavioral
 11 health care services. In the event the managed care plan
 12 expends less than 80 percent of the capitation paid pursuant
 13 to this paragraph for the provision of behavioral health care
 14 services, the difference shall be returned to the agency. The
 15 agency shall provide the managed care plan with a
 16 certification letter indicating the amount of capitation paid
 17 during each calendar year for the provision of behavioral
 18 health care services pursuant to this section. The agency may
 19 reimburse for substance abuse treatment services on a
 20 fee-for-service basis until the agency finds that adequate
 21 funds are available for capitated, prepaid arrangements.

22 1. By January 1, 2001, the agency shall modify the
 23 contracts with the entities providing comprehensive inpatient
 24 and outpatient mental health care services to Medicaid
 25 recipients in Hillsborough, Highlands, Hardee, Manatee, and
 26 Polk Counties, to include substance abuse treatment services.

27 2. By July 1, 2003, the agency and the Department of
 28 Children and Family Services shall execute a written agreement
 29 that requires collaboration and joint development of all
 30 policy, budgets, procurement documents, contracts, and
 31 monitoring plans that have an impact on the state and Medicaid

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1 community mental health and targeted case management programs.

2 3. Except as provided in subparagraph 8., by July 1,

3 2006, the agency and the Department of Children and Family

4 Services shall contract with managed care entities in each

5 AHCA area except area 6 or arrange to provide comprehensive

6 inpatient and outpatient mental health and substance abuse

7 services through capitated prepaid arrangements to all

8 Medicaid recipients who are eligible to participate in such

9 plans under federal law and regulation. In AHCA areas where

10 eligible individuals number less than 150,000, the agency

11 shall contract with a single managed care plan to provide

12 comprehensive behavioral health services to all recipients who

13 are not enrolled in a Medicaid health maintenance organization

14 or a Medicaid capitated managed care plan authorized under s.

15 409.91211. The agency may contract with more than one

16 comprehensive behavioral health provider to provide care to

17 recipients who are not enrolled in a Medicaid capitated

18 managed care plan authorized under s. 409.91211 or a Medicaid

19 health maintenance organization in AHCA areas where the

20 eligible population exceeds 150,000. In an AHCA area where the

21 Medicaid managed care pilot program is authorized pursuant to

22 s. 409.91211 in one or more counties, the agency may procure a

23 contract with a single entity to serve the remaining counties

24 as an AHCA area or the remaining counties may be included with

25 an adjacent AHCA area and shall be subject to this paragraph.

26 Contracts for comprehensive behavioral health providers

27 awarded pursuant to this section shall be competitively

28 procured. Both for-profit and not-for-profit corporations

29 shall be eligible to compete. Managed care plans contracting

30 with the agency under subsection (3) shall provide and receive

31 payment for the same comprehensive behavioral health benefits

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1 as provided in AHCA rules, including handbooks incorporated by
2 reference. In AHCA area 11, the agency shall contract with at
3 least two comprehensive behavioral health care providers to
4 provide behavioral health care to recipients in that area who
5 are enrolled in, or assigned to, the MediPass program. One of
6 the behavioral health care contracts shall be with the
7 existing provider service network pilot project, as described
8 in paragraph (d), for the purpose of demonstrating the
9 cost-effectiveness of the provision of quality mental health
10 services through a public hospital-operated managed care
11 model. Payment shall be at an agreed-upon capitated rate to
12 ensure cost savings. Of the recipients in area 11 who are
13 assigned to MediPass under the provisions of s.
14 409.9122(2)(k), a minimum of 50,000 of those MediPass-enrolled
15 recipients shall be assigned to the existing provider service
16 network in area 11 for their behavioral care.

17 4. By October 1, 2003, the agency and the department
18 shall submit a plan to the Governor, the President of the
19 Senate, and the Speaker of the House of Representatives which
20 provides for the full implementation of capitated prepaid
21 behavioral health care in all areas of the state.

22 a. Implementation shall begin in 2003 in those AHCA
23 areas of the state where the agency is able to establish
24 sufficient capitation rates.

25 b. If the agency determines that the proposed
26 capitation rate in any area is insufficient to provide
27 appropriate services, the agency may adjust the capitation
28 rate to ensure that care will be available. The agency and the
29 department may use existing general revenue to address any
30 additional required match but may not over-obligate existing
31 funds on an annualized basis.

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1 c. Subject to any limitations provided for in the
 2 General Appropriations Act, the agency, in compliance with
 3 appropriate federal authorization, shall develop policies and
 4 procedures that allow for certification of local and state
 5 funds.

6 5. Children residing in a statewide inpatient
 7 psychiatric program, or in a Department of Juvenile Justice or
 8 a Department of Children and Family Services residential
 9 program approved as a Medicaid behavioral health overlay
 10 services provider shall not be included in a behavioral health
 11 care prepaid health plan or any other Medicaid managed care
 12 plan pursuant to this paragraph.

13 6. In converting to a prepaid system of delivery, the
 14 agency shall in its procurement document require an entity
 15 providing only comprehensive behavioral health care services
 16 to prevent the displacement of indigent care patients by
 17 enrollees in the Medicaid prepaid health plan providing
 18 behavioral health care services from facilities receiving
 19 state funding to provide indigent behavioral health care, to
 20 facilities licensed under chapter 395 which do not receive
 21 state funding for indigent behavioral health care, or
 22 reimburse the unsubsidized facility for the cost of behavioral
 23 health care provided to the displaced indigent care patient.

24 7. Traditional community mental health providers under
 25 contract with the Department of Children and Family Services
 26 pursuant to part IV of chapter 394, child welfare providers
 27 under contract with the Department of Children and Family
 28 Services in areas 1 and 6, and inpatient mental health
 29 providers licensed pursuant to chapter 395 must be offered an
 30 opportunity to accept or decline a contract to participate in
 31 any provider network for prepaid behavioral health services.

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1 8. For fiscal year 2004-2005, all Medicaid eligible
2 children, except children in areas 1 and 6, whose cases are
3 open for child welfare services in the HomeSafeNet system,
4 shall be enrolled in MediPass or in Medicaid fee-for-service
5 and all their behavioral health care services including
6 inpatient, outpatient psychiatric, community mental health,
7 and case management shall be reimbursed on a fee-for-service
8 basis. Beginning July 1, 2005, such children, who are open for
9 child welfare services in the HomeSafeNet system, shall
10 receive their behavioral health care services through a
11 specialty prepaid plan operated by community-based lead
12 agencies either through a single agency or formal agreements
13 among several agencies. The specialty prepaid plan must result
14 in savings to the state comparable to savings achieved in
15 other Medicaid managed care and prepaid programs. Such plan
16 must provide mechanisms to maximize state and local revenues.
17 The specialty prepaid plan shall be developed by the agency
18 and the Department of Children and Family Services. The agency
19 is authorized to seek any federal waivers to implement this
20 initiative. Medicaid-eligible children whose cases are open
21 for child welfare services in the HomeSafeNet system and who
22 reside in an area in which Medicaid reform, as provided for in
23 s. 409.91211, has been implemented are exempt from this plan
24 upon the development of a service delivery system for these
25 children in the reform area pursuant to the terms in s.
26 409.91211(3)(dd).

27 Section 2. Paragraph (dd) of subsection (3) of section
28 409.91211, Florida Statutes, is amended to read:

29 409.91211 Medicaid managed care pilot program.--

30 (3) The agency shall have the following powers,
31 duties, and responsibilities with respect to the pilot

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1 program:

2 (dd) To implement ~~develop and recommend~~ service
3 delivery mechanisms within a provider service network or
4 capitated managed care plan ~~plans~~ to provide Medicaid services
5 as specified in ss. 409.905 and 409.906 to Medicaid-eligible
6 children who are open for child welfare services in the
7 HomeSafeNet system ~~in foster care~~. These services must be
8 coordinated with community-based care providers as specified
9 in s. 409.1671 ~~s. 409.1675, where available~~, and be sufficient
10 to meet the medical, developmental, behavioral, and emotional
11 needs of these children. Covered behavioral health services
12 must include all services currently included in the specialty
13 prepaid plan as implemented pursuant to s. 409.912(4)(b)8.
14 These service-delivery mechanisms must be implemented by July
15 1, 2008, in order for these children to remain exempt from the
16 statewide plan pursuant to s. 409.912(4)(b)8.

17 Section 3. This act shall take effect July 1, 2007.

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