

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: SB1092

INTRODUCER: Committee on Health Policy

SUBJECT: Alzheimer's Disease/Medicaid Waiver Program

DATE: March 3, 2008

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Garner</u>	<u>Wilson</u>	<u>HP</u>	Favorable
2.	<u>Ray</u>	<u>Jameson</u>	<u>CF</u>	Favorable
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill codifies the recommendations of the Senate Interim Project Report 2008-133, "Review of the Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease."

The bill extends the repeal date for the Alzheimer's disease Medicaid home and community-based-services waiver program so that the program is automatically eliminated at the close of the 2010 Legislative Session, rather than the 2008 Legislative Session.

The bill requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an evaluation of comparable Medicaid home and community-based-services waiver programs to determine their comparative cost effectiveness and ability to delay or prevent institutionalization of Medicaid recipients. The bill requires OPPAGA to coordinate with relevant experts to determine which waiver programs should be included in the evaluation in order to make reasonable comparisons. The evaluation must also include a review of the flexibility provided to states by the federal Deficit Reduction Act (DRA) of 2005, in regard to Medicaid home and community-based services. The findings and recommendations of the evaluation shall be submitted to the President of the Senate and the Speaker of the House of Representatives by February 1, 2010.

This bill amends s. 430.502(9), F.S., and creates an undesignated section of law.

II. Present Situation:

Alzheimer's Disease

Dementia describes a group of symptoms related to a brain disorder that seriously affects a person's ability to carry out basic daily functions. One of the most common forms of dementia among older people is Alzheimer's disease. It is still unknown what causes Alzheimer's disease and there is no cure.¹

Alzheimer's disease affected approximately 5.1 million persons in the United States as of 2007. It is estimated that 360,000 Floridians had Alzheimer's disease in 2000, and this number is expected to reach 450,000 by 2010. Ninety-six percent of persons with Alzheimer's disease are 65 years of age or older.² The mortality rate for persons with Alzheimer's disease has increased over the last few years. Alzheimer's disease is now the seventh leading cause of death in the United States causing 65,965 deaths in 2004.³

Persons with Alzheimer's disease and other dementias tend to use more medical services and have higher overall medical expenses than persons without these conditions. In 2000, Medicare spent nearly three times as much, on average, for people with Alzheimer's disease and other dementias compared to beneficiaries without dementia. The drivers behind the cost differentials include more hospital stays and physician visits. Additionally, approximately 30 percent of Medicare beneficiaries with Alzheimer's disease and other dementias also receive services financed by Medicaid, especially long-term care services. Among nursing home patients with Alzheimer's disease and other dementias, 51 percent used Medicaid to pay for their nursing home care in 2000.⁴

Because of the large number of persons at risk for Alzheimer's disease in Florida, the Legislature created the Alzheimer's Disease Initiative (ADI) in 1985 to provide a continuum of services to meet the changing needs of individual's with Alzheimer's disease and similar memory disorders and their families.⁵ The initiative is comprised of four components:⁶

- Memory disorder clinics that provide diagnosis, research, treatment, and referrals;
- Model day care programs to test new care alternatives;
- A research database and brain bank to support research; and
- Supportive services, including case management, counseling, consumable medical supplies, respite for caregivers, and nine other services as part of Medicaid's Alzheimer's Home and Community-Based Waiver Program.

¹ National Institute on Aging, "Alzheimer's Disease: Fact Sheet." Found at:

<http://www.nia.nih.gov/Alzheimers/Publications/adfact.htm> (last visited on February 20, 2008).

² Alzheimer's Association. Alzheimer's Disease Facts and Figures 2007, Found at: http://www.alz.org/national_documents/Report_2007FactsAndFigures.pdf (last visited on February 20, 2008).

³ Centers for Disease Control and Prevention. National Vital Statistics Report, "Deaths: Final Data for 2004."

⁴ Alzheimer's Association. Alzheimer's Disease Facts and Figures 2007, Found at: http://www.alz.org/national_documents/Report_2007FactsAndFigures.pdf (last visited on February 20, 2008).

⁵ Ch. 85-145, Laws of Florida

⁶ The Department of Elder Affairs Website, Found at: <http://elderaffairs.state.fl.us/english/alzheimers.html> (last visited February 21, 2008).

Authority to continue the waiver program will be automatically eliminated at the close of the 2008 Regular Session without action from the Legislature.⁷

Medicaid Home and Community-Based-Services Waiver Programs

In 1981, the U.S. Congress approved the use of Medicaid home and community-based-services (HCBS) waiver programs to allow states to provide certain Medicaid services in the home for persons who would otherwise require institutional care in a hospital, nursing facility, or intermediate care facility.⁸

States may offer a variety of services to consumers under an HCBS waiver program and the number of services that can be provided is not limited. The HCBS waiver programs are initially approved for three years and may be renewed at five-year intervals.⁹ If a state terminates a HCBS waiver, federal law requires that recipients receive continued services in an amount that does not violate the comparability of service requirements established in the Social Security Act.¹⁰ Florida currently operates the following home and community-based-services waiver programs:¹¹

- Adult Cystic Fibrosis;
- Aged/Disabled Adult Services;
- Adult Day Health Care;
- Assisted Living for the Elderly;
- Alzheimer's Disease;
- Channeling Services for the Frail Elderly;
- Consumer Directed Care Plus;
- Developmental Disabilities;
- Familial Dysautonomia;
- Family and Supported Living Model;
- Nursing Home Diversion;
- Project AIDS Care (PAC); and
- Traumatic Brain Injury and Spinal Cord Injury.

Interim Project Findings

According to Interim Project Report 2008-113, the Alzheimer's disease waiver program was slow to be implemented and has limited participation. As of October 2007 (the third year of the program), the program was serving only 207 Medicaid recipients which represent about 60 percent of the 350 available slots. In comparison, most of the other Medicaid home and community-based-services waiver programs are at capacity and new slots added through the appropriations process are usually filled within the same fiscal year. The report identifies several

⁷ Section 430.502(9), F.S.

⁸ 42 U.S.C. 1396n

⁹ U.S. Centers for Medicare and Medicaid Services Website, Found at: [http://www.cms.hhs.gov/MedicaidStWaivProgDemoPGI/05_HCBSWaivers-Section1915\(c\).asp](http://www.cms.hhs.gov/MedicaidStWaivProgDemoPGI/05_HCBSWaivers-Section1915(c).asp) (last visited on February 21, 2008).

¹⁰ 42 C.F.R. 441.356.

¹¹ Florida Agency for Health Care Administration Website. Found at http://www.fdhc.state.fl.us/Medicaid/hcbs_waivers/index.shtml (last visited on February 21, 2008).

reasons for the slow startup, including a contract award challenge, programming issues that hindered provider enrollment, staff turnover in the AHCA and among the vendors, and a limited pool of eligible recipients.¹²

A review of evaluations conducted by the University of South Florida found that individuals who did enroll in the waiver program spent less days on average in institutional settings like nursing homes and hospitals than persons who did not enroll in the waiver. However, the average per member program cost associated with delaying these participants from going into nursing homes was substantially higher compared to the cost for those who did not receive any waiver services.¹³

Based on the limited availability of program data and the short period of time that the program has been operational, it was the recommendation of the report that the Alzheimer's disease waiver program be saved from repeal for a period of two years. During this two-year period, it was recommended that a comprehensive study comparing cost savings and nursing home diversion effectiveness of this and similar home and community-based waiver initiatives be conducted. In addition, the study should also examine whether the state could achieve similar results by using the flexibility provided to states through the federal DRA to provide home and community based services without using waiver programs.¹⁴

III. Effect of Proposed Changes:

Based on the recommendations of the Interim Project Report:

Section 1. Amends s. 430.502(9), F.S., specifying that the authority to continue the waiver program shall be automatically eliminated at the close of the 2010 Regular Session of the Legislature unless further action is taken to continue the program.

Section 2. Creates an undesignated section of law requiring OPPAGA to conduct an evaluation of comparable Medicaid home and community-based-services waivers to determine which are most effective. The evaluation must also determine whether specialty waiver programs are more effective than general HCBS waiver programs and whether some of the waiver programs should be consolidated or eliminated. The findings and recommendations of the evaluation are to be presented to the President of the Senate and the Speaker of the House of Representatives by February 1, 2010.

Section 3. Provides that the act shall take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹² Senate Interim Project Report 2008-133, "Review of the Medicaid Home and Community-Based Waiver Program for Persons with Alzheimer's Disease" (March 3, 2008).

¹³ *Id.*

¹⁴ *Id.* at page 7.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the DOEA, the bill will have a fiscal effect on the department. Currently, the waiver program is appropriated \$5,057,409 for state FY 2007-08. This appropriation covers all services provided under the waiver including a fee of \$135 per member per month paid to the vendors to provide case management for each participant in the program. If the waiver program is extended two additional years, the department would need a continuation of budgeted funds to maintain the program.

Two factors make calculating the net fiscal affect of continuing, or discontinuing, the waiver program unclear. First, the waiver program has never attained full enrollment of the available 350 slots. According to DOEA, for FY 2007-08, the projected average monthly enrollment in the program is 200 individuals with an estimated annual expenditure of \$2,857,650 which is \$2,199,759 below the program's appropriation. According to DOEA, expenditures will likely continue to be below the program's appropriation, assuming that the appropriation remains at current funding levels.

On the other hand, if the Legislature chooses to allow the program to sunset, current enrollees would need to be transitioned into a similar waiver program to comply with federal law. The cost of serving these individuals in that waiver would be similar, or more, than their current expenditures. Any cost savings would only be derived from the number of unfilled slots at the time program enrollment ceased and the attrition of individuals who will not be replaced with new participants.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
