

**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 Health Regulation Committee

BILL: SB 1628

INTRODUCER: Senator Gelber

SUBJECT: Long-Term-Care Services

DATE: March 9, 2009

REVISED: 03/11/09

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bell	Wilson	HR	<b>Favorable</b>
2.			CF	
3.			HA	
4.				
5.				
6.				

**I. Summary:**

The bill requires the Agency for Health Care Administration (AHCA), in consultation with the Department of Elder Affairs (DOEA), to accept and forward to the Centers for Medicare and Medicaid Services (CMS) an application to expand the Program of All-inclusive Care (PACE) pilot project from a current PACE entity in good standing with the AHCA, the DOEA, and the CMS.

This bill substantially amends s. 430.707, F.S.

**II. Present Situation:**

**Program of All-Inclusive Care for the Elderly (PACE)**

The PACE is a capitated benefit model authorized by the federal Balanced Budget Act of 1997 (BBA) that features a comprehensive service delivery system and integrated federal Medicare and state Medicaid financing. The program is modeled on the system of acute and long-term-care services developed by On Lok Senior Health Services in San Francisco, California. The model was tested through CMS demonstration projects that began in the mid-1980s. The PACE model was developed to address the needs of long-term-care clients, providers, and payers. For most participants, the comprehensive service package permits them to continue living at home while receiving services rather than being institutionalized. Capitated financing allows providers to deliver all the services that participants need rather than being limited to those services reimbursable under the Medicare and Medicaid fee-for-service systems. The BBA established the PACE model of care as a permanent entity within the Medicare program and enabled states to provide the PACE services to Medicaid beneficiaries as a state option without a Medicaid

waiver. The state plan must include PACE as an optional Medicaid benefit before the State and the Secretary of the Department of Health and Human Services can enter into program agreements with PACE providers.

A PACE organization is a not-for-profit private or public entity that is primarily engaged in providing the PACE services and must:

- Have a governing board that includes community representation;
- Be able to provide the complete service package regardless of frequency or duration of services;
- Have a physical site to provide adult day services;
- Have a defined service area;
- Have safeguards against conflicts of interest;
- Have demonstrated fiscal soundness; and
- Have a formal participant Bill of Rights.

The PACE project is a unique federal/state partnership. The federal government establishes the PACE organization requirements and application process. The state Medicaid agency or other state agency is responsible for oversight of the entire application process, which includes reviewing the initial application and providing an on-sight readiness review before a PACE organization can be authorized to serve patients. An approved PACE organization must sign a contract with the CMS and the state Medicaid agency.

### **Florida Medicaid Program**

Florida's Medicaid Program is jointly funded by the federal, state, and county governments to provide medical care to eligible individuals. Florida implemented its Medicaid program on January 1, 1970, to provide medical services to indigent people. The AHCA is the single state agency responsible for the Florida Medicaid Program. The statutory provisions for the Medicaid program appear in ss. 409.901 through 409.9205, F.S.

Some Medicaid services are mandatory services that must be covered by any state participating in the Medicaid program pursuant to federal law.<sup>1</sup> Other services are optional. A state may choose to include optional services in its state Medicaid plan, but if included, such services must be offered to all individuals statewide who meet Medicaid eligibility criteria as though they are mandatory benefits.<sup>2</sup> Similarly, some eligibility categories are mandatory<sup>3</sup> and some are optional.<sup>4</sup> Payments for services to individuals in the optional eligibility categories are subject to the availability of monies and any limitations established by the General Appropriations Act or Chapter 216, Florida Statutes.

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<sup>1</sup> These mandatory services are codified in s. 409.905, F.S.

<sup>2</sup> Optional services covered under the Florida Medicaid Program are codified in s. 409.906, F.S.

<sup>3</sup> s. 409.903, F.S.

<sup>4</sup> s. 409.904, F.S.

### **Florida PACE Project**

The Florida PACE project is one project among many that provide alternative, less restrictive long-term care options for elders who qualify for Medicare and the state Medicaid program. The PACE project was initially authorized in Chapter 98-327, Laws of Florida, and is codified in s. 430.707(2), F.S. The PACE model targets individuals who would otherwise qualify for Medicaid nursing home placement and provides them with a comprehensive array of home and community-based services at a cost less than the cost of nursing home care. The PACE project is administered by the DOEA in consultation with the AHCA.

In 1998, the Legislature authorized financing and contracting for a single PACE site as part of the Long-Term-Care Community Diversion Pilot. The Florida PACE Centers, Inc., an affiliate of the Miami Jewish Home and Hospital for the aged, in Miami-Dade County has been operating the only Florida PACE organization since 2003 and serves 150 recipients.

Proviso language in the 2006-2007 general appropriations act authorized 150 additional clients for the existing PACE project in Miami-Dade County and funding for the development of PACE projects to serve 200 clients in Martin and St. Lucie counties, and 200 clients in Lee County. In addition to receiving the necessary legislative authority, the development of a new PACE organization or the expansion of an existing program is a lengthy process that includes: identifying a service area, acquiring and renovating a PACE facility and processing the PACE application through the state and the federal review system. The Florida PACE Centers, Inc., is currently in the final stages of negotiating a construction agreement with a local contractor for its second PACE facility and has expressed interest in expanding to a third site.

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

The bill amends s. 430.707, F.S., to direct the AHCA, in consultation with the DOEA, to accept and forward to CMS an application to expand the PACE pilot project from a current PACE entity in good standing with the AHCA, the DOEA, and the CMS.

There are currently two operating PACE organizations in Florida, the Florida PACE, Inc., in Miami-Dade County and the Hope Select Care, in Lee County. The bill requires the AHCA, upon receiving an application, to begin the application process to expand an existing PACE pilot project.

The effective date of the bill is July 1, 2009.

### **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 Article I, Section 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. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The AHCA has indicated that it would incur no fiscal impact to implement the provisions in the bill.

**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.