

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 935 Home Health Care Services

SPONSOR(S): Franklin

TIED BILLS: IDEN./SIM. BILLS: SB 1798

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Select Committee on Health Innovation		Guzzo	Calamas
2) Health Care Appropriations Subcommittee			
3) Health & Human Services Committee			

SUMMARY ANALYSIS

A home health agency (HHA) is an organization that delivers skilled nursing and other services to a patient’s home rather than in a traditional health facility setting. Home health care includes skilled physician and nursing care, physical, occupational, respiratory, or speech therapy, and homemaker/companion services; these services are given by a variety of health care professionals. The Agency for Health Care Administration (AHCA) regulates HHAs to develop, establish, and enforce basic standards that will ensure the safe and adequate care of persons receiving health services in their homes.

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons and is administered by the AHCA. Federal law requires state Medicaid programs to cover nursing and home health aide services, supplies, appliances, and durable medical equipment, necessary to assist a recipient living at home. AHCA has certain requirements to pay for these services.

Current licensure law requires that initial admission, service evaluation, and discharge visits be provided by a direct employee of a home health agency. In addition, Medicaid reimbursement is not available for home health services ordered by any practitioner other than a physician, such as a nurse.

HB 935 allows home health agency contract staff to conduct initial admission, service evaluation, and discharge visits.

The bill expands the definition of health care facility to include home health agency. The bill also allows Medicaid to pay for home health services ordered by advanced practice registered nurses.

The bill has an indeterminate, likely insignificant negative fiscal impact on state government and no fiscal impact on local government.

The bill provides an effective date of July 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Home Health Agencies

A home health agency (HHA) is an organization that delivers skilled nursing and other services to a patient's home rather than in a traditional health facility setting. In Florida, an HHA is a person¹ that provides one or more home health services.²

Licensure

The Florida Agency for Health Care Administration (AHCA) is responsible for administering the Medicaid Program, licensing and regulating health facilities, and providing health care quality and price information to Floridians.³ The AHCA regulates HHAs to develop, establish, and enforce basic standards that will ensure the safe and adequate care of persons receiving health services in their homes.⁴

To operate in Florida, an HHA must be licensed by the AHCA according to the Health Licensing Procedures Act⁵ (Act).⁶ The Act provides a streamlined and consistent set of basic licensing requirements for health care providers.⁷ The Act provides minimum licensure requirements, with which applicants and licensees must comply to obtain and maintain a license.⁸ HHAs operated by the federal government and home health services provided by a state agency or through a contractor⁹ are exempt from licensure.¹⁰ Any license or registration issued on or after July 1, 2018, must specify the services the HHA performs and indicate if the services are considered skilled care.¹¹

Home Health Services

Home health is skilled care delivered directly to a patient's home. Health care services offered in the home may include:¹²

- Doctor care;
- Nursing care;
- Physical, occupational, respiratory, or speech therapy;
- Home health aide services;
- Medical social services;
- Medical social services; and
- Homemaker/companion services.

¹ "Person" includes individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations. S. 1.01 (3), F.S.

² S. 400.462 (15), F.S.

³ S. 499.026 (1), F.S.

⁴ S. 400.461 (2), F.S.

⁵ Ch. 408, Part II, F.S.; see also s. 408.801(1), F.S. (providing a short title).

⁶ s. 400.464 (1), F.S.

⁷ S. 408.801(2), F.S.

⁸ See generally s. 408.810, F.S.

⁹ The Department of Elderly Affairs, the Department of Health, services provided to persons with developmental disabilities, companion and sitter organization registered under s. 400.509, F.S. and the Department of Children and Families.

¹⁰ S. 400.464 (6), F.S.

¹¹ S. 400.464 (1), F.S.

¹² John Hopkins Medicine, *What are the different types of home health care services?* available at <https://www.hopkinsmedicine.org/health/caregiving/types-of-home-health-care-services> (last visited January 30, 2024).

Skilled care is nursing or therapeutic services delivered by a health care professional.¹³ The health care professional must be licensed under part I of ch. 464, F.S.; part I, part III, or part V of ch. 468, F.S.; or ch. 486, F.S. and who is employed by or under contract with a licensed HHA or is referred by a licensed nurse registry.¹⁴ Under current law, when nursing services are ordered, the HHA must provide the initial admission visit, all service evaluation visit, and discharge visit by direct a direct employee. Services provided by contract staff must be monitored and managed by the admitting HHA.¹⁵

Florida Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the AHCA and financed by federal and state funds.

The structure of each state's Medicaid program varies and what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.¹⁶ Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. These federal requirements create an entitlement that comes with constitutional due process protections. The entitlement means that two parts of the Medicaid cost equation – people and utilization – are largely predetermined for the states. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include home health care services.¹⁷

Medicaid Home Health Coverage

Medicaid pays for nursing and home health aide services, supplies, appliances, and durable medical equipment, necessary to assist a recipient living at home.¹⁸ Under current law, AHCA may not pay for these services unless they are medically necessary and:¹⁹

- The services are ordered by a physician.
- The written prescription for the services is signed and dated by the recipient's physician before the development of a plan of care and before any request requiring prior authorization.
- The physician ordering the services is not employed, under contract with, or otherwise affiliated with the home health agency rendering the services.
- The physician ordering the services has examined the recipient within the 30 days preceding the initial request for the services and biannually thereafter.
- The written prescription for the services includes the recipient's acute or chronic medical condition or diagnosis, the home health services required, and for skilled nursing services, the frequency and duration of the services.
- The national provider identifier, Medicaid identification number, or medical practitioner license number of the physician ordering the services is listed on the written prescription for the services, the claim for home health reimbursement, and the prior authorization request.

Under current law, Medicaid requirements, reimbursement is not available for home health services ordered by any practitioner other than a physician, such as a nurse.

Home Health Aide Visits – Children

Florida Medicaid covers home health aide visits for recipients under the age of 21 who have a medical condition or disability that substantially limits their ability to perform activities of daily living or

¹³ S.400.462 (32), F.S.

¹⁴ *Id.*

¹⁵ S. 400.487 (5), F.S.

¹⁶ Title 42 U.S.C. §§ 1396-1396w-5; Title 42 C.F.R. Part 430-456 (§§ 430.0-456.725) (2016).

¹⁷ S. 409.905, F.S.

¹⁸ S. 409.905, F.S.

¹⁹ *Id.*

instrumental activities of daily living.²⁰ The home health visit coverage policy includes up to four hours of intermittent home health visits per day for any combination of skilled nursing or home health aide services.²¹

Personal Care Services – Children

Personal care services are for Medicaid recipients who require more extensive care than can be provided through a home health visit. They are provided by unlicensed HHA personnel to assist Medicaid recipients under the age of 21 with activities of daily living and instrumental activities of daily living to enable recipients to accomplish tasks they would be able to do for themselves if they did not have a medical condition or a disability. A recipient may receive up to 24 hours of personal care services per day that have been determined to be medically necessary and that can be safely provided in the recipient's home or in the community.²²

Private Duty Nursing Services – Adults

PDN services are skilled nursing services provided to recipients under the age of 21 by a registered nurse or licensed practical nurse. A recipient may receive up to 24 hours of private duty nursing services per day if they have a physician's order for PDN services that are medically necessary and can be safely provided in their home or their community. The PDN coverage policy also allows for reimbursement of up to 40 hours per week of an HHA provider for PDN services provided by the parent or legal guardian of a recipient.²³ The parent or legal guardian must be employed by an HHA and have a valid license as a registered nurse or licensed practical nurse.

Effect of the Bill

HB 935 amends HHA licensure law to allow contractors, rather than only employees, to provide the initial admission, service evaluation, and discharge visits for patients. The bill expands the definition of health care facility provided in ch. 408 to include home health agency.

The bill also allows Medicaid to pay for home health services ordered by an advanced practice registered nurse (APRN). When ordering services, the bill requires that the APRN not be employed, under contract with, or otherwise affiliated with the home health agency rendering the services. The APRN must also include their national provider identifier, Medicaid identification number, or medical practitioner license number when ordering the services listed on the written prescription for the services, the claim for home health reimbursement, and the prior authorization request.

The bill provides an effective date of July 1, 2024.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 400.487, F.S., relating to home health service agreements; physician's, physician assistant's, and advanced practice registered nurse's treatment orders; patient assessment; establishment and review of plan of care; provision of services; orders not to resuscitate.
- Section 2:** Amends s. 408.032, F.S., relating to definitions relating to Health Facility and Services Development Act.

²⁰ Activities of daily living include bathing, dressing, eating, maintaining continence, toileting, and transferring. Instrumental activities of daily living include grocery shopping, laundry, light housework, meal preparation, medication management, money management, personal hygiene, transportation, and using the telephone to take care of essential tasks.

²¹ *Florida Medicaid Home Health Visit Services Coverages Policy* (November 2016), available at https://ahca.myflorida.com/content/download/7034/file/59G-4-130_Home_Health_Visit_Services_Coverage_Policy.pdf (last visited January 31, 2024).

²² *Florida Medicaid Personal Care Services Coverage Policy* (November 2016), available at https://ahca.myflorida.com/content/download/7035/file/59G-4-215_Personal_Care_Services_Coverage_Policy.pdf (last visited January 31, 2024).

²³ *Florida Medicaid Private Duty Nursing Services Coverage Policy* (November 2016), available at https://ahca.myflorida.com/content/download/7036/file/59G-4-261_Private_Duty_Nursing_Services_Coverage_Policy.pdf (last visited January 31, 2024).

Section 3: Amends s. 409.905, F.S., relating to mandatory Medicaid services.

Section 4: Provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill has an indeterminate, likely insignificant negative fiscal impact on state government.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to impact county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES