

# Legislative Link

A legislative update provided by the United Way of Florida, Inc.

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## VPK – WHERE ARE WE?

For answers to frequently asked questions about Florida's new Voluntary Prekindergarten (VPK) program, or to sign up for the VPK program – as a student or provider – go to [www.vpkflorida.com](http://www.vpkflorida.com).

In 2002, nearly 60 percent of Florida voters approved an amendment to the Florida Constitution requiring a "high quality, free" educational program for four-year olds that meets "professionally accepted standards".

The 2004 Legislature passed a bill which was ultimately vetoed by the Governor because, as stated in the Governor's veto message, the proposed VPK program failed to "produce a program that truly helped the children get ready to read and succeed".

Because the constitution requires the VPK program to be implemented in the fall of 2005, the Legislature wisely decided to pass a pre-k bill during special session in December, last year. However, the legislation has been assailed by advocates who contend it is devoid of basic quality provisions related to teacher qualifications, curricula, public school involvement, assessment and more.

Legislators are loathe to open up the VPK law for revision, knowing that if they do a torrent of grief will head their way from all sides. Instead, unless things change, the Legislature is only prepared to appropriate funding for the program this session.

But the funding situation has united advocates from both ends of the spectrum. Finally, after more than six years of infighting that began with the school readiness battles of the late 1990s, advocates from all sides are in general agreement that the Governor's proposed VPK per student allocation of \$2,500 is inadequate. Yet the Legislature appears poised to accept that proposal.

Last year, when the Consensus Estimating Conference estimated the costs for Florida's new UPK program at about \$650 million, it used a figure of \$4,320 per student, far exceeding the \$2,500 lawmakers considered during the 2004 Session or the \$2,500 they are now considering.

The Policy Group for Florida's Families and Children performed an exhaustive literature review and study of VPK programs in other states and concluded that the per student cost of Florida's new VPK program – as adopted by the Legislature during the December '04 special session – should be \$3,862.

To review the Policy Group's one page VPK Cost Overview, go to <http://www.policygroup.org/downloads/2005S001UPKCost2.pdf>.

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### Oklahoma's VPK System

Oklahoma has a quality UPK program – teachers must have a Bachelors degree and be certified in early childhood education, and maximum class sizes 10 students for each teacher. One study has concluded that, using this quality system, Oklahoma Pre-K students experienced a 52 percent gain in letter-word comprehension and 27 percent improvement in spelling.

## MEDICAID THIS SESSION

President Bush and Governor Bush have proposed overhauling Medicaid so significantly that – if enacted – they could result in more sweeping changes to our nation and state's human services systems than any changes in decades. The peril is great, so too is the opportunity.

Medicaid now takes up \$1 of every \$4 in the state budget. While the amount of tax dollars coming in has increased by 24 percent since 1998, Florida's Medicaid costs have grown by 88 percent. This rate of growth is – by all accounts – unsustainable.

Governor Bush has proposed moving Medicaid into more of a managed care system where, instead of paying money directly to doctors, hospitals, and

other providers to treat Medicaid patients, it will be used as a premium to pay managed care networks to care for patients. Patients could be in health maintenance organizations, community based networks, or covered by other private insurance.

Much has been written about Medicaid. Your *Legislative Link* will – during the next few weeks provide an overview of the Medicaid program, (this edition), a summary of Governor Bush's proposals for change (next edition), and Medicaid reform guidelines (3<sup>rd</sup> edition) being proposed by a large number of organizations representing virtually the spectrum of human services in the state. In this edition, we look at the background of Medicaid.

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**Medicaid Coverage for Uninsured Pregnant Women** – the 2004 Florida Legislature eliminated coverage for uninsured pregnant women with incomes between \$28,275 - \$34,870 (150%-185% of the federal poverty level for a family of 4), effective July 1, 2005. Governor Bush has included funding in his proposed 2005-2006 budget to restore the unwise budget cuts, which will affect more than 19,000 families, almost 1 out of every 3 pregnant women currently covered by Medicaid. The resulting loss to the state is huge – the Florida Hospital Association estimates a \$42 million loss in funding to the state if these cuts go into effect in July. And who do these cuts impact? Working poor women and their children. The cuts should be restored as the Governor proposes.

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## Governors Fail to Reach an Agreement on Medicaid

On Tuesday, March 1, 2005 the National Governor's Association (NGA) adjourned after a two-day Medicaid meeting. Although NGA leaders hoped to reach an agreement on Medicaid reform proposal during these meetings, no such agreement resulted. The Administration has proposed cuts of \$60 billion over the next 10 years. This includes \$40 billion in savings from restrictions on intergovernmental transfers (IGTs) which are often used by states to draw down additional federal funds. The NGA does not support these cuts. (*Source: Weekly Washington Wire*)

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### World's Thinnest Books

*THINGS I CANNOT AFFORD*  
by Bill Gates

*THINGS I WOULD NOT DO FOR MONEY*  
by Dennis Rodman

# MEDICAID BILL SURFACES IN HOUSE

## HEALTH AND FAMILIES COUNCIL

The Medicaid Reform Workshop draft bill allows the Agency for Health Care Administration to seek an experimental pilot or demonstration waiver, pursuant to Section 1115 of the Social Security Act to reform Florida's Medicaid program in urban and rural demonstration sites contingent on federal approval to preserve the upper-payment-limit funding method and the disproportionate share program pursuant to chapter 409.

The waiver is limited to the following categorical groups eligible for:

- Temporary Assistance for Needy Families
- Supplemental Security Income, except for individuals dually eligible for Medicaid and Medicare.
- All children covered pursuant to Title XIX and Title XXI of the Social Security Act.

It allows the agency to establish a catastrophic coverage and a methodology to fund the catastrophic coverage function for conditions or diseases that exceed a plan's risk capacity as determined by the agency.

It allows the agency to establish enhanced benefit coverage and a methodology to fund the enhanced benefit coverage. Enhanced benefit coverage allows a recipient who complies with the objectives of a wellness or disease management plan to have access to the enhanced benefit coverage for the purpose of purchasing or securing health-care services or health-care products. It establishes Flexible Spending Accounts and Individual Development Accounts where funds can be deposited and used by the recipient for the purchase of enhanced benefits.

The bill gives the agency authority to allow recipients to purchase health care coverage through the private insurance market in lieu of a Medicaid plan. Insurance plans must meet the requirements established by the agency in consultation with the Office of Insurance Regulation. The recipients that choose to opt-out of Medicaid and establish health savings accounts must purchase catastrophic insurance coverage.

The bill sunsets the act July 1, 2010.

The bill requires that upon waiver approval by the Centers for Medicare & Medicaid Services, the agency shall report the provisions and structure of the approved waiver and any deviations from this act to the Legislature. The agency can implement the waiver only after authority to implement the waiver is granted by the legislature.

### Federal Medicaid Framework

Medicaid was enacted in 1965, in the same legislation that created the Medicare program, under amendments to the Social Security Act (P.L. 89-97). The act created Title XIX of the Social Security Act of 1965. The creation of Medicaid and Medicare replaced two earlier programs of federal grants to States that provided medical care to welfare recipients and the aged.

Medicaid is a means-tested entitlement program. It is jointly financed by federal and state funds. Federal contributions to each state are based on a state's willingness to finance covered medical services and a matching formula. Each state designs and administers its own program, under broad federal rules. The Centers for Medicaid and Medicare Services (CMS), within the Department of Health and Human Services (HHS), is responsible for Federal oversight of the program.

### Philosophy 101

*If you try to fail, and succeed, which have you done?*

*Can an atheist get insurance against acts of God?*

*If a parsley farmer is sued, can they garnish his wages?*

# MEDICAID

For a Medicaid Snapshot, visit [http://ahca.myflorida.com/Medicaid/medicaid\\_reform/index.shtml](http://ahca.myflorida.com/Medicaid/medicaid_reform/index.shtml)

<b>MEDICAID OVERVIEW</b> <ul style="list-style-type: none"><li>▪ Created in 1965 under the Title XIX of the Social Security Act.</li><li>▪ Implemented through an approved state plan that compiles with federal mandates.</li><li>▪ Jointly financed federal/state entitlement program.</li><li>▪ Serves low-income families and children, and the aged, blind and disabled provided certain income and asset tests are met.</li><li>▪ Administered by the Agency for Health Care Administration (AHCA).</li></ul>	<b>MEDICAID MANDATORY SERVICES</b> <ul style="list-style-type: none"><li>▪ <b>Mandatory Services for FY 2005-06 = 40.36% of \$15.3 Billion</b></li><li>▪ Advanced Registered Nurse Practitioner Services</li><li>▪ Child Health Check-Up (EPSDT)</li><li>▪ Family Planning</li><li>▪ Home Health Care</li><li>▪ Hospital Inpatient</li><li>▪ Hospital Outpatient</li><li>▪ Independent Lab</li><li>▪ Nursing Facility</li><li>▪ Physician Services</li><li>▪ Portable X-ray Services</li><li>▪ Rural Health</li><li>▪ Transportation</li></ul>
<b>MEDICAID STATE PLAN</b> <ul style="list-style-type: none"><li>▪ The state plan serves as the program's implementation plan and may be amended if a state chooses to change certain aspects of its program.</li><li>▪ Guided by national guidelines, states may:<ul style="list-style-type: none"><li>○ Establish eligibility standards (categorical eligibility).</li><li>○ Determine the type, amount, duration, and scope of services (mandatory and optional services).</li><li>○ Set the rate of payment for services.</li><li>○ Administer the program</li></ul></li></ul>	<b>FLORIDA MEDICAID OPTIONAL SERVICES</b> <ul style="list-style-type: none"><li>▪ <b>Optional Services for FY 2005-06 = 59.64% of \$15.3 Billion</b></li><li>▪ Adult Health Screening</li><li>▪ Ambulatory Surgical Centers</li><li>▪ Assistive Care</li><li>▪ Birth Center Services</li><li>▪ Dental Services</li><li>▪ Children's Hearing &amp; Vision Services</li><li>▪ Chiropractic Services</li><li>▪ Community Mental Health</li><li>▪ County Health Department Clinic Services</li><li>▪ Dialysis Facility Services</li><li>▪ Durable Medical Equipment</li><li>▪ Early Intervention Services</li><li>▪ Healthy Start</li><li>▪ Home &amp; Community Based Services</li><li>▪ Hospice Care</li><li>▪ Intermediate Care/Developmentally Disabled</li><li>▪ Intermediate Nursing Home Care</li><li>▪ Occupational/Physical/Respiratory/Speech Therapies</li><li>▪ Optometric Services</li><li>▪ Personal Care Services</li><li>▪ Physician Assistant Services</li><li>▪ Podiatry Services</li><li>▪ Prescribed Drugs</li><li>▪ Primary Care Case Management (MediPass)</li><li>▪ Private Duty Nursing</li><li>▪ Registered Nurse First Assistant Services</li><li>▪ School Based Services</li><li>▪ State Mental Hospital Services</li><li>▪ Subacute Inpatient Psychiatric Program for Children</li><li>▪ Targeted Case Management</li></ul>
<b>MEDICAID MANDATORY ELIGIBILITY GROUPS</b> <ul style="list-style-type: none"><li>▪ <b>Mandatory Beneficiaries of FY 2005-06 = 90% of 2.3 Million Total Beneficiaries</b></li><li>▪ Infants &lt; 150% of FPL</li><li>▪ Children age 1-5 &lt; 133% of FPL</li><li>▪ Children age 6-18 &lt; 100% of FPL</li><li>▪ Pregnant Women &lt; 150% of FPL</li><li>▪ Low Income Families</li><li>▪ Supplemental Security Income Recipients</li><li>▪ Qualified Medicare Beneficiaries</li></ul>	<b>FLORIDA MEDICAID OPTIONAL ELIGIBILITY GROUPS</b> <ul style="list-style-type: none"><li>▪ Children between 150% - 200% of FPL</li><li>▪ Pregnant Women between 150% - 185% of FPL</li><li>▪ Family Planning</li><li>▪ Meds-A/D</li><li>▪ Medically Needy</li><li>▪ Refugees</li></ul>

## **COMMITTEE APPROVES YEAR-ROUND KIDCARE ENROLLMENT!**

Because the Legislature funded a “no growth” enrollment policy in fiscal year 2003-2004, waiting lists for enrollment were established for the KidCare program. By January 30, 2004, the cumulative Title XXI waiting list had grown to over 90,000 children. To address this waiting list, the 2004 Legislature passed SB 2000 (ch. 2004-270, Laws of Florida), which provided funding to eliminate the waiting list. Among this and other changes, the law also eliminated continuous enrollment and replaced it with no more than two 30-day open enrollment periods per fiscal year (September 1 – 30 and January 1 – 30) on a first-come, first-served basis using the date the new open enrollment application is received. Each open enrollment period is only allowable if the Social Services Estimating Conference estimates that KidCare caseloads are at a level that an open enrollment would not exhaust the state’s allotment of federal funds through the remainder of the program’s authorization (2007). As a result of these changes, eligible children on the waiting list were enrolled in their respective programs in early 2004.

An open enrollment was approved for January 2005, under the condition that the number of new

enrollees did not surpass the appropriated Title XXI level of 389,515 enrollees. Based on the Title XXI caseload as of November 2004, 72,000 open enrollment slots were deemed available.

Between January 1 and January 31, 2005, the Florida KidCare program conducted an open enrollment. The program received 96,561 applications representing an estimated 175,000 children. These applications are still being processed at this time, so it is unclear how many of the available slots will be filled from the January open enrollment. Historically, 35 percent of applicants are enrolled in Medicaid, 20 percent do not complete the process (e.g., they fail to return required paperwork, etc.), and seven percent are deemed ineligible. Based on these statistics, Healthy Kids Corporation administrators believe that the open enrollment process will not fill all available slots

On Thursday, the Senate Health Care Committee approved SB 1324, allowing continuous, year-round enrollment in the Florida KidCare program by removing statutory language restricting open enrollment to January and September of each year.

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**Teacher Crisis Brewing** – Before the infamous class size amendment was approved by Florida’s voters in 2002, about 15,000-16,000 new teachers were hired each year, becoming a part of Florida’s 160,000 strong teacher ranks. In 2006, the class size amendment will ratchet up that need to about 25,000-29,000 additional teachers needed. The problem is not only the number of teachers needed, but also the requirement in the federal No-Child Left Behind Act that requires each teacher to be certified in his or her field. The Class Size Amendment requires a gradual reduction in the student to teacher ratio until 2010, when primary school classes are to be capped at 18 students, middle classes at 22, and high school classes at 25.

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**Hurricanes Only Slightly Dent Tourism** – Visit Florida, the state’s official travel organization, reported in November that an estimated 19.1 million visitors traveled to Florida during the 3<sup>rd</sup> quarter (July-September) of 2004, a 4 percent decrease from the 19.9 million visitors during the same three month period in 2003. Overall, for the first nine months of 2004, the number of visitors to Florida increased 4 percent, including the decline from the third quarter.

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### ***Philosophy 101***

- *I went to a bookstore and asked the saleswoman, "Where's the self-help section?" She said if she told me, it would defeat the purpose.*
- *Is there another word for synonym?*
- *What was the best thing before sliced bread?*

## **EARNED INCOME TAX CREDIT – SPREAD THE WORD!!!**

- If you lived with more than one qualifying child in 2004 and your family earned less than **\$34,458 (\$35,458 – married, filing jointly)** you can **get up to \$4,300.**
- If you lived with one qualifying child in 2004 and your family earned less than **\$30,338 (\$31,338 – married, filing jointly)** you can **get up to \$2,604.**
- If you had no children living with you in 2004 and you earned less than **\$11,490 (\$12,490 – married, filing jointly)** you can **get up to \$390.**

For more information, go to: [www.jaxprosperity.org](http://www.jaxprosperity.org)

## **CHILD WELFARE EQUITY FUNDING/HOLD HARMLESS**

Increased funding is essential to provide critical care for the children in Florida's child welfare system. Funding impacts almost every aspect of care provided including caseload reduction, child placements, recruitment of foster parents, independent living transition services, necessary therapies for youth and their families, and adoption services.

However, within the Community Based Care system, funding has not been equitable between each lead agency. This has caused some agencies to not be able to address the needs of the children in their care due to inadequate funding. Currently, there are eight Lead Agencies that are funded below \*\$10,000/per child per year. In 2002 the Legislature agreed to fund equity (i.e. at least \$10,000 per year per child) over a three year period – 2003-2004, 2004-2005 & 2005-2006. Last year the Legislature funded child welfare equity at a total of \$23.5 million. In the Governor's Recommended Budget for 2005-2006, the amount proposed is \$10.5 million for equity.

The Florida Coalition for Children is requesting the Legislature fund the 3<sup>rd</sup> installment at \$25.6 million. This funding will ensure Lead Agencies receive an increase to reach the goal of at least \*\$10,138 per child equitable funding statewide.

In addition, the Coalition supports maintaining the hold harmless provision that does not take monies away from other communities that are above the state average. Many CBC Lead Agencies began their contracts below \$10,000 per child; however, with the tremendous efforts to reunite children with their families and successful adoptions, the number of children in care has been reduced. Therefore, the rate per child has increased. By reducing the amount of monies appropriated to Lead Agencies who have decreased the number of children in care it will reduce their ability to continue that trend and maintain these positive results. It also is a disincentive for good work. The Coalition believes strongly that the legislative priority should be to keep those Lead Agencies constant while supplying additional funding to those below \$10,000/per child funding.

In 2004, the Legislature adopted legislation that directed the Florida Coalition for Children to contract an actuarial study of the lead agency risk pool. The actuarial study will identify trends and risk factors associated with performing child welfare services. This study will assist in the future for determining adequate appropriations for Florida's child welfare system. (*Source: Florida Coalition for Children*)

\*\$10,138 per child rate represents what \$25 million appropriation will obtain. DCF uses \$11,223 per child as the state's average for 05/06. This average changes yearly with additional appropriations.

### ***Church Bulletin Bloopers***

*Thank God for church ladies with typewriters. These sentences actually appeared in church bulletins or were announced in church services:*

- *The Fasting & Prayer Conference includes meals."*
- *The sermon this morning: "Jesus Walks on the Water." The sermon tonight: "Searching for Jesus."*

## **FAIRNESS FOR IMMIGRANT STUDENTS**

Every year hundreds of bright, hard working immigrant students graduate from Florida high schools but are unable to attend college because they are asked to pay out-of-state tuition. These children have lived in our communities for many years and consider themselves Floridians but unfortunately have been unable to attain an immigration status.

To ensure students in this situation are able to attend college, Oklahoma, Utah, Texas, New York, California, Illinois, Washington and Kansas have all recently passed laws to allow these students to pay the same in-state tuition rate as other state high school graduates. Rep. Juan Zapata and Sen. Frederica Wilson have introduced House Bill 119 and Senate Bill 226 which would allow Florida join these states in ensuring that our youth are able to reach their highest potential.

- Similar Florida legislation in the 2003 and 2004 Florida Legislature unanimously passed the full Senate and passed several committees in the House with strong bipartisan support but unfortunately was not called for a vote by the full House of Representatives.
- To qualify for in-state tuition under House Bill 119 and Senate Bill 226, students are required to attend high school for at least 3 years in Florida, attain a high school diploma or equivalent and sign an affidavit stating they will apply for an immigration status at the earliest possible date they are able to do so.
- Supporters of similar changes in other states include: Texas Gov. Rick Perry (R), New York Gov. George Pataki (R), Illinois Gov. Rod Blagojevich (D), Georgia Gov. Sonny Purdue (R), Arkansas Gov. Mike Huckabee (R) and Kansas Gov. Kathleen Sebelius (D).

Passage of these bills would generate significant benefits for Florida including a more highly educated workforce, reduced drop out rate and larger tax-base for years to come. Urge your legislator to support HB 119 and SB 226!

For more information, contact Evan Goldman, Children's Services Council of Broward County, (954) 377-1000, [www.cscbroward.org](http://www.cscbroward.org), <http://advocacy.cscbroward.org>, who authored this article.

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*If you've learned to speak fluent English, you must be a genius! Pursue at your leisure, English lovers. Reasons why the English language is so hard to learn:*

1. *The bandage was wound around the wound.*
2. *The farm was used to produce produce.*
3. *The dump was so full that it had to refuse more refuse.*
4. *We must polish the Polish furniture.*
5. *He could lead if he would get the lead out.*

*Hmmmmmmmmmm..... There is no egg in eggplant nor ham in hamburger; neither apple nor pine in pineapple. English muffins weren't invented in England or French fries in France (surprise!). Sweetmeats are candies while sweetbreads, which aren't sweet, are meat.*

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## **2-1-1 BILL PASSES FIRST COMMITTEE**

HB 751 by Representative Ed Jennings unanimously passed the House Utilities and Telecommunications Committee on Thursday. The bill would provide a \$5 million appropriation to ensure that 2-1-1 is available statewide in every county. An amendment was made to the bill clarifying that its dollar-for-dollar matching requirement applies to 2-1-1 providers receiving the state dollars, and not to counties.

The companion bill, SB 1604 by Senator Lynn, is on the Senate Health Care Committee's agenda for next Tuesday.

## BILLS HEARD THIS WEEK

*(Some information below is excerpted from legislative staff analyses)*

### **CS/SB 62 Services for Seniors & Adults with Disabilities (Community Affairs Committee)**

This CS authorizes counties to create, by ordinance, an independent special district to provide services for seniors and adults with developmental disabilities throughout the county. Upon approval by the electors in the county, the district may annually levy ad valorem taxes, not to exceed 0.5 mills. In addition, the bill:

- provides for an appointed district governing board;
- specifies the powers and functions of the governing board;
- requires each governing board to identify and assess the needs of seniors and adults with developmental disabilities in the county served by the district and to provide an annual report and budget;
- requires the governing board to prepare and file a financial report with the governing body of the county;
- provides that a district may be dissolved by a special act of the Legislature or by ordinance by the governing body of the county; and
- authorizes the creation of dependent special districts under certain circumstances.

*Last Action: SENATE Read Third Time; Passed*

### **SB 96 Protection and Care for Elders (Margolis and Fasano)**

Senate Bill 96 increases the felony degree of the offense of aggravated abuse of an elderly or disabled person from a second degree felony to a first degree felony.

The bill also requires that certified law enforcement personnel receive training in the identification and investigation of elder abuse and neglect.

*Last Action: SENATE Now in Justice Appropriations*

### **CS/HB 107 Community Residential Homes (Lopez-Cantera)**

Historically, living placement options for the physically disabled, handicapped, developmentally disabled, mentally ill, and children were primarily state institutions or nursing homes. However, that began to change in Florida in the 1980's as the Florida Legislature began to develop a policy of community integration as an effective treatment method for those in need. The history of community integration has not always been an easy transition, but great strides have been made in combating discriminatory policies against the mentally ill, elderly, handicapped and children in need. These changes can largely be attributed to the development of Federal law that focused on protecting these protected classes of individuals. One of the purposes was to prevent or reduce inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care. The goal was simply to follow a deinstitutionalization model for placement of persons with special needs in the least restrictive setting and for the encouragement of placement of such individuals in community residential facilities.

Currently, s. 419.001, F.S., requires the local government to approve the location of certain residential homes which provide for a living environment for 7 to 14 unrelated residents.

CS/HB 107 amends existing law to require that prior to occupancy, a sponsoring agency provide the local government with the most recently published data identifying all community residential homes in the district in which the proposed site is located in order to show that no other community residential home with six or fewer residents is within a radius of 1,000 feet of the proposed home. The purpose of this change is to eliminate the clustering of community residential homes with six or fewer residents within a community.

The bill changes current law in two ways: Currently, the sponsoring agency or the Department of Children and Family Services is required only at the time of occupancy to notify local government that the home was licensed by the department. Also, currently, Community Residential Homes with 7-14 residents must provide this information but not Community Residential Homes with six or fewer residents.

*Last Action: HOUSE Favorable by Growth Management; Now in Health Care Appropriations*

*Bills Heard this Week continued*

**HB 151 Access to Health Care Act (Sorenson)**

House Bill 151 amends s. 766.1115, F. S., the “Access to Health Care Act,” that provides criteria under which health care providers can deliver free medical care to low-income persons under the doctrine of sovereign immunity. House Bill 151 expands the definition of low income from 150 percent to 200 percent of the federal poverty level, increasing the number of persons potentially eligible for the program by an additional 468,637 persons. According to the Department of Health, the revision in eligibility is not expected to significantly increase the number of people statewide participating in the program because there is no expectation of a significant increase in the number of health care providers donating free services.

*Last Action: HOUSE On Fiscal Council Agenda*

**CS/HB 177 Drug Court Programs (Adams)**

The term “drug court” refers to court programs that specialize in cases where alcohol or drug addiction has led a person into trouble with the law.

Dependency court is for children who are dependent upon the state to protect them from abuse or neglect by their adult caretaker or caretakers. This bill authorizes a dependency court to order individuals involved in a dependency court case to be evaluated for drug or alcohol problems, and allows the court to refer an addicted individual to dependency drug court for monitoring of treatment. This bill may also allow incarceration of persons referred to dependency drug court who fail to comply with the conditions of the referral.

This bill also modifies laws regarding drug court programs for adult and juvenile criminal offenders. Currently, those programs are primarily structured as pre-trial diversion programs. This bill provides for post-adjudicatory and community supervision drug court referrals. Drug courts have traditionally used short terms of incarceration as punishment for participants who violate terms of their treatment plan; however, a recent court ruling found that such incarceration for persons in a pre-adjudicatory drug court program is not authorized by law. This bill provides for incarceration of a person violating his or her treatment plan ordered by a drug court, which incarceration is in addition to any term of incarceration that may be ordered should the person leave drug court and then be convicted of the offense.

*Last Action: HOUSE Favorable with CS by Juvenile Justice; Now in Justice Appropriations*

**SB 230 Human Immunodeficiency Virus (Wilson)**

The bill amends provisions relating to the statewide human immunodeficiency virus (HIV) and acquired immune deficiency syndrome (AIDS) prevention campaign that targets minority communities to require that the campaign be expanded to include prevention information specifically targeted to Florida’s Hispanic and Haitian communities. The bill increases the number of state-funded HIV and AIDS regional coordinators from four to eight. The Department of Health (DOH) must provide HIV/AIDS outreach programs in Florida’s minority communities to identify persons infected with HIV/AIDS and these programs must address real and perceived barriers to HIV testing among Florida’s minority populations. The program must ensure that HIV-positive persons are linked with prevention, care, and support services. The program must be provided in a culturally sensitive manner to promote prevention among persons who are HIV positive and foster the acceptance and delivery of care and support services in high-risk communities.

The Department of Health must expand testing programs for HIV, sexually transmissible diseases, and hepatitis in local county jails and establish programs for HIV-positive inmates to ensure coordination and linkage to treatment and secondary prevention messages upon their release. To promote HIV testing among minority persons who are at risk of infection, the department must expand its HIV counseling, testing, and referral services.

*Last Action: SENATE Now in Health and Human Services Appropriations*

*Bills Heard this Week Continued*

**SB 246 Child Safety (Children and Families; Hill)**

CS/SB 246 requires that school boards of each public school district adopt policies which ensure that students in that school district are not released from schools to persons who are not authorized to retrieve them. Such policies must include a requirement that a person attempting to retrieve the student present picture identification to the school principal or designee before the student is released to the person. "Picture identification" means a valid state driver's license, a valid state identification card, or a valid United States military identification card. The bill requires these policies to be developed no later than July 1, 2006, and requires that copies be provided to the Department of Education.

The committee substitute places the same requirements for developing policies on non-public schools and child care providers. For these entities, copies of the policies must be maintained on the premises and be readily available for public inspection.

*Last Action: SENATE Read Third Time; CS Passed*

**SB 318 Cystic Fibrosis Treatment/Insurance (Margolis)**

Cystic fibrosis is a genetic disease that causes chronic, progressive damage to the respiratory system, chronic digestive problems, and can affect other organs. Senate Bill 318 requires health insurers and health maintenance organizations to provide individual and group coverage for all medically appropriate and necessary equipment, supplies, supplements, and patient self management training and educational services used to treat cystic fibrosis if the treating physician or a physician specializing in the treatment certifies that such services are necessary.

*Last Action: SENATE Now in Health Care*

**CS/SB 434 Disabilities/Service Animals (Governmental Oversight & Productivity)**

CS/SB 434 amends s. 413.08, F.S., which regulates access to facilities and public accommodations by persons with disabilities who use dog guides or service dogs. The committee substitute expands the type of animals that are included under the section by eliminating "dog guide" and "service dog" and substituting the broader Federal definition of "service animals". Further, the committee substitute creates definitions that are based on the Federal definitions for the terms: "direct threat," "housing accommodation," "individual with a disability," "major life activities," "mental impairment," "physical impairment," "place of public accommodation," and "substantially limits." The committee substitute increases the penalty for discriminating against an individual with a disability when providing housing accommodations to a first degree misdemeanor after the first offense. Finally, the committee substitute makes conforming changes to s. 413.081, F.S., relating to the interference with or injury to a service animal.

*Last Action: SENATE Read Third Time; Passed*

**SB 752 – Ms. Willie Ann Glenn Act (Wise)** – SB 752 creates the "Ms. Willie Ann Glenn Act, and provides that each district school board shall develop a plan by May 1, 2006, to sponsor a summer nutrition program beginning the summer of 2006 to operate sites in the school district within 5 miles of at least one elementary school at which 50 percent or more of the students are eligible for free or reduced-price school meals and for 40 consecutive days; and within 10 miles of each elementary school at which 50 percent or more of the students are eligible for free or reduced-price school meals. A district school board can exempt itself from the above requirements by including the issue on an agenda at a regular or special district school board meeting that is publicly noticed, providing residents an opportunity to participate in the discussion, and voting on whether to be exempt. This process would have to take place every year.

The bill also provides that the superintendent of schools may collaborate with municipal and county governmental agencies and private, not-for-profit leaders in implementing the plan.

*Last Action: SENATE On Committee agenda – Children & Families*

**SB 904 Privatization of Foster Care (Dockery)**

Senate Bill 904 relieves community based care lead agencies and their sub-contractors providing foster care and related services from the obligation of including references to the State of Florida or including the logo of the Department of Children and Families (DCF) in their advertising and descriptions of their programs unless the agency or the sub-contractor receives more than 51 percent of their total funding from the state.

*Last Action: SENATE Favorable with 1 Amendment by Governmental Oversight and Productivity*

**SB 996 –Child/Unattended in Motor Vehicle (Dawson)** - Senate Bill 996 amends s. 316.6135, F.S., to modify the infraction of leaving children unattended or unsupervised in a motor vehicle and to increase the penalties for this infraction. A violation of this section is increased from a traffic infraction to a second-degree misdemeanor. Additionally, if the violation results in great bodily harm, permanent disability, or permanent disfigurement to a child, the penalty is increased to a second degree felony.

*Last Action: SENATE Now in Criminal Justice*

**CS/SB 1090 Mental Health Services for Minors and Incapacitated Persons/Psychotropic Medications (Children and Families Committee and Senators Campbell, Dawson, and Lynn)**

A growing number of children are diagnosed with mental disorders in the United States each year, a trend that is prevalent in Florida, as well. The increasing number of children needing mental health treatment in this state significantly impacts the child welfare system that is the responsibility of the department.

In 2004, the department studied the use of psychotropic medications with children in its custody over a specified period of time. As a result of this study, it was determined that 13 percent of all children in state custody were receiving at least one psychotropic medication. Further analysis indicated that of the children receiving at least one psychotropic medication, eight percent were being treated with three or more medications concurrently. Findings also indicated that 3.5 percent of the children in state custody who were age five and under received at least one psychotropic medication. A surprising finding was that 25 percent of the children living in a foster care setting were being treated with psychotropic medications, a rate five times higher than that for the general population of Medicaid eligible children.

Despite initiatives by the department to identify children in its care who are on psychotropic medications and to determine the appropriateness of this treatment, there is limited information available to make such determinations.

There has been growing public concern over reports that very young children are being prescribed psychotropic medications, which is not generally the first option of treatment for a child, that some children are on multiple medications, and that these medications are sometimes used inappropriately to control a child's behavior.

There are several major categories of psychotropic medications: stimulants, antidepressants, anti-anxiety agents, anti-psychotics, and mood stabilizers.

Currently, s. 39.407, F.S., requires consent for medical treatment to be obtained from a parent or legal custodian of a child in state custody, or by a court order approving treatment if the parent or legal custodian is unavailable, his/her whereabouts cannot be ascertained, or the parent refuses to give consent.

Problems have been experienced when children taking psychotropic medications come into the department's care and parental consent cannot be obtained. When this situation occurs, the child does not receive his or her medication until either parental consent or court authorization can be obtained. There are times that failing to provide the needed medication on time results in the significant deterioration of the child's mental and emotional stability.

## *Bills Heard this Week continued*

The courts have expressed discomfort with providing authorization, for reasons that include the following:

- Courts frequently lack the necessary information about the child's condition to make informed decisions;
- There is a lack of information (particularly medical history) that travels with the child through the child welfare system, making it difficult for the treating physician to meet procedural requirements associated with children in out of home care;
- There are no state endorsed standards of care or guidelines for treatment decisions to be measured against;

CS/SB 1090 specifies requirements for DCF to follow with respect to providing psychotropic medications to a child who is in its custody, including:

- Obtaining parental consent whenever possible;
- Requiring the department to provide known pertinent medical information to the evaluating physician when seeking an evaluation to consider the provision of a psychotropic medication to a child in its custody;
- If certain conditions are met, authorizing the continuation of psychotropic medication until the shelter hearing if a child is taking the medication at the time of removal from the home pursuant to s. 39.401, F.S.;
- Requiring the department to seek court approval to provide psychotropic medications except in certain situations;
- Specifying the contents of the physician's medical report and requiring that the report be submitted to the court when the department seeks approval to provide psychotropic medications to a child in its custody;
- Requiring that a court hearing be held if any party objects to the department's motion to provide a child with psychotropic medications;
- Providing an exception to obtaining a court order to provide a psychotropic medication to a child under certain conditions;
- Providing for the ongoing judicial review of a child in the custody of the department who is taking psychotropic medications; and
- Requiring that the department adopt rules pertaining to the use of psychotropic medications by children in its care.

The bill provides that, before the department provides psychotropic medications to a child in its custody, the prescribing physician must attempt to obtain informed consent from the parent or legal guardian. However, if the parental rights have been terminated, the parent's location or identity is unknown or cannot reasonably be ascertained, or the parent declines to give express and informed consent, the department may, after consultation with the prescribing physician, seek court authorization to provide psychotropic medications to the child.

Under the provisions of the bill, if a child who is taking psychotropic medication is removed from the home under s. 39.401, F.S., and parental authorization to continue providing the medication cannot be obtained, the department may take possession of the remaining medication and continue to provide the medication as prescribed until the shelter hearing.<sup>1</sup> In order for the department to continue providing the medication, the medication must be in its original container and determined to be a current prescription for that child.

*Last Action: SENATE Now in Judiciary*

## **SB 1208 Florida Long-Term Care Partnership Program (Peaden)**

Long-term care (LTC) refers to a broad range of supportive medical, personal and social services needed by people who are unable to meet their basic living needs for an extended period of time. This may be caused by accident, illness or frailty. Such conditions include the inability to move about, dress, bathe, eat, use a toilet, medicate and avoid incontinence. Also, care may be needed to help the disabled with household cleaning, preparing meals, shopping, paying bills, visiting the doctor, answering the phone and taking medications. Additional long-term care disabilities are due to cognitive impairment from stroke, depression, dementia, Alzheimer's disease, Parkinson's disease and other medical conditions that affect the brain.

## *Bills Heard this Week continued*

It is estimated that, in 2005, approximately nine million men and women in the United States over the age of 65 will need LTC. By 2020, 12 million older Americans will need LTC.

Medicaid is now the primary payer of LTC services in the United States. Florida is particularly affected as it has the highest proportion of persons aged 65 to 84 of any state in the nation, and this population is expected to grow 130 percent by 2025. In FY 2002-03, Florida Medicaid spent \$3.2 billion (or 28 percent of the Medicaid budget) on four core LTC services: nursing homes; Intermediate Care Facilities for Persons with Development Disabilities; Home and Community Based Services waivers; and assistive care services.<sup>2</sup> Florida Medicaid currently pays for 66 percent of all nursing home days for the frail elderly in Florida.

Elderly individuals often believe, mistakenly, that Medicare pays for LTC costs. As a result, many individuals often find out too late that they must spend down the majority of their assets before gaining eligibility for Medicaid services. One way to prevent this from occurring is for individuals to purchase LTC insurance.

The average annual premium for a LTC policy for a 65-year old was \$2,273 in 2001. Almost half of the U.S. population of persons 65 years of age and older have incomes below \$21,570 (250 percent of the Federal Poverty Limit in 2002). As a result, most of these individuals would have to pay at least 10 percent of their annual income for LTC insurance.

SB 1208 directs the Agency for Health Care Administration (AHCA) to establish the Florida Long-term Care Partnership Program to provide incentives for individuals to purchase long-term care insurance. A person who participates in the partnership is able to qualify for coverage of the costs of his or her long-term care needs under Medicaid without first being required to substantially exhaust his or her assets.

AHCA is required to develop a plan for implementation of the Florida Long-Term Care Partnership Program in the form of recommended legislation prior to the next legislative session.

The bill would take effect upon becoming law, except that the amendments relating to Medicaid eligibility are effective contingent upon action by Congress to amend section 1917(b)(1)(c) of the Social Security Act.

*Last Action: SENATE Favorable with CS by Health Care; Now in Banking and Insurance*

## **PCS/SB 1314 – Independent Living (Rich)**

The proposed committee substitute for Senate Bill 1314:

- Authorizes young adults formerly in foster care at the time of their 18th birthday to petition the court at any time prior to their 19th birthday to extend the court's jurisdiction until their 19th birthday for the purposes of:
  - Determining whether appropriate aftercare support, Road-to-Independence Scholarship, transitional support, mental health, and developmental disability services have been provided.
  - Meeting any requirement of federal law with respect to the court's ongoing jurisdiction pending the federal government's issuance of a Special Immigrant Juvenile Visa.
- Authorizes a young adult who is eligible for the Road-to-Independence Scholarship to reside in a licensed foster home arranged by the Department of Children and Family Services (DCF or the department).
- Requires the department to include in its Judicial Review social study report verification that a child has been provided information about the right to petition for continued court jurisdiction, information about the Medicaid program and how to apply and, if eligible, of the right to continue to reside in his or her foster placement or in another licensed foster home arranged by the department.
- Requires that the department enroll certain former foster children in the Florida KidCare program if they do not otherwise have health insurance or are not eligible for Medicaid.
- Provides for a study and a report regarding the health insurance needs of young adults who are no longer eligible for the KidCare program.

*Bills Heard this Week Continued*

This proposed committee substitute substantially amends the following sections of the Florida Statutes: s. 39.013, F.S., s. 39.701, F.S., and s. 409.1451, F.S.

*Last Action: SENATE Favorable with CS by Children and Families; Now in Judiciary*

**SB 1360 – Adult Protective Services (Rich)**

Senate Bill 1360 amends s. 415.102, F.S., to redefine the term “neglect” to include the neglect a vulnerable adult can inflict on him or herself. The bill also amends s. 415.1051, F.S., allowing the Department of Children and Families (DCF or the department) to petition the court to provide protective services to a vulnerable adult in need of services due to self-neglect.

*Last Action: SENATE Favorable by Children and Families*

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