A bill to be entitled

An act relating to Medicaid managed care; providing an effective date.

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

Section 1. Sections 409.961 through 409.992, Florida Statutes, are designated as part IV of chapter 409, Florida Statutes, entitled "Medicaid Managed Care."

Section 2. Section 409.961, Florida Statutes, is created to read:

409.961 Statutory construction; applicability; rules.—It is the intent of the Legislature that if any conflict exists between the provisions contained in this part and provisions contained in other parts of this chapter, the provisions contained in this part shall control. The provisions of ss. 409.961-409.970 apply only to the Medicaid managed medical assistance program, long-term care managed care program, and managed long-term care for persons with developmental disabilities program, as provided in this part. The agency shall adopt any rules necessary to comply with or administer this part and all rules necessary to comply with federal requirements. In addition, the department shall adopt and accept the transfer of any rules necessary to carry out the department's responsibilities for receiving and processing Medicaid applications and determining Medicaid eligibility and for ensuring compliance with and administering this part, as those rules relate to the department's responsibilities, and any other

provisions related to the department's responsibility for the determination of Medicaid eligibility.

Section 3. Section 409.962, Florida Statutes, is created to read:

409.962 Definitions.—As used in this part, except as otherwise specifically provided, the term:

(1) "Agency" means the Agency for Health Care Administration.

(2) "Aging network service provider" means a provider that participated in a home and community-based waiver administered by the Department of Elderly Affairs or the community care service system pursuant to s. 430.205, as of October 1, 2013.

(3) "Comprehensive long-term care plan" means a managed care plan that provides services described in s. 409.973 and also provides the services described in ss.409.980 or 409.988

(4) "Department" means the Department of Children and Families.

(5) "Developmental disability provider service network" means a provider service network, a controlling interest of which includes one or more entities licensed pursuant to s. 393.067 or s. 400.962 with 18 or more licensed beds and which owner or owners have at least 10 years experience serving this population.

(6) "Direct care management" means care management activities that involve direct interaction with Medicaid recipients.

(7) "Eligible plan" means a health insurer authorized under chapter 624, an exclusive provider organization authorized

under chapter 627, a health maintenance organization authorized under chapter 641, or a provider service network authorized under s. 409.912(4)(d). For purposes of the managed medical assistance program, the term also includes the Children's Medical Services Network authorized under chapter 391. For purposes of the long-term care managed care program, the term also includes entities qualified under 42 C.F.R. part 422 as Medicare Advantage Preferred Provider Organizations, Medicare Advantage Provider-sponsored Organizations, and Medicare Advantage Special Needs Plans, and the Program for All-Inclusive Care for the Elderly.

(8) "Long-term care plan" means a managed care plan that provides the services described in s. 409.980 for the long-term care managed care program or the services described in s. 409.988 for the long-term care managed care program for persons with developmental disabilities.

(9) "Long term care provider service network" means a provider service network a controlling interest of which is owned by one or more licensed nursing homes, assisted living facilities with 17 or more beds, home health agencies, community care for the elderly lead agencies, or hospices.

(10) "Managed care plan" means an eligible plan under contract with the agency to provide services in the Medicaid program.

(11) "Medicaid" means the medical assistance program authorized by Title XIX of the Social Security Act, 42 U.S.C. s. 1396 et seq., and regulations thereunder, as administered in this state by the agency.

(12) "Medicaid recipient" or "recipient" means an individual who the department or, for Supplemental Security Income, the Social Security Administration determines is eligible pursuant to federal and state law to receive medical assistance and related services for which the agency may make payments under the Medicaid program. For the purposes of determining third-party liability, the term includes an individual formerly determined to be eligible for Medicaid, an individual who has received medical assistance under the Medicaid program, or an individual on whose behalf Medicaid has become obligated.

(13) "Prepaid plan" means a managed care plan that is licensed or certified as a risk-bearing entity in the state and is paid a prospective per-member, per-month payment by the agency.

(14) "Provider service network" means an entity certified pursuant to s. 409.912(4)(d) of which a controlling interest is owned by a health care provider, or group of affiliated providers, or a public agency or entity that delivers health services. Health care providers include Florida-licensed health care professionals or licensed health care facilities, federally qualified health care centers, and home health care agencies.

(15) "Specialty plan" means a managed care plan that serves Medicaid recipients who meet specified criteria based on age, medical condition, or diagnosis.

Section 4. Section 409.963, Florida Statutes, is created to read:

409.963 Single state agency.—The Agency for Health Care Administration is designated as the single state agency authorized to manage, operate, and make payments for medical assistance and related services under Title XIX of the Social Security Act. Subject to any limitations or directions provided for in the General Appropriations Act, these payments shall be made only for services included in the program, only on behalf of eligible individuals, and only to qualified providers in accordance with federal requirements for Title XIX of the Social Security Act and the provisions of state law. This program of medical assistance is designated as the "Medicaid program." The department is responsible for Medicaid eligibility determinations, including, but not limited to, policy, rules, and the agreement with the Social Security Administration for Medicaid eligibility determinations for Supplemental Security Income recipients, as well as the actual determination of eligibility. As a condition of Medicaid eligibility, subject to federal approval, the agency and the department shall ensure that each Medicaid recipient consents to the release of her or his medical records to the agency and the Medicaid Fraud Control Unit of the Department of Legal Affairs.

Section 5. Section 409.964, Florida Statutes is created to read:

409.964 Managed care program; state plan; waivers.—The Medicaid program is established as a statewide, integrated managed care program for all covered services, including long-term care services. The agency shall apply for and implement state plan amendments or waivers of applicable federal laws and

regulations necessary to implement the program. Prior to seeking a waiver, the agency shall provide public notice and the opportunity for public comment and shall include public feedback in the waiver application. The agency shall hold one public meeting in each of the regions described in s. 409.966(2) and the time period for public comment for each region shall end no sooner than 30 days after the completion of the public meeting in that region.

Section 6. Section 409.965, Florida Statutes, is created to read:

409.965 Mandatory enrollment.—All Medicaid recipients shall receive covered services through the statewide managed care program, except as provided by this part pursuant to an approved federal waiver. The following Medicaid recipients are exempt from participation in the statewide managed care program:

(1) Women who are only eligible for family planning services.

(2) Women who are only eligible for breast and cervical cancer services.

(3) Persons who are eligible for emergency Medicaid for aliens.

Section 7. Section 409.966, Florida Statutes, is created to read:

409.966 Eligible plans; selection.—

(1) ELIGIBLE PLANS.-Services in the Medicaid managed care program shall be provided by eligible plans. A provider service network must be capable of providing all covered services to a mandatory Medicaid managed care enrollee or may limit the

provision of services to a specific target population based on the age, chronic disease state, or the medical condition of the enrollee to whom the network will provide services. A specialty provider service network must be capable of coordinating care and delivering or arranging for the delivery of all covered services to the target population. A provider service network may partner with an insurer licensed under chapter 627 or a health maintenance organization licensed under chapter 641 to meet the requirements of a Medicaid contract.

(2) ELIGIBLE PLAN SELECTION.-The agency shall select a limited number of eligible plans to participate in the Medicaid program using invitations to negotiate in accordance with s. 287.057(3)(a). At least 30 days prior to issuing an invitation to negotiate, the agency shall compile and publish a databook consisting of a comprehensive set of utilization and spending data for the 3 most recent contract years consistent with the rate-setting periods for all Medicaid recipients by region or county. The source of the data in the report shall include both historic fee-for-service claims and validated data from the Medicaid Encounter Data System. The report shall be made available in electronic form and shall delineate utilization use by age, gender, eligibility group, geographic area, and aggregate clinical risk score. Separate and simultaneous procurements shall be conducted in each of the following regions:

(a) Region I, which shall consist of Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Jefferson,

Leon, Liberty, Madison, Okaloosa, Santa Rosa, Taylor, Wakulla, Walton, and Washington Counties.

(b) Region II, which shall consist of Alachua, Baker, Bradford, Citrus, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hamilton, Lafayette, Levy, Nassau, Putnam, St. Johns, Suwannee, Union, and Volusia Counties.

(c) Region III, which shall consist of Hernando, Hillsborough, Pasco, Pinellas, and Polk Counties.

(d) Region IV, which shall consist of Brevard, Indian River, Lake, Marion, Orange, Osceola, Seminole, and Sumter Counties.

(e) Region V, which shall consist of Charlotte, Collier, DeSoto, Hardee, Highlands, Lee, Manatee, and Sarasota Counties.

(f) Region VI, which shall consist of Broward, Glades, Hendry, Martin, Okeechobee, Palm Beach, and St. Lucie Counties.

(g) Region VII, which shall consist of Dade and Monroe Counties.

(3) QUALITY SELECTION CRITERIA.-

(a) The invitation to negotiate must specify the criteria and the relative weight of the criteria that will be used for determining the acceptability of the reply and guiding the selection of the organizations with which the agency negotiates. In addition to criteria established by the agency, the agency shall consider the following factors in the selection of eligible plans:

1. Accreditation by the National Committee for Quality Assurance or another nationally recognized accrediting body.

2. Experience serving similar populations, including the organization's record in achieving specific quality standards with similar populations.

3. Availability and accessibility of primary care and specialty physicians in the provider network.

4. Establishment of community partnerships with providers that create opportunities for reinvestment in community-based services.

5. Organization commitment to quality improvement and documentation of achievements in specific quality improvement projects, including active involvement by organization leadership.

6. Provision of additional benefits, particularly dental care and disease management, and other initiatives that improve health outcomes.

7. Evidence that a qualified plan has written agreements or signed contracts or has made substantial progress in establishing relationships with providers prior to the plan submitting a response.

8. Comments submitted in writing by any enrolled Medicaid provider relating to a specifically identified plan participating in the procurement in the same region as the submitting provider. The agency shall give special weight to comments submitted by essential providers, as defined by the agency pursuant to s. 409.975(2).

(b) After negotiations are conducted, the agency shall select the eligible plans that are determined to be responsive

and provide the best value to the state. Preference shall be given to plans which demonstrate the following:

1. Signed contracts with primary and specialty physicians in sufficient numbers to meet the specific standards established pursuant to s. 409.967(2)(b).

2. Well-defined programs for recognizing patient-centered medical homes or accountable care organizations, and providing for increased compensation for recognized medical homes or accountable care organizations, as defined by the plan.

3. Greater net economic benefit to Florida compared to other bidders through employment of, or subcontracting with firms which employ, Floridians in order to accomplish the contract requirements. Contracts with such bidders shall specify performance measures to evaluate the plan's employment-based economic impact. Valuation of the net economic benefit shall not include employment of or subcontracts with providers.

(c) To ensure managed care plan participation in Region I, the agency shall award contracts in Region VII to each managed care plan selected in Region I, for such plans which submitted responsive bids in Region VII.

(4) ADMINISTRATIVE CHALLENGE.—Any eligible plan that participates in an invitation to negotiate in more than one region and is selected in at least one region may not begin serving Medicaid recipients in any region for which it was selected until all administrative challenges to procurements required by this section to which the eligible plan is a party have been finalized. If the number of plans selected is less than the maximum amount of plans permitted in the region, the

agency may contract with other selected plans in the region not participating in the administrative challenge prior to resolution of the administrative challenge. For purposes of this subsection, an administrative challenge is finalized if an order granting voluntary dismissal with prejudice has been entered by any court established under Article V of the State Constitution or by the Division of Administrative Hearings, a final order has been entered into by the agency and the deadline for appeal has expired, a final order has been entered by the First District Court of Appeal and the time to seek any available review by the Florida Supreme Court has expired, or a final order has been entered by the Florida Supreme Court and a warrant has been issued.

Section 8. Section 409.967, Florida Statutes, is created to read:

409.967 Managed care plan accountability.—

(1) The agency shall establish a 5-year contract with each managed care plan selected through the procurement process described in s. 409.966. A plan contract may not be renewed; however, the agency may extend the terms of a plan contract to cover any delays in transition to a new plan.

(2) The agency shall establish such contract requirements as are necessary for the operation of the statewide managed care program. In addition to any other provisions the agency may deem necessary, the contract shall require:

(a) Emergency services.—Managed care plans shall pay for services required by ss. 395.1041 and 401.45 and rendered by a noncontracted provider within 30 days after receipt of a

complete and correct claim. Plans must give providers of these services a specific explanation for each claim denied for being incomplete or incorrect. Providers shall have an opportunity to resubmit corrected claims for reconsideration within 30 days after receiving notice from the managed care plans of the claims being incomplete or incorrect. Payments for noncontracted emergency services and care shall be made at the rate the agency would pay for such services from the same provider. Claims from noncontracted providers shall be accepted by the managed care plan for at least 1 year after the date the services are provided.

(b) Access.—The agency shall establish specific standards for the number, type, and regional distribution of providers in managed care plan networks to ensure access to care. Each plan must maintain a region-wide network of providers in sufficient numbers to meet the access standards for specific medical services for all recipients enrolled in the plan. Each plan shall establish and maintain an accurate and complete electronic database of contracted providers, including information about licensure or registration, locations and hours of operation, specialty credentials and other certifications, specific performance indicators, and such other information as the agency deems necessary. The database shall be available online to both the agency and the public and shall have the capability to compare the availability of providers to network adequacy standards and to accept and display feedback from each provider's patients. Each plan shall submit quarterly reports to

the agency identifying the number of enrollees assigned to each primary care provider.

(c) Encounter data.—The agency shall maintain and operate a Medicaid Encounter Data System to collect, process, store, and report on covered services provided to all Medicaid recipients enrolled in prepaid plans.

1. Each prepaid plan must comply with the agency's reporting requirements for the Medicaid Encounter Data System. Prepaid plans must submit encounter data electronically in a format that complies with the Health Insurance Portability and Accountability Act provisions for electronic claims and in accordance with deadlines established by the agency. Prepaid plans must certify that the data reported is accurate and complete.

2. The agency is responsible for validating the data submitted by the plans. The agency shall develop methods and protocols for ongoing analysis of the encounter data that adjusts for differences in characteristics of prepaid plan enrollees to allow comparison of service utilization among plans and against expected levels of use. The analysis shall be used to identify possible cases of systemic under-utilization or denials of claims and inappropriate service utilization such as higher-than-expected emergency department encounters. The analysis shall provide periodic feedback to the plans and enable the agency to establish corrective action plans when necessary. One of the focus areas for the analysis shall be the use of prescription drugs.

3. The agency shall make encounter data available to those plans accepting enrollees who are assigned to them from other plans leaving a region.

(d) Continuous improvement.—The agency shall establish specific performance standards and expected milestones or timelines for improving performance over the term of the contract. Each managed care plan shall establish an internal health care quality improvement system, including enrollee satisfaction and disenrollment surveys. The quality improvement system shall include incentives and disincentives for network providers.

(e) Program integrity.—Each managed care plan shall establish program integrity functions and activities to reduce the incidence of fraud and abuse, including, at a minimum:

1. A provider credentialing system and ongoing provider monitoring;

2. An effective prepayment and post-payment review process including, but not limited to, data analysis, system editing, and auditing of network providers;

3. Procedures for reporting instances of fraud and abuse pursuant to chapter 641;

4. Administrative and management arrangements or procedures, including a mandatory compliance plan, designed to prevent fraud and abuse; and

5. Designation of a program integrity compliance officer.

(f) Grievance resolution.—Each managed care plan shall establish and the agency shall approve an internal process for reviewing and responding to grievances from enrollees consistent

with the requirements of s. 641.511. Each plan shall submit quarterly reports on the number, description, and outcome of grievances filed by enrollees. The agency shall maintain a process for provider service networks consistent with s. 408.7056.

(g) Penalties.—Managed care plans that reduce enrollment levels or leave a region prior to the end of the contract term shall reimburse the agency for the cost of enrollment changes and other transition activities, including the cost of additional choice counseling services. If more than one plan leaves a region at the same time, costs shall be shared by the departing plans proportionate to their enrollments. In addition to the payment of costs, departing plans shall pay a per enrollee penalty not to exceed 1 month's payment. Plans shall provide the agency notice no less than 180 days prior to withdrawing from a region.

(h) Prompt payment.—Managed care plans shall comply with ss. 641.315, 641.3155, and 641.513.

(i) Electronic claims.-Managed care plans shall accept electronic claims in compliance with federal standards.

(j) Fair Payment.-Provider service networks must ensure that no network provider with a controlling interest in the network charges any Medicaid managed care plan more than the amount paid to that provider by the provider service network for the same service.

(3) ACHIEVED SAVINGS REBATE.-

(a) The agency shall establish and the prepaid plans shall use a uniform method for annually reporting premium revenue,

medical and administrative costs, and income or losses, across all Florida Medicaid prepaid plan lines of business. The reports shall be due to the agency no more than 270 days after the conclusion of the reporting period and the agency may audit the reports. Achieved savings rebates will be due within 30 days of the reports. Except as provided in paragraph (b), the achieved savings rebate will be established by determining pre-tax income as a percentage of revenues and applying the following income sharing ratios:

1. 100 percent of income up to and including 5 percent of revenue will be retained by the plan.

2. 50 percent of income above 5 percent and up to 9 percent will be retained by the plan, with the other 50 percent refunded to the state.

3. 100 percent of income above 9 percent of revenue will be refunded to the state.

(b) For any plan which meets or exceeds agency-defined quality measures in the reporting period, the achieved savings rebate will be established by determining pre-tax income as a percentage of revenues and applying the following income sharing ratios:

1. 100 percent of income up to and including 6 percent of revenue will be retained by the plan.

2. 50 percent of income above 5 percent and up to 10 percent will be retained by the plan, with the other 50 percent refunded to the state.

3. 100 percent of income above 10 percent of revenue will be refunded to the state.

(c) The following shall not be included in calculating income to the plan:

1. Payment of achieved savings rebates

2. Any financial incentive payments made outside of the capitation rate

3. Any financial disincentive payments levied by the state or federal governments

4. Expenses associated with lobbying activities; and

5. Administrative, reinsurance, and outstanding claims expenses in excess of actuarially sound maximum amounts set by the agency.

(d) Prepaid plans that incur a loss in the first contract year, may apply the full amount of the loss as an offset to income in the second contract year.

(e) If, after an audit or other reconciliation, the agency determines that a prepaid plan owes an additional rebate, the plan shall have 30 days after notification to make the payment. Upon failure to pay the rebate timely, the agency shall withhold future payments to the plan until the entire amount is recouped. If agency determines that a prepaid plan has made an overpayment, the agency shall return the overpayment within 30 days.

Section 9. Section 409.968, Florida Statutes, is created to read:

409.968 Managed care plan payment.—

(1) Prepaid plans shall receive per-member, per-month payments negotiated pursuant to the procurements described in s. 409.966. Payments shall be risk-adjusted rates based on

historical utilization and spending data, projected forward, and adjusted to reflect the eligibility category, geographic area, and the clinical risk profile of the recipients.

(2) Provider service networks may be prepaid plans and receive per-member, per-month payments negotiated pursuant to the procurement process described in s. 409.966. Provider service networks that choose not to be prepaid plans shall receive fee-for-service rates with a shared savings settlement. The fee-for-service option shall be available to a provider service network only for the first 5 years of its operation in a given region or until the contract year that begins on October 1, 2016, whichever is later. The agency shall annually conduct cost reconciliations to determine the amount of cost savings achieved by fee-for-service provider service networks for the dates of service within the period being reconciled. Only payments for covered services for dates of service within the reconciliation period and paid within 6 months after the last date of service in the reconciliation period shall be included. The agency shall perform the necessary adjustments for the inclusion of incurred but not reported claims within the reconciliation period for claims that could be received and paid by the agency after the 6-month claims processing time lag. The agency shall provide the results of the reconciliations to the fee-for-service provider service networks within 45 days after the end of the reconciliation period. The fee-for-service provider service networks shall review and provide written comments or a letter of concurrence to the agency within 45 days

after receipt of the reconciliation results. This reconciliation shall be considered final.

Section 10. Section 409.969, Florida Statutes, is created to read:

409.969 Enrollment; choice counseling; automatic assignment; disenrollment.—

(1) ENROLLMENT.—All Medicaid recipients shall be enrolled in a managed care plan unless specifically exempted in this part. Each recipient shall have a choice of plans and may select any available plan unless that plan is restricted by contract to a specific population that does not include the recipient. Medicaid recipients shall have 30 days in which to make a choice of plans. All recipients shall be offered choice counseling services in accordance with this section.

(2) CHOICE COUNSELING.—The agency shall provide choice counseling for Medicaid recipients. The agency may contract for the provision of choice counseling. Any such contract shall be with a vendor which employs Floridians to accomplish the contract requirements and shall be for a period of 5 years. The agency may renew a contract for an additional 5-year period; however, prior to renewal of the contract the agency shall hold at least one public meeting in each of the regions covered by the choice counseling vendor. The agency may extend the term of the contract to cover any delays in transition to a new contractor. Printed choice information and choice counseling shall be offered in the native or preferred language of the recipient, consistent with federal requirements. The manner and method of choice counseling shall be modified as necessary to

assure culturally competent, effective communication with people from diverse cultural backgrounds. The agency shall maintain a record of the recipients who receive such services, identifying the scope and method of the services provided. The agency shall make available clear and easily understandable choice information to Medicaid recipients that includes:

(a) An explanation that each recipient has the right to choose a managed care plan at the time of enrollment in Medicaid and again at regular intervals set by the agency, and that if a recipient does not choose a plan, the agency will assign the recipient to a plan according to the criteria specified in this section.

(b) A list and description of the benefits provided in each managed care plan.

(c) An explanation of benefit limits.

(d) A current list of providers participating in the network, including location and contact information.

(e) Managed care plan performance data.

(3) DISENROLLMENT; GRIEVANCES.—After a recipient has enrolled in a managed care plan, the recipient shall have 90 days to voluntarily disenroll and select another plan. After 90 days, no further changes may be made except for good cause. Good cause includes, but is not limited to, poor quality of care, lack of access to necessary specialty services, an unreasonable delay or denial of service, or fraudulent enrollment. The agency must make a determination as to whether good cause exists. The agency may require a recipient to use the plan's grievance process prior to the agency's determination of good cause,

except in cases in which immediate risk of permanent damage to the recipient's health is alleged.

(a) The managed care plan internal grievance process, when utilized, must be completed in time to permit the recipient to disenroll by the first day of the second month after the month the disenrollment request was made. If the result of the grievance process is approval of an enrollee's request to disenroll, the agency is not required to make a determination in the case.

(b) The agency must make a determination and take final action on a recipient's request so that disenrollment occurs no later than the first day of the second month after the month the request was made. If the agency fails to act within the specified timeframe, the recipient's request to disenroll is deemed to be approved as of the date agency action was required. Recipients who disagree with the agency's finding that good cause does not exist for disenrollment shall be advised of their right to pursue a Medicaid fair hearing to dispute the agency's finding.

(c) Medicaid recipients enrolled in a managed care plan after the 90-day period shall remain in the plan for the remainder of the 12-month period. After 12 months, the recipient may select another plan. However, nothing shall prevent a Medicaid recipient from changing providers within the plan during that period.

(d) On the first day of the next month after receiving notice from a recipient that the recipient has moved to another region, the agency shall automatically disenroll the recipient

from the managed care plan the recipient is currently enrolled in and treat the recipient as if the recipient is a new Medicaid enrollee. At that time, the recipient may choose another plan pursuant to the enrollment process established in this section.

Section 11. Section 409.970, Florida Statutes, is created to read:

409.970 State and Local Medicaid Partnerships.-

(1) INTERGOVERNMENTAL TRANSFERS. In addition to the contributions required pursuant to s. 409.915, the agency may accept voluntary transfers of local taxes and other qualified revenue from counties, municipalities, and special taxing districts. Such transfers must be contributed to advance the general goals of the Florida Medicaid program without restriction and must be executed pursuant to a contract between the agency and the local funding source. Contracts executed prior to October 31 shall result in contributions to Medicaid for that same state fiscal year. Contracts executed between November 1 and June 30 shall result in contributions for the following state fiscal year. Based on the date of the signed contracts, the agency shall allocate to the Low Income Pool the first contributions received up to the limit established by subsection (2). No more than 40 percent of the Low Income Pool funding shall come from any single funding source. Contributions in excess of the Low Income Pool shall be allocated to the disproportionate share programs defined in s. 409.911(3) and s. 409.9113, and to hospital rates pursuant to subsection (4). An attachment to the contract must designate the Medicaid providers that ensure access to care for low income

and uninsured people within the applicable jurisdiction and which should be eligible for Low Income Pool funding. Eligible providers may include both hospitals and primary care providers.

(2) LOW INCOME POOL. The agency shall establish and maintain a Low Income Pool in a manner authorized by federal waiver. The Low Income Pool is created to compensate a network of providers designated pursuant to subsection (1). Funding of the Low Income Pool will be limited to the maximum amount permitted by federal waiver minus a percent specified in the General Appropriations Act. The Low Income Pool must be used to support enhanced access to services by offsetting shortfalls in Medicaid reimbursement, paying for otherwise uncompensated care, and financing coverage for the uninsured. The Low Income Pool shall be distributed in periodic payments to the Access to Care Partnership throughout the fiscal year. Distribution of Low Income Pool funds to providers participating in the Access to Care Partnership may be made through capitated payments, fees for services, or contracts for specific deliverables. The agency shall delineate the distributions from the Low Income Pool in the contract with the Access to Care Partnership pursuant to subsection (3). Regardless of the method of distribution, providers participating in the Access to Care Partnership shall receive payments such that the aggregate benefit in the jurisdiction of each local funding source, as defined in subsection (1), equals the amount of the contribution plus a factor specified in the General Appropriations Act.

(3) ACCESS TO CARE PARTNERSHIP.—The agency shall contract with a single organization representing all health care

facilities, programs, and providers supported with local taxes or certified public expenditures and designated pursuant to subsection (1). The contract shall provide for enhanced access to care for Medicaid, low-income, and uninsured Floridians. The partnership shall be responsible for an ongoing program of activities that provides needed, but uncovered or undercompensated, health services to Medicaid enrollees and persons receiving charity care, as defined in s. 409.911. Accountability for services rendered under this contract must be based on the number of unduplicated services provided to qualified beneficiaries, the total units of service provided to these persons, and the effectiveness of services provided as determined according to specific standards of care. The agency shall seek such plan amendments or waivers as may be necessary to authorize the implementation of the Low Income Pool as the Access to Care Partnership pursuant to this section.

(4) HOSPITAL RATE DISTRIBUTION.

(a) The agency is authorized to implement a tiered hospital rate system to enhance Medicaid payments to all hospitals when resources for the tiered rates are available from general revenue and such contributions pursuant to subsection (1) as are authorized by the General Appropriations Act.

1. Tier 1 hospitals are statutory rural hospitals as defined in s. 395.602, statutory teaching hospitals as defined in 408.07(45), and specialty children's hospitals as defined in s. 395.002(28).

2. Tier 2 hospitals are community hospitals not included in Tier 1 that provided more than 11 percent of the hospital's

total inpatient days to Medicaid patients and are located in the jurisdiction of a local funding source pursuant to subsection (1).

3. Tier 3 hospitals include all community hospitals.

(b) When rates are increased pursuant to this section, the Total Tier Allocation (TTA) shall be allocated as follows:

Tier 1(T1A) = 0.50 x TTA;
Tier 2 (T2A) = 0.35 x TTA
Tier 3 (T3A) = 0.15 x TTA

The Tier allocation will be distributed as a percent increase to the hospital specific base rate (HSBR) established pursuant to s. 409.905(5)(c). The increase in each tier will be calculated according to the proportion of tier-specific allocation to the total estimated inpatient spending (TEIS) for all hospitals in each tier:

Tier 1 percent increase (T1PI) = T1A/Tier 1 total estimated inpatient spending (T1TEIS);

Tier 2 percent increase (T2PI) = T2A / Tier 2 total estimated inpatient spending (T2TEIS);

Tier 3 percent increase (T3PI) = T3A/ Tier 3 total estimated inpatient spending (T3TEIS);

The hospital specific tiered rate (HSTR) shall be calculated as follows:

For hospitals in Tier 3: HSTR = T3PI x HSBR

For hospitals in Tier 2: HSTR = (T3PI x HSBR) + (T2PI x HSBR)

For hospitals in Tier 1: HSTR = (T3PI x HSBR) + (T2PI x HSBR) + (T1PI x HSBR

Section 12. Section 409.971, Florida Statutes, is created to read:

409.971 Managed medical assistance program.—The agency shall make payments for primary and acute medical assistance and related services using a managed care model. By January 1, 2013, the agency shall begin implementation of the statewide managed medical assistance program, with full implementation in all regions by October 1, 2014.

Section 13. Section 409.972, Florida Statutes, is created to read:

409.972 Mandatory and voluntary enrollment.—

(1) Persons eligible for the program known as "medically needy" pursuant to s. 409.904(2)(a) shall enroll in managed care plans. Medically needy recipients shall meet the share of cost by paying the plan premium, up to the share of cost amount, contingent upon federal approval.

(2) The following Medicaid-eligible persons are exempt from mandatory managed care enrollment required by s. 409.965, and may voluntarily choose to participate in the managed medical assistance program:

(a) Medicaid recipients who have other creditable health care coverage, excluding Medicare.

(b) Medicaid recipients residing in residential commitment facilities operated through the Department of Juvenile Justice, mental health treatment facilities as defined by s. 394.455(32).

(c) Persons eligible for refugee assistance.

(d) Medicaid recipients who are residents of a developmental disability center including Sunland Center in Marianna and Tacachale in Gainesville.

(3) Persons eligible for Medicaid but exempt from mandatory participation who do not choose to enroll in managed care shall be served in the Medicaid fee-for-service program as provided in part III of this chapter.

Section 14. Section 409.973, Florida Statutes, is created to read:

409.973 Benefits.—

(1) MINIMUM BENEFITS.—Managed care plans shall cover, at a minimum, the following services:

(a) Advanced registered nurse practitioner services.

(b) Ambulatory surgical treatment center services.

(c) Birthing center services.

(d) Chiropractic services.

(e) Dental services.

(f) Early periodic screening diagnosis and treatment services for recipients under age 21.

(g) Emergency services.

(h) Family planning services and supplies.

(i) Healthy start services.

(j) Hearing services.

(k) Home health agency services.

(l) Hospice services.

(m) Hospital inpatient services.

(n) Hospital outpatient services.

(o) Laboratory and imaging services.

(p) Medical supplies, equipment, prostheses, and orthoses.

(q) Mental health services.

(r) Nursing care.

(s) Optical services and supplies.

(t) Optometrist services.

(u) Physical, occupational, respiratory, and speech therapy services.

(v) Physician services.

(w) Podiatric services.

(x) Prescription drugs.

(y) Renal dialysis services.

(z) Respiratory equipment and supplies.

(aa) Rural health clinic services.

(bb) Substance abuse treatment services.

(cc) Transportation to access covered services.

(2) CUSTOMIZED BENEFITS.—Managed care plans may customize benefit packages for nonpregnant adults, vary cost-sharing provisions, and provide coverage for additional services. The agency shall evaluate the proposed benefit packages to ensure services are sufficient to meet the needs of the plans' enrollees and to verify actuarial equivalence.

(3) HEALTHY BEHAVIORS.—Each plan operating in the managed medical assistance program shall establish a program to encourage and reward healthy behaviors.

Section 15. Section 409.974, Florida Statutes, is created to read:

409.974 Eligible plans.—

(1) ELIGIBLE PLAN SELECTION.-The agency shall select eligible plans through the procurement described in s. 409.966. The agency shall notice invitations to negotiate no later than January 1, 2013.

(a) The agency shall procure three plans for Region I. At least one plan shall be a provider service network, if any provider service network submits a responsive bid.

(b) The agency shall procure at least three and no more than six plans for Region II. At least one plan shall be a provider service network, if any provider service network submits a responsive bid.

(c) The agency shall procure at least four plans and no more than eight plans for Region III. At least two plans shall be provider service networks, if any two provider service networks submit responsive bids.

(d) The agency shall procure at least four plans and no more than seven plans for Region IV. At least two plans shall be provider service networks if any two provider service networks submit responsive bids.

(e) The agency shall procure three plans for Region V. At least one plan shall be a provider service network, if any provider service network submits a responsive bid.

(f) The agency shall procure at least four plans and no more than seven plans for Region VI. At least two plans shall be

provider service networks, if any two provider service networks submit a responsive bid.

(g) The agency shall procure at least five plans and no more than nine plans for Region VII. At least two plans shall be provider service networks, if any two provider service network submit responsive bids.

If no provider service network submits a responsive bid, the agency shall procure no more than one less than the maximum number of eligible plans permitted in that region. Within 12 months after the initial invitation to negotiate, the agency shall attempt to procure a provider service network. The agency shall notice another invitation to negotiate only with provider service networks in such region where no provider service network has been selected.

(2) QUALITY SELECTION CRITERIA.-In addition to the criteria established in s. 409.966, the agency shall consider evidence that an eligible plan has written agreements or signed contracts or has made substantial progress in establishing relationships with providers prior to the plan submitting a response. The agency shall evaluate and give special weight to evidence of signed contracts with essential providers as defined by the agency pursuant to s. 409.975(2). When all other factors are equal, the agency shall consider whether the organization has a contract to provide managed long-term care services in the same region and shall exercise a preference for such plans.

(3) SPECIALTY PLANS.- Participation by specialty plans shall be subject to the procurement requirements and regional

plan number limits of this section. However, a specialty plan whose target population includes no more than 10 percent of the enrollees of that region shall not be subject to the regional plan number limits of this section.

(4) CHILDREN'S MEDICAL SERVICES NETWORK.- Participation by the Children's Medical Services Network shall be pursuant to a single, statewide contract with the agency that is not subject to the procurement requirements or regional plan number limits of this section. The Children's Medical Services Network must meet all other plan requirements for the managed medical assistance program.

Section 16. Section 409.975, Florida Statutes, is created to read:

409.975 Managed care plan accountability.—In addition to the requirements of s. 409.967, plans and providers participating in the managed medical assistance program shall comply with the requirements of this section.

(1) PROVIDER NETWORKS.—Managed care plans must develop and maintain provider networks that meet the medical needs of their enrollees in accordance with standards established pursuant to 409.967(2)(b). Except as provided in this section, managed care plans may limit the providers in their networks based on credentials, quality indicators, and price.

(a) Plans must include all providers in the region that are classified by the agency as essential Medicaid providers, unless the agency approves, in writing, an alternative arrangement for securing the types of services offered by the essential providers. Providers are essential for serving

Medicaid enrollees if they offer services that are not available from any other provider within a reasonable access standard, or if they provided a substantial share of the total units of a particular service used by Medicaid patients within the region during the last three years and the combined capacity of other service providers in the region is insufficient to meet the total needs of the Medicaid patients. The agency may not classify physicians and other practitioners as essential providers. The agency, at a minimum, shall determine which providers in the following categories are essential Medicaid providers:

1. Federally qualified health centers;

2. Statutory teaching hospitals as defined in s. 408.07(45);

3. Hospitals that are trauma centers as defined in s. 395.4001(14);

4. Hospitals located at least 25 miles from any other hospital with similar services.

Managed care plans that have not contracted with all essential providers in the region as of the first date of recipient enrollment, or with whom an essential provider has terminated its contract, must negotiate in good faith with such essential providers for one year or until an agreement is reached, whichever is first. Payments for services rendered by a non-participating essential provider shall be made at the applicable Medicaid rate as of the first day of the contract between the agency and the plan. A rate schedule for all essential

providers shall be attached to the contract between the agency and the plan. After one year, managed care plans that are unable to contract with essential providers shall notify the agency and propose an alternative arrangement for securing the essential services for Medicaid enrollees. The arrangement must rely on contracts with other participating providers, regardless of whether those providers are located within the same region as the non-participating essential service provider. If the alternative arrangement is approved by the agency, payments to non-participating essential providers after the date of the agency's approval shall equal 90 percent of the applicable Medicaid rate. If the alternative arrangement is not approved by the agency, payment to non-participating essential providers shall equal 110 percent of the applicable Medicaid rate.

(b) Certain providers are statewide resources and essential providers for all managed care plans in all regions. All managed care plans must include these essential providers in their networks. Statewide essential providers include:

1. Faculty plans of Florida medical schools;

2. Regional perinatal intensive care centers as defined in s. 383.16(2); and,

3. Hospitals licensed as specialty children's hospitals as defined in s. 395.002(28).

Managed care plans that have not contracted with all statewide essential providers in all regions as of the first date of recipient enrollment must continue to negotiate in good faith. Payments to physicians on the faculty of non-participating

Florida medical schools shall be made at the applicable Medicaid rate. Payments for services rendered by a regional perinatal intensive care centers shall be made at the applicable Medicaid rate as of the first day of the contract between the agency and the plan. Payments to non-participating specialty children's hospitals shall equal the highest rate established by contract between that provider and any other Medicaid managed care plan.

(c) After 12 months of active participation in a plan's network, the plan may exclude any essential provider from the network for failure to meet quality or performance criteria. If the plan excludes an essential provider from the plan, the plan must provide written notice to all recipients who have chosen that provider for care. The notice shall be provided at least 30 days prior to the effective date of the exclusion.

(d) Each managed care plan must offer a network contract to each home medical equipment and supplies provider in the region which meets quality and fraud prevention and detection standards established by the plan, and which agrees to accept the lowest price previously negotiated between the plan and another such provider.

(2) FLORIDA MEDICAL SCHOOLS QUALITY NETWORK.—The agency shall contract with a single organization representing medical schools and graduate medical education programs in Florida for the purpose of establishing an active and ongoing program to improve clinical outcomes in all managed care plans. Contracted activities must support greater clinical integration for Medicaid enrollees through interdependent and cooperative efforts of all providers participating in managed care plans.

The agency shall support these activities with certified public expenditures of general revenue appropriated to the participating medical schools and any earned federal matching funds, and shall seek any plan amendments or waivers necessary to comply with this subsection. To be eligible to participate in the quality network, a medical school must contract with each managed care plan in its region.

(3) PERFORMANCE MEASUREMENT.—Each managed care plan shall monitor the quality and performance of each participating provider. At the beginning of the contract period, each plan shall notify all its network providers of the metrics used by the plan for evaluating the provider's performance and determining continued participation in the network.

(4) MOMCARE NETWORK.—

(a) The agency shall contract with an administrative services organization representing all Healthy Start Coalitions providing risk appropriate care coordination and other services in accordance with a federal waiver and pursuant to s. 409.906. The contract shall require the network of coalitions to provide choice counseling, education, risk-reduction and case management services, and quality assurance for all enrollees of the waiver. The agency shall evaluate the impact of the MomCare network by monitoring each plan’s performance on specific measures to determine the adequacy, timeliness, and quality of services for pregnant women and infants. The agency shall support this contract with certified public expenditures of general revenue appropriated for Healthy Start services and any earned federal matching funds.

(b) Each managed care plan shall establish specific programs and procedures to improve pregnancy outcomes and infant health, including, but not limited to, coordination with the Healthy Start program, immunization programs, and referral to the Special Supplemental Nutrition Program for Women, Infants, and Children, and the Children's Medical Services program for children with special health care needs. Each plan's programs and procedures shall include agreements with each local Healthy Start Coalition in the region to provide risk-appropriate care coordination for pregnant women and infants, consistent with the agency and the MomCare Network.

(5) TRANSPORTATION.-Non-emergency transportation services shall be provided pursuant to a single, statewide contract between the agency and the Commission for Transportation Disadvantaged. The agency shall establish performance standards in the contract and shall evaluate the performance of the Commission for Transportation Disadvantaged.

(6) SCREENING RATE.—After the end of the second contract year, each managed care plan shall achieve an annual Early and Periodic Screening, Diagnosis, and Treatment Service screening rate of at least 80 percent of those recipients continuously enrolled for at least 8 months.

(7) PROVIDER PAYMENT.—Managed care plan and hospitals shall negotiate mutually acceptable rates, methods, and terms of payment. At a minimum, plans shall pay hospitals the Medicaid rate. Payments to hospitals shall not exceed 120 percent of the rate the agency would have paid on the first day of the contract

between the provider and the plan, unless specifically approved by the agency. Payment rates may be updated periodically.

(8) MEDICALLY NEEDY ENROLLEES.—Each managed care plan shall accept any medically needy recipient who selects or is assigned to the plan and provide that recipient with continuous enrollment for 12 months. After the first month of qualifying as a medically needy recipient and enrolling in a plan, and contingent upon federal approval, the enrollee shall pay the plan a portion of the monthly premium equal to the enrollee's share of the cost as determined by the department. The agency shall pay the remainder of the monthly premium. Plans must provide a grace period of at least 90 days before disenrolling recipients who fail to pay their shares of the premium.

Section 17. Section 409.976, Florida Statutes, is created to read:

409.976 Managed care plan payment.—In addition to the payment provisions of s. 409.968, the agency shall provide payment to plans in the managed medical assistance program pursuant to this section.

(1) Prepaid payment rates shall be negotiated between the agency and the eligible plans as part of the procurement described in s. 409.966.

(2) The agency shall establish payment rates for statewide inpatient psychiatric programs. Payments to managed care plans shall be reconciled to reimburse actual payments to statewide inpatient psychiatric programs.

Section 18. Section 409.977, Florida Statutes, is created to read:

409.977 Choice counseling and enrollment.—

(1) CHOICE COUNSELING.-In addition to the choice counseling information required by s. 409.969, the agency shall make available clear and easily understandable choice information to Medicaid recipients that includes information about cost sharing requirements of each managed care plan.

(2) AUTOMATIC ENROLLMENT.-The agency shall automatically enroll into a managed care plan those Medicaid recipients who do not voluntarily choose a plan pursuant to s. 409.969. The agency shall automatically enroll recipients in plans that meet or exceed the performance or quality standards established pursuant to s. 409.967, and shall not automatically enroll recipients in a plan that is deficient in those performance or quality standards. When a specialty plan is available to accommodate a specific condition or diagnosis of a recipient, the agency shall assign the recipient to that plan. The agency may not engage in practices that are designed to favor one managed care plan over another. When automatically enrolling recipients in managed care plans, the agency shall automatically enroll based on the following criteria:

(a) Whether the plan has sufficient network capacity to meet the needs of the recipients.

(b) Whether the recipient has previously received services from one of the plan's primary care providers.

(c) Whether primary care providers in one plan are more geographically accessible to the recipient's residence than those in other plans.

(3) OPT-OUT OPTION.-The agency shall develop a process to enable any recipient with access to employer-sponsored health care coverage to opt out of all managed care plans and to use Medicaid financial assistance to pay for the recipient's share of the cost in such employer-sponsored coverage. Contingent upon federal approval, the agency shall also enable recipients with access to other insurance or related products providing access to health care services created pursuant to state law, including any product available under the Florida Health Choices Program, or any health exchange, to opt out. The amount of financial assistance provided for each recipient may not exceed the amount of the Medicaid premium that would have been paid to a managed care plan for that recipient.

Section 19. Section 409.978, Florida Statutes, is created to read:

409.978 Long-term care managed care program.—

(1) Pursuant to s. 409.963, the agency shall administer the long-term care managed care program described in ss. 409.978-409.985, but may delegate specific duties and responsibilities for the program to the Department of Elderly Affairs and other state agencies. By July 1, 2012, the agency shall begin implementation of the statewide long-term care managed care program, with full implementation in all regions by October 1, 2013.

(2) The agency shall make payments for long-term care, including home and community-based services, using a managed care model. Unless otherwise specified, the provisions of ss. 409.961-409.970 apply to the long-term care managed care

program.

(3) The Department of Elderly Affairs shall assist the agency to develop specifications for use in the invitation to negotiate and the model contract; determine clinical eligibility for enrollment in managed long-term care plans; monitor plan performance and measure quality of service delivery; assist clients and families to address complaints with the plans; facilitate working relationships between plans and providers serving elders and disabled adults; and perform other functions specified in a memorandum of agreement.

Section 20. Section 409.979, Florida Statutes, is created to read:

409.979 Eligibility.—

(1) Medicaid recipients who meet all of the following criteria are eligible to receive long term care services and must receive long term care services by participation in the long-term care managed care program. The recipient must be:

(a) Sixty-five years of age or older or eligible for Medicaid by reason of a disability.

(b) Determined by the Comprehensive Assessment Review and Evaluation for Long-Term Care Services (CARES) Program to require nursing facility care as defined in s. 409.985(3).

(2) Medicaid recipients who, on the date long-term care managed care plans become available in their region, reside in a nursing home facility or are enrolled in one of the following long-term care Medicaid waiver programs are eligible to participate in the long-term care managed care program for up to 24 months without being re-evaluated for their need of nursing

facility care as defined in s. 409.985(3):

(a) The Assisted Living for the Frail Elderly Waiver.

(b) The Aged and Disabled Adult Waiver.

(c) The Adult Day Health Care Waiver.

(d) The Consumer-Directed Care Plus Program as described in s. 409.221.

(e) The Program of All-inclusive Care for the Elderly.

(f) The Long-Term Care Community-Based Diversion Pilot Project as described in s. 430.705.

(g) The Channeling Services Waiver for Frail Elders.

Section 21. Section 409.980, Florida Statutes, is created to read:

409.980 Benefits.—Long term care plans shall cover, at a minimum, the following:

(1) Nursing facility care.

(2) Services provided in assisted living facilities.

(3) Hospice.

(4) Adult day care.

(5) Medical equipment and supplies, including incontinence supplies.

(5) Personal care.

(7) Home accessibility adaptation.

(9) Behavior management.

(9) Home delivered meals.

(10) Case management.

(11) Therapies:

(a) Occupational therapy

(b) Speech therapy

(c) Respiratory therapy

(d) Physical therapy.

(12) Intermittent and skilled nursing.

(13) Medication administration.

(14) Medication management.

(15) Nutritional assessment and risk reduction.

(16) Caregiver training.

(17) Respite care.

(18) Transportation.

(19) Personal emergency response system.

Section 22. Section 409.981, Florida Statutes, is created to read:

409.981 Eligible plans.—

(1) ELIGIBLE PLANS.— Provider service networks must be long-term care provider service networks. Other eligible plans may either be long-term care plans, or comprehensive long-term care plans.

(2) ELIGIBLE PLAN SELECTION.—The agency shall select eligible plans through the procurement described in s. 409.966. The agency shall notice invitations to negotiate no later than July 1, 2012.

(a) The agency shall procure three plans for Region I. At least one plan shall be a provider service network, if any submit a responsive bid.

(b) The agency shall procure at least three and no more than six plans for Region II. At least one plan shall be a provider service network, if any submit a responsive bid.

(c) The agency shall procure at least four plans and no more than eight plans for Region III. At least two plans shall be provider service networks, if any two submit responsive bids.

(d) The agency shall procure at least four plans and no more than seven plans for Region IV. At least two plans shall be provider service networks, if any two submit responsive bids.

(e) The agency shall procure three plans for Region V. At least one plan shall be a provider service network, if any submit a responsive bid.

(f) The agency shall procure at least four plans and no more than seven plans for Region VI. At least two plans shall be provider service networks, if any two submit a responsive bid.

(g) The agency shall procure at least five plans and no more than nine plans for Region VII. At least two plans shall be provider service networks, if any two submit responsive bids.

If no provider service network submits a responsive bid, the agency shall procure one fewer eligible plan in each of the regions. Within 12 months after the initial invitation to negotiate, the agency shall attempt to procure an eligible plan that is a provider service network. The agency shall notice another invitation to negotiate only with provider service networks in such region where no provider service network has been selected.

(3) QUALITY SELECTION CRITERIA.—In addition to the criteria established in s. 409.966, the agency shall consider the following factors in the selection of eligible plans:

(a) Evidence of the employment of executive managers with expertise and experience in serving aged and disabled persons who require long-term care.

(b) Whether a plan has established a network of service providers dispersed throughout the region and in sufficient numbers to meet specific service standards established by the agency for specialty services for persons receiving home and community-based care.

(c) Whether a plan is proposing to establish a comprehensive long-term care plan and whether the eligible plan has a contract to provide managed medical assistance services in the same region.

(d) Whether a plan offers consumer-directed care services to enrollees pursuant to s. 409.221.

(e) Whether a plan is proposing to provide home and community based services in addition to the minimum benefits required by s. 409.980.

(4) PROGRAM FOR ALL-INCLUSIVE CARE FOR THE ELDERLY.—Participation by the Program for All-Inclusive Care for the Elderly (PACE) shall be pursuant to a contract with the agency and not subject to the procurement requirements or regional plan number limits of this section. PACE plans may continue to provide services to individuals at such levels and enrollment caps as authorized by the General Appropriations Act.

Section 23. Section 409.982, Florida Statutes, is created to read:

409.982 Managed care plan accountability.—In addition to the requirements of s. 409.967, plans and providers

participating in the long-term care managed care program shall comply with the requirements of this section.

(1) PROVIDER NETWORKS.—Managed care plans may limit the providers in their networks based on credentials, quality indicators, and price. For the period between October 1, 2013-September 30, 2014, each selected plan must offer a network contract to all the following providers in the region:

(a) Nursing homes.

(b) Hospices.

(c) Aging network service providers that have previously participated in home and community-based waivers serving elders or community-service programs administered by the Department of Elderly Affairs.

After 12 months of active participation in a managed care plan's network, the plan may exclude any of the providers named in this subsection from the network for failure to meet quality or performance criteria. If the plan excludes a provider from the plan, the plan must provide written notice to all recipients who have chosen that provider for care. The notice shall be provided at least 30 days prior to the effective date of the exclusion. The agency shall establish contract provisions governing the transfer of recipients from excluded residential providers.

(2) SELECT PROVIDER PARTICIPATION.—Except as provided in this subsection, providers may limit the managed care plans they join. Nursing homes and hospices which are enrolled Medicaid providers must participate in all eligible plans selected by the

agency in the region in which the provider is located.

(3) PERFORMANCE MEASUREMENT.—Each managed care plan shall monitor the quality and performance of each participating provider using measures adopted by and collected by the agency and any additional measures mutually agreed upon by the provider and the plan

(4) PROVIDER NETWORK STANDARDS.—The agency shall establish and each managed care plan must comply with specific standards for the number, type, and regional distribution of providers in the plan's network, which must include:

(a) Adult day centers.

(b) Adult family care homes.

(c) Assisted living facilities.

(d) Health care services pools.

(e) Home health agencies.

(f) Homemaker and companion services.

(g) Hospices.

(h) Community Care for the Elderly Lead Agencies.

(i) Nurse registries.

(j) Nursing homes.

(5) PROVIDER PAYMENT.—Managed care plans and providers shall negotiate mutually acceptable rates, methods, and terms of payment. Plans shall pay nursing homes an amount equal to the nursing facility-specific payment rates set by the agency; however, mutually acceptable higher rates may be negotiated for medically complex care. Plans shall pay hospice providers an amount equal to the per diem rate set by the agency. For recipients residing in a nursing facility and receiving hospice

services, the plan shall pay the hospice provider the per diem rate set by the agency minus the nursing facility component and shall pay the nursing facility the applicable state rate.

Section 24. Section 409.983, Florida Statutes, is created to read:

409.983 Managed care plan payment.—In addition to the payment provisions of s. 409.968, the agency shall provide payment to plans in the long-term care managed care program pursuant to this section.

(1) Prepaid payment rates for long-term care managed care plans shall be negotiated between the agency and the eligible plans as part of the procurement described in s. 409.966.

(2) Payment rates for comprehensive long-term care plans covering services described in s. 409.973 shall be blended with rates for long-term care plans for services specified in s. 409.980.

(3) Payment rates for plans shall reflect historic utilization and spending for covered services projected forward and adjusted to reflect the level of care profile for enrollees of each plan. The payment shall be adjusted to provide an incentive for reducing institutional placements and increasing the utilization of home and community-based services.

(4) The initial assessment of an enrollee's level of care shall be made by the Comprehensive Assessment and Review for Long-Term-Care Services (CARES) program, which shall assign the recipient into one of the following levels of care:

(a) Level of care 1 consists of recipients residing in or who must be placed in a nursing home.

(b) Level of care 2 consists of recipients at imminent risk of nursing home placement as evidenced by the need for the constant availability of routine medical and nursing treatment and care, and require extensive health-related care and services because of mental or physical incapacitation.

(c) Level of care 3 consists of recipients at imminent risk of nursing home placement as evidenced by the need for the constant availability of routine medical and nursing treatment and care, have a limited need for health-related care and services, are mildly medically or physically incapacitated

The agency shall periodically adjust payment rates to account for changes in the level of care profile for each managed care plan based on encounter data.

(5) The agency shall make an incentive adjustment in payment rates to encourage the increased utilization of home and community based services and a commensurate reduction of institutional placement. The incentive adjustment shall be modified in each successive rate period during the first contract period, as follows:

(a) a 2 percentage point shift in the first rate setting period;

(b) a 2 percentage point shift in the second rate setting period, as compared to the utilization mix at the end of the first rate setting period;

(c) a 3 percentage point shift in the third rate setting period, and in each subsequent rate setting period during the first contract period, as compared to the utilization mix at the

end of the immediately preceding rate setting period.

The incentive adjustment shall continue in subsequent contract periods, at a rate of 3 percentage points per year as compared to the utilization mix at the end of the immediately preceding rate setting period, until no more than 35 percent of the plan's enrollees are placed in institutional settings. The agency shall annually report to the Legislature the actual change in the utilization mix of home and community based services compared to institutional placements and provide a recommendation for utilization mix requirements for future contracts.

(6) The agency shall establish nursing facility-specific payment rates for each licensed nursing home based on facility costs adjusted for inflation and other factors as authorized in the General Appropriations Act. Payments to long-term care managed care plans shall be reconciled to reimburse actual payments to nursing facilities.

(7) The agency shall establish hospice payment rates. Payments to long-term care managed care plans shall be reconciled to reimburse actual payments to hospices.

Section 25. Section 409.984, Florida Statutes, is created to read:

409.984 Choice counseling; enrollment.—

(1) CHOICE COUNSELING.—Before contracting with a vendor to provide choice counseling as authorized under s. 409.969, the agency shall offer to contract with aging resource centers established under s. 430.2053 for choice counseling services. If the aging resource center is determined not to be the vendor

that provides choice counseling, the agency shall establish a memorandum of understanding with the aging resource center to coordinate staffing and collaborate with the choice counseling vendor. In addition to the requirements of s. 409.969, any contract to provide choice counseling for the long-term care managed care program shall provide that each recipient be given the option of having in-person choice counseling.

(2) AUTOMATIC ENROLLMENT.—The agency shall automatically enroll into a long-term care managed care plan those Medicaid recipients who do not voluntarily choose a plan pursuant to s. 409.969. The agency shall automatically enroll recipients in plans that meet or exceed the performance or quality standards established pursuant to s. 409.967, and shall not automatically enroll recipients in a plan that is deficient in those performance or quality standards. If a recipient is deemed dually eligible for Medicaid and Medicare services and is currently receiving Medicare services from an entity qualified under 42 C.F.R. part 422 as a Medicare Advantage Preferred Provider Organization, Medicare Advantage Provider-sponsored Organization, or Medicare Advantage Special Needs Plan, then the agency shall automatically enroll the recipient in such plan for Medicaid services if the plan is currently participating in the long-term care managed care program. Except as provided by this chapter, the agency may not engage in practices that are designed to favor one managed care plan over another. When automatically enrolling recipients in plans, the agency shall take into account the following criteria:

(a) Whether the plan has sufficient network capacity to meet the needs of the recipients.

(b) Whether the recipient has previously received services from one of the plan's home and community-based service providers.

(c) Whether the home and community-based providers in one plan are more geographically accessible to the recipient's residence than those in other plans.

(3) HOSPICE SELECTION -- Notwithstanding the provisions of s. 409.969(3)(c), when a recipient is referred for hospice services, the recipient shall have a 30-day period during which the recipient may select to enroll in another managed care plan to access the hospice provider of the recipient's choice.

(4) CHOICE of RESIDENTIAL SETTING – When a recipient is referred for placement in a nursing home or assisted living facility, the plan shall inform the recipient of any facilities within the plan that have specific cultural or religious affiliations and, if requested by the recipient, make a reasonable effort to place the recipient in the facility of the recipient’s choice.

Section 26. Section 409.9841. Florida Statutes is created to read:

409.9841 Long-term care managed care technical advisory workgroup.—

(1) Before August 1, 2011, the agency shall establish a technical advisory workgroup to assist in developing:

(a) the method of determining Medicaid eligibility pursuant to s. 409.985(3).

(b) the requirements for provider payments to nursing homes under s. 409.982(6).

(c) the requirements for prompt payments by plans to providers.

(d) uniform requirements for claims submissions and payments, including electronic funds transfers and claims processing.

(e) the process for enrollment of and payment for individuals pending determination of Medicaid eligibility.

(2) The advisory workgroup must include, but is not limited to, representatives of providers and plans who could potentially participate in long-term care managed care. Members of the workgroup shall serve without compensation but are may be reimbursed for per diem and travel expenses as provided in s. 112.061.

(3) This section is repealed on June 30, 2013.

Section 27. Section 409.985, Florida Statutes, is created to read:

409.985 Comprehensive Assessment and Review for Long-Term Care Services (CARES) Program.—

(1) The agency shall operate the Comprehensive Assessment and Review for Long-Term Care Services (CARES) preadmission screening program to ensure that only individuals whose conditions require long-term care services are enrolled in the long-term care managed care program.

(2) The agency shall operate the CARES program through an interagency agreement with the Department of Elderly Affairs. The agency, in consultation with the Department of Elderly

Affairs, may contract for any function or activity of the CARES program, including any function or activity required by 42 C.F.R. part 483.20, relating to preadmission screening and review.

(3) The CARES program shall determine if an individual requires nursing facility care and, if the individual requires such care, assign the individual to a level of care as described in s. 409.983(4). When determining the need for nursing facility care, consideration shall be given to the nature of the services prescribed and which level of nursing or other health care personnel meets the qualifications necessary to provide such services and the availability to and access by the individual of community or alternative resources. For the purposes of the long-term care managed care program, "nursing facility care" means the individual:

(a) Requires nursing home placement as evidenced by the need for medical observation throughout a 24 hour period and care required to be performed on a daily basis by, or under the direct supervision of, a registered nurse or other health care professionals and requires services that are sufficiently medically complex to require supervision, assessment, planning, or intervention by a registered nurse because of mental or physical incapacitation by the individual; or

(b) Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24 hour period and care and the constant availability of medical and nursing treatment and requires services on a daily or intermittent basis that are to be performed under the

supervision of licensed nursing or other health professionals because the individual who is incapacitated mentally or physically; or

(c) Requires or is at imminent risk of nursing home placement as evidenced by the need for observation throughout a 24 hour period and care and the constant availability of medical and nursing treatment and requires limited services that are to be performed under the supervision of licensed nursing or other health professionals because the individual who is mildly incapacitated mentally or physically.

(4) For individuals whose nursing home stay is initially funded by Medicare and Medicare coverage is being terminated for lack of progress towards rehabilitation, CARES staff shall consult with the person making the determination of progress toward rehabilitation to ensure that the recipient is not being inappropriately disqualified from Medicare coverage. If, in their professional judgment, CARES staff believes that a Medicare beneficiary is still making progress toward rehabilitation, they may assist the Medicare beneficiary with an appeal of the disqualification from Medicare coverage. The use of CARES teams to review Medicare denials for coverage under this section is authorized only if it is determined that such reviews qualify for federal matching funds through Medicaid. The agency shall seek or amend federal waivers as necessary to implement this section.

Section 28. Section 409.986, Florida Statutes, is created to read:

409.986 Managed long-term care for persons with developmental disabilities.—

(1) Pursuant to s. 409.963, the agency is responsible for administering the long-term care managed care program for persons with developmental disabilities described in ss. 409.986-409.992, but may delegate specific duties and responsibilities for the program to the Agency for Persons with Disabilities and other state agencies. By January 1,2015, the agency shall begin implementation of statewide long-term care managed care for persons with developmental disabilities, with full implementation in all regions by October 1, 2016.

(2) The agency shall make payments for long-term care for persons with developmental disabilities, including home and community-based services, using a managed care model. Unless otherwise specified, the provisions of ss. 409.961-409.970 apply to the long-term care managed care program for persons with developmental disabilities.

(3) The Agency for Persons with Disabilities shall assist the agency to develop the specifications for use in the invitations to negotiate and the model contract; determine clinical eligibility for enrollment in long-term care plans for persons with developmental disabilities; assist the agency to monitor plan performance and measure quality; assist clients and families to address complaints with the plans; facilitate working relationships between plans and providers serving persons with developmental disabilities; and perform other functions specified in a memorandum of agreement.

Section 29. Section 409.987, Florida Statutes, is created to read:

409.987 Eligibility.—

(1) Medicaid recipients who meet all of the following criteria are eligible and will be enrolled in a comprehensive long-term care plan or long-term care plan:

(a) Medicaid eligible pursuant to s.409.904.

(b) A Florida resident who has a developmental disability as defined in s. 393.063.

(c) Meets the level of care need including:

1. The recipient's intelligence quotient is 59 or less;

2. The recipient's intelligence quotient is 60-69, inclusive, and the recipient has a secondary condition that includes cerebral palsy, spina bifida, Prader-Willi syndrome, epilepsy, or autistic disorder; or ambulation, sensory, chronic health, and behavioral problems;

3. The recipient's intelligence quotient is 60-69, inclusive, and the recipient has severe functional limitations in at least three major life activities including self-care, learning, mobility, self-direction, understanding and use of language, and capacity for independent living; or

4. The recipient is eligible under a primary disability of autistic disorder, cerebral palsy, spina bifida, or Prader-Willi syndrome. In addition, the condition must result in substantial functional limitations in three or more major life activities, including self-care, learning, mobility, self-direction, understanding and use of language, and capacity for independent living.

(d) Meets the level of care need for services in an intermediate care facility for the developmentally disabled.

(e) Is enrolled in a home and community based Medicaid waiver established in chapter 393, or the Consumer Directed Care Plus program for persons with developmental disabilities under the Medicaid state plan or the recipient is a Medicaid-funded resident of a private intermediate care facility for the developmentally disabled on the date the managed long-term care plans for persons with disabilities become available in the recipient's region or the recipient has been offered enrollment in a comprehensive long-term care plan or long-term care plan.

1. The Agency for Persons with Disabilities shall make offers for enrollment to eligible individuals based on the waitlist prioritization in s.393.065(5) and subject to availability of funds. Prior to enrollment offers, the agency shall determine that sufficient funds exist to support additional enrollment into plans.

(2) Unless specifically exempted, all eligible persons must be enrolled in a comprehensive long-term care plan or a long-term care plan. Medicaid recipients who are residents of a developmental disability center, including Sunland Center in Marianna and Tacachale Center in Gainesville, are exempt from mandatory enrollment but may voluntarily enroll in a long-term care plan.

Section 30. Section 409.988, Florida Statutes, is created to read:

409.988 Benefits.-Managed care plans shall cover, at a minimum, the services in this section. Plans may customize

benefit packages or offer additional benefits to meet the needs of enrollees in the plan.

(1) Intermediate care for the developmentally disabled.

(2) Services in alternative residential settings, including, but not limited to:

(a) Group homes and foster care homes licensed pursuant to chapters 393 and 409.

(b) Comprehensive transitional education programs licensed pursuant to chapter 393.

(c) Residential habilitation centers licensed pursuant to chapter 393.

(d) Assisted living facilities, and transitional living facilities licensed pursuant to chapters 400 and 429.

(3) Adult day training.

(4) Behavior analysis services.

(5) Companion services.

(6) Consumable medical supplies.

(7) Durable medical equipment and supplies.

(8) Environmental accessibility adaptations.

(9) In-home support services.

(10) Therapies, including occupational, speech, respiratory, and physical therapy.

(11) Personal care assistance.

(12) Residential habilitation services.

(13) Intensive behavioral residential habilitation services.

(14) Behavior focus residential habilitation services.

(15) Residential nursing services.

(16) Respite care.

(17) Case management.

(18) Supported employment.

(19) Supported living coaching.

(20) Transportation.

Section 31. Section 409.989, Florida Statutes, is created to read:

409.989 Qualified plans.—

(1) ELIGIBLE PLANS.—Provider service networks may be either long-term care plans or comprehensive long-term care plans. Other plans must be comprehensive long-term care plans and under contract to provide services pursuant to s. 409.973 or s. 409.980 in any of the regions which form the combined region as defined in this section.

(2) PROVIDER SERVICE NETWORKS.—Provider service networks targeted to serve persons with disabilities must include one or more owners licensed pursuant to s. 393.067 or s. 400.962 and with at least 10 years experience in serving this population.

(3) ELIGIBLE PLAN SELECTION.—The agency shall select eligible plans through the procurement described in s. 409.966. The agency shall notice invitations to negotiate no later than January 1, 2015

(a) The agency shall procure at least two plans and no more than three plans for services in combined Regions I and II. At least one plan shall be a provider service network, if any submit a responsive bid.

(b) The agency shall procure at least two plans and no more than three plans for services in combined Regions III and

IV. At least one plan shall be a provider service network, if any submit a responsive bid.

(c) The agency shall procure at least two plans and no more than four plans for services in combined Regions V, VI and VII. At least one plan shall be a provider service network, if any submit a responsive bid.

If no provider service network submits a responsive bid, the agency shall procure no more than one less than the maximum number of eligible plans permitted in the combined region. Within 12 months after the initial invitation to negotiate, the agency shall attempt to procure an eligible plan that is a provider service network. The agency shall notice another invitation to negotiate only with provider service networks in such combined region where no provider service network has been selected.

(4) QUALITY SELECTION CRITERIA.—In addition to the criteria established in s. 409.966, the agency shall consider the following factors in the selection of eligible plans:

(a) Specialized staffing. Plan employment of executive managers with expertise and experience in serving persons with developmental disabilities.

(b) Network qualifications. Plan establishment of a network of service providers dispersed throughout the combined region and in sufficient numbers to meet specific accessibility standards established by the agency for specialty services for persons with developmental disabilities.

(c) Evidence that an eligible plan has written agreements or signed contracts or has made substantial progress in establishing relationships with providers prior to the plan submitting a response. The agency shall give preference to plans with evidence of signed contracts with providers listed in s. 409.990(2)(a)-(b).

(5) CHILDREN'S MEDICAL SERVICES NETWORK.—The Children's Medical Services Network may provide either long-term care plans or comprehensive long-term care plans. Participation by the Children's Medical Services Network shall be pursuant to a single, statewide contract with the agency not subject to the procurement requirements or regional plan number limits of this section. The Children's Medical Services Network must meet all other plan requirements.

Section 32. Section 409.990, Florida Statutes, is created to read:

409.990 Managed care plan accountability.—In addition to the requirements of s. 409.967, managed care plans and providers shall comply with the requirements of this section.

(2) PROVIDER NETWORKS.—Managed care plans may limit the providers in their networks based on credentials, quality indicators, and price. However, in the first contract period after an eligible plan is selected in a region by the agency, the plan must offer a network contract to the following providers in the region:

(a) Providers with licensed institutional care facilities for the developmentally disabled.

(b) Providers of alternative residential facilities specified in s.409.988.

After 12 months of active participation in a managed care plan network, the plan may exclude any of the above-named providers from the network for failure to meet quality or performance criteria. If the plan excludes a provider from the plan, the plan must provide written notice to all recipients who have chosen that provider for care. The notice shall be issued at least 90 days before the effective date of the exclusion.

(3) SELECT PROVIDER PARTICIPATION.—Except as provided in this subsection, providers may limit the managed care plans they join. Licensed institutional care facilities for the developmentally disabled and licensed residential settings providing Intensive Behavioral Residential Habilitation services with an active Medicaid provider agreement must agree to participate in any eligible plan selected by the agency

(4) PERFORMANCE MEASUREMENT.—Each managed care plan shall monitor the quality and performance of each participating provider. At the beginning of the contract period, each plan shall notify all its network providers of the metrics used by the plan for evaluating the provider's performance and determining continued participation in the network.

(5) PROVIDER PAYMENT.—Managed care plans and providers shall negotiate mutually acceptable rates, methods, and terms of payment. Plans shall pay intermediate care facilities for the developmentally disabled and intensive behavior residential

habilitation providers an amount equal to the facility-specific payment rate set by the agency.

(6) CONSUMER AND FAMILY INVOLVEMENT.—Each managed care plan must establish a family advisory committee to participate in program design and oversight.

(7) Consumer-Directed Care. – Each managed care plan must offer consumer-directed care services to enrollees pursuant to s. 409.221.

Section 33. Section 409.991, Florida Statutes, is created to read:

409.991 Managed care plan payment.—In addition to the payment provisions of s. 409.968, the agency shall provide payment to comprehensive long-term care plans and long-term care plans pursuant to this section.

(1) Prepaid payment rates shall be negotiated between the agency and the eligible plans as part of the procurement described in s. 409.966.

(2) Payment for comprehensive long-term care plans covering services pursuant to s. 409.973 shall be blended with payments for long-term care plans for services specified in s. 409.988.

(3) Payment rates for plans covering service specified in s. 409.988 shall be based on historical utilization and spending for covered services projected forward and adjusted to reflect the level of care profile of each plan's enrollees.

(4) The Agency for Persons with Disabilities shall conduct the initial assessment of an enrollee's level of care. The evaluation of level of care shall be based on assessment and

service utilization information from the most recent version of the Questionnaire for Situational Information and encounter data.

(5) The agency shall assign enrollees of developmental disabilities long-term care plans into one of five levels of care to account for variations in risk status and service needs among enrollees.

(a) Level of care 1 consists of individuals receiving services in an intermediate care facility for the developmentally disabled.

(b) Level of care 2 consists of individuals with intensive medical or adaptive needs and that are essential for avoiding institutionalization, or who possess behavioral problems that are exceptional in intensity, duration, or frequency and present a substantial risk of harm to themselves or others.

(c) Level of care 3 consists of individuals with service needs, including a licensed residential facility and a moderate level of support for standard residential habilitation services or a minimal level of support for behavior focus residential habilitation services, or individuals in supported living who require more than 6 hours a day of in-home support service.

(d) Level of care 4 consists of individuals requiring less than moderate level of residential habilitation support in a residential placement, or individuals in supported living who require 6 hours a day or less of in-home support service.

(e) Level of care 5 consists of individuals who do not receive in-home support service and need minimal support

services while living in independent or supported living situations or in their family home.

The agency shall periodically adjust aggregate payments to plans based on encounter data to account for variations in risk levels among plans' enrollees.

(6) The agency shall establish intensive behavior residential habilitation rates for providers approved by the agency to provide this service. The agency shall also establish intermediate care facility for the developmentally disabled-specific payment rates for each licensed intermediate care facility. Payments to intermediate care facilities for the developmentally disabled and providers of intensive behavior residential habilitation service shall be reconciled to reimburse the plan's actual payments to the facilities.

Section 34. Section 409.992, Florida Statutes, is created to read:

409.992 Automatic enrollment.—

(1) The agency shall automatically enroll into a comprehensive long-term care plan or a long-term care plan those Medicaid recipients who do not voluntarily choose a plan pursuant to s. 409.969. The agency shall automatically enroll recipients in plans that meet or exceed the performance or quality standards established pursuant to s. 409.967, and shall not automatically enroll recipients in a plan that is deficient in those performance or quality standards. The agency shall assign individuals who are deemed dually eligible for Medicaid and Medicare, to a plan that provides both Medicaid and Medicare

services. The agency may not engage in practices that are designed to favor one managed care plan over another. When automatically enrolling recipients in plans, the agency shall take into account the following criteria:

(a) Whether the plan has sufficient network capacity to meet the needs of the recipients.

(b) Whether the recipient has previously received services from one of the plan's home and community-based service providers.

(c) Whether home and community-based providers in one plan are more geographically accessible to the recipient's residence than those in other plans.

Section 35. This act shall take effect July 1, 2011.