

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/CS/HB 1349 Assistance Programs

SPONSOR(S): Health & Human Services Committee and Children, Families & Seniors Subcommittee, Aloupis and others

TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 414

FINAL HOUSE FLOOR ACTION: 118 Y's 0 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

CS/CS/HB 1349 passed the House on April 22, 2021, and subsequently passed the Senate on April 26, 2021.

Through various partnerships with the federal government, Florida offers low-income families the following programs that provide health, financial, educational, food, and housing assistance:

- The Medicaid program;
- The temporary cash assistance program (TANF);
- The School Readiness program;
- The Supplemental Nutrition Assistance Program (SNAP); and
- The Housing Choice Voucher Program.

Medicaid covers approximately 3.6 million low-income Floridians. About 46,369 Florida families receive TANF, including 66,261 children and 18,615 adults, about 11 percent of Florida's approximately 1.3 million children under age 6 are in the School Readiness program, and about 3,510,000 Floridians participate in SNAP. Approximately 451,000 people in 214,000 Florida households use federal rental assistance to afford modest housing, 70 percent of whom are seniors, children, or people with disabilities.

The bill requires the Office of Early Learning (OEL) within the Department of Education to coordinate with the University of Florida Anita Zucker Center for Excellence in Early Childhood Studies (Center) to conduct an analysis of recipients of specified assistance programs and develop participant profiles. The Center must provide a report of its analysis to the OEL by May 31 in 2022 and 2023. Within 30 days of receiving the report, the OEL submits it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The bill requires specified agencies to enter into data sharing agreements with the OEL and the Center.

The bill requires the School Readiness program to equally prioritize program participation by parents who have an intensive services account or an individual training account and parents receiving temporary cash assistance benefits.

The bill also eliminates certain definitions applicable to the School Readiness program, which gives the OEL more flexibility in establishing eligibility criteria for the program.

The bill has no fiscal impact on state or local governments.

Subject to the Governor's veto powers, the effective date of this bill is July 1, 2021.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Assistance Programs

Medicaid

Medicaid is the health care safety net for low-income Floridians. Medicaid is a partnership of the federal and state governments established to provide coverage for health services for eligible persons. The program is administered by the Agency for Health Care Administration (AHCA) and financed by federal and state funds. AHCA delegates certain functions to other state agencies, including the Department of Children and Families (DCF), which makes eligibility determinations.

The structure of each state's Medicaid program varies, but what states must pay for is largely determined by the federal government, as a condition of receiving federal funds.¹ Federal law sets the amount, scope, and duration of services offered in the program, among other requirements. These federal requirements create an entitlement that comes with constitutional due process protections. The entitlement means that two parts of the Medicaid cost equation – people and utilization – are largely predetermined for the states. The federal government sets the minimum mandatory populations to be included in every state Medicaid program. The federal government also sets the minimum mandatory benefits to be covered in every state Medicaid program. These benefits include physician services, hospital services, home health services, and family planning.² States can add benefits, with federal approval. Florida has added many optional benefits, including prescription drugs, ambulatory surgical center services, and dialysis.³

The Florida Medicaid program covers approximately 3.6 million low-income individuals.⁴ Medicaid is the second largest single program in the state, behind public education, representing approximately one-third of the total FY 2020-2021 state budget.⁵

Federal law requires a State plan to provide safeguards that restrict the use or disclosure of information concerning applicants and beneficiaries to purposes directly connected with the administration of the plan.⁶ Currently, conducting an analysis of recipients of specified assistance programs and developing participant profiles based on specified criteria is not directly connected with the administration of the plan.⁷

Temporary Aid for Needy Families

Under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996,⁸ the Temporary Aid for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children, the Job Opportunities and Basic Skills Training program, and the Emergency Assistance program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides federal funds to states, territories, and tribes each year. These funds cover

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

² S. 409.905, F.S.

³ S. 409.906, F.S.

⁴ Agency for Health Care Administration (AHCA), *Florida Statewide Medicaid Monthly Enrollment Report*, February 2021, https://ahca.myflorida.com/medicaid/finance/data_analytics/enrollment_report/index.shtml (last visited Mar. 18, 2021).

⁵ Chapter 2020-111, L.O.F.; see also *Fiscal Analysis in Brief: 2020 Legislative Session*, <http://edr.state.fl.us/content/revenues/reports/fiscal-analysis-in-brief/FiscalAnalysisinBrief2020.pdf> (last visited Mar. 18, 2021).

⁶ 42 C.F.R. § 431.300

⁷ AHCA, *Medicaid State Plan Under Title XIX of the Social Security Act Medical Assistance Program*, sections of the State Plan are available at <https://ahca.myflorida.com/medicaid/stateplan.shtml> (last visited Mar. 20, 2021).

⁸ P.L. 104-193.

benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized by the Deficit Reduction Act of 2005. States receive block grants to operate their individual programs and to accomplish the goals of the TANF program. As of June 2020, 46,369 Florida families receive TANF, including 66,261 children and 18,615 adults.⁹

Temporary Cash Assistance

Florida's temporary cash assistance (TCA) program is one of several programs funded with federal TANF block grant funds. The purpose of the TCA program is to help families with children become self-supporting while allowing children to remain in their own homes. It provides cash assistance to families that meet the technical, income, and asset requirements.¹⁰

Various state agencies and entities work together through a series of contracts or memoranda of understanding to administer the TCA program. The DCF receives the federal TANF block grant and administers the TCA program, determines and monitors eligibility, and disburses benefits. The Department of Economic Opportunity (DEO) is responsible for financial and performance reporting to ensure compliance with federal and state measures, and for providing training and technical assistance to Local Workforce Development Boards (LWDBs). LWDBs provide information about available jobs, on-the-job training, and education and training services within their respective areas and contract with one-stop career centers.¹¹ CareerSource Florida has planning and oversight responsibilities for all workforce-related programs.

Federal law limits the use or disclosure of information concerning TCA applicants and recipients to specified purposes, including any audit or similar activity.¹² State universities conducting an analysis of recipients of specified assistance programs and developing participant profiles based on specified criteria is not one of the specified purposes.

Supplemental Nutrition Assistance Program (SNAP)

The Food and Nutrition Service (FNS), under the U.S. Department of Agriculture (USDA), administers the Supplemental Nutrition Assistance Program (SNAP).¹³ SNAP offers nutrition assistance to millions of eligible, low-income individuals and families, in the form of funds to purchase "eligible food,"¹⁴ and provides economic benefits to communities by reducing poverty and food insecurity.¹⁵ The DCF is designated as the state agency responsible for the administration and operation of the SNAP program.¹⁶

The federal government funds 100% of the benefit amount. However, FNS and states share the administrative costs of the program. Federal laws, regulations, and waivers provide states with various

⁹ Congressional Research Service (CRS), CRS Report, The Temporary Assistance for Needy Families (TANF) Block Grant: Responses to Frequently Asked Questions, January 25, 2021, available at <https://fas.org/sqp/crs/misc/RL32760.pdf> (last visited Mar. 19, 2021).

¹⁰ Children must be under the age of 18, or under age 19 if they are full time secondary school students. Parents, children and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy.

¹¹ CareerSource Florida, Inc., *Workforce Investment Act – Workforce Innovation and Opportunity Act Annual Report for 2015-2016 Program Year*, https://careersourceflorida.com/wp-content/uploads/2016/10/161003_AnnualReport.pdf (last visited Mar. 18, 2020).

¹² 45 FCR § 205.50.

¹³ U.S. Department of Agriculture, Food and Nutrition, *A Short History of SNAP*, <https://www.fns.usda.gov/snap/short-history-snap> (last visited Mar. 18, 2021).

¹⁴ The Food and Nutrition Act of 2008 defines eligible food as any food or food product intended for human consumption except alcoholic beverages, tobacco, hot foods and hot food products prepared for immediate consumption, with some exceptions. 7 USC § 2012(k).

¹⁵ For a detailed overview of SNAP, see Randy Alison Aussenberg, *Supplemental Nutrition Assistance Program (SNAP): A Primer on Eligibility and Benefits*, CONGRESSIONAL RESEARCH SERVICE, Dec. 29, 2014, available at <https://fas.org/sqp/crs/misc/R42505.pdf> (last visited Mar. 18, 2021).

¹⁶ S. 414.31, F.S.

policy options to better target benefits to those most in need, streamline program administration and field operations, and coordinate SNAP activities with those of other programs.¹⁷

The amount of benefits, or allotment, for which a household qualifies depends on the number of individuals in the household and the household's net income. To calculate a household's allotment, 30% of its net income is subtracted from the maximum allotment for that household size.¹⁸ This is because SNAP households are expected to spend about 30% of their own resources on food.¹⁹ As of November 2020, 3,510,072 Floridians are participating in SNAP.²⁰

The federal government restricts the use or disclosure of information obtained from SNAP applicants or recipient households to specified entities and for specified reasons.²¹ State universities are not one of the specified entities, and conducting an analysis of recipients of specified assistance programs and developing participant profiles based on specified criteria is not one of the specified reasons for use or disclosure.

Housing Choice Voucher Program

The Housing Choice Voucher Program (HCVP) is the federal government's major program for assisting very low-income families, the elderly, and the disabled to afford decent, safe, and sanitary housing in the private market.²² The U.S. Department of Housing and Urban Development (HUD) oversees the HCVP,²³ but the program is generally administered by State or local governmental entities called public housing agencies (PHAs).²⁴ HUD provides funding to the PHAs, which then contracts with a landlord to subsidize rent on behalf of the program participant.²⁵ Housing units receiving HCVP funding must meet and maintain certain housing quality standards.²⁶ To be eligible for the HCVP, the applicant must be a low-income family²⁷ with "the family's income not exceeding 50% of the median income for the county or metropolitan area."²⁸

There are two different types of assistance under the HCVP: tenant-based and project-based.²⁹ Tenant-based assistance is an arrangement where the unit is selected by the family, wherever they wish to live, and the PHA pays the landlord a subsidy and the family pays the difference between the rent price and subsidy. In project-based assistance, "rental assistance is paid for families living in specific housing developments or units."³⁰

As of December 2019, 451,000 people in 214,000 Florida households use federal rental assistance to afford modest housing, 70 percent of whom are seniors, children, or people with disabilities.³¹

¹⁷ U.S. Department of Agriculture, Food and Nutrition, *State Options Report: Supplemental Nutrition Assistance Program*, (11th ed.), Sept. 2013, available at http://www.fns.usda.gov/sites/default/files/snap/11-State_Options.pdf (last visited Mar. 18, 2021).

¹⁸ U.S. Department of Agriculture Food and Nutrition Service, *SNAP Eligibility*, <https://www.fns.usda.gov/snap/recipient/eligibility> (last visited Mar. 18, 2021).

¹⁹ *Id.*

²⁰ FNS, *SNAP Data Tables*, available at <https://fns-prod.azureedge.net/sites/default/files/resource-files/29SNAPcurrPP-3.pdf> (last visited Mar. 19, 2021).

²¹ 7 C.F.R. § 272.1.

²² 24 C.F.R. § 982. See also, *Housing Choice Vouchers Fact Sheet*, U.S. Department of Housing and Urban Development, https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/about/fact_sheet (last visited Mar. 18, 2021).

²³ See 42 U.S.C. s. 1437.

²⁴ 24 C.F.R. § 982.1.

²⁵ *Id.*

²⁶ See 24 C.F.R. § 982.401.

²⁷ 24 C.F.R. § 982.201.

²⁸ U.S. Department of Housing and Urban Development, *Housing Choice Vouchers Fact Sheet*, https://www.hud.gov/program_offices/public_indian_housing/programs/hcv/about/fact_sheet (last visited Mar. 18, 2020).

²⁹ 24 C.F.R. § 982.201.

³⁰ *Id.*

³¹ Center on Budget and Policy Priorities, *Federal Rental Assistance Fact Sheets*, <https://www.cbpp.org/research/housing/federal-rental-assistance-fact-sheets#FL> (last visited Mar. 19, 2021).

Federal law limits the use or disclosure of information concerning HCVP participants to purposes directly connected with administration of the program.³²

School Readiness

Established in 1999,³³ the School Readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, abandonment, or homelessness; foster children; and children with disabilities.³⁴ The School Readiness program offers financial assistance for child care to these families while supporting children in the development of skills for success in school. Additionally, the program provides developmental screening and referrals to health and education specialists where needed. These services are provided in conjunction with other programs for young children such as Head Start, Early Head Start, Migrant Head Start, Child Care Resource and Referral, and the Voluntary Prekindergarten (VPK) Education Program.³⁵

The School Readiness program is a state-federal partnership between Florida's Office of Early Learning (OEL)³⁶ and the Office of Child Care of the United States Department of Health and Human Services.³⁷ It is administered by early learning coalitions (ELCs) at the county or regional level.³⁸ Florida's OEL administers the program at the state level, including statewide coordination of ELCs.³⁹

Federal regulations require eligibility for the school readiness program to be based in part on family income, but do not establish income levels for eligibility or prescribe what income is included or excluded from income calculations for eligibility purposes.⁴⁰ Section 1002.82, F.S., requires the office to establish eligibility criteria, including limitations based on income and family assets, and provides guidance on what income is included and excluded. For purposes of calculating family income, Florida law defines "family income" as "the combined gross income, whether earned or unearned, that is derived from any source by all family or household members who are 18 years of age or older who are currently residing together in the same dwelling unit."⁴¹ Under current law, "earned income" means gross remuneration derived from work, professional service, or self-employment,⁴² and "unearned income" means income other than earned income.⁴³ The OEL adopted Rule 6M-4.200 to establish eligibility and repeats these definitions in the rule.⁴⁴

About 11 percent of Florida's approximately 1.3 million children younger than age 6 are in the School Readiness program.⁴⁵ Currently, ELCs are required to use the following eligibility priority criteria for families applying for school readiness services:⁴⁶

³² 24 C.F.R. § 982.516(g).

³³ Section 1, ch. 99-357, L.O.F.

³⁴ Ss. 1002.81 and 1002.87, F.S.

³⁵ Florida Office of Early Learning, *School Readiness Program*, <http://www.floridaearlylearning.com/family-resources/financial-assistance> (last visited Mar. 18, 2020).

³⁶ In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education. The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness Program and the VPK Program. Section 1, ch. 2013-252, L.O.F., *codified at* s. 1001.213, F.S.

³⁷ See U.S. Department of Health and Human Services, *Office of Child Care Fact Sheet*, https://www.acf.hhs.gov/sites/default/files/documents/occ/factsheets_occ.pdf (last visited Mar. 18, 2021).

³⁸ S. 1002.83, F.S.

³⁹ S. 1001.213(3), F.S.

⁴⁰ 45 CFR 98.20(a)(2)(i).

⁴¹ S. 1002.81(8), F.S.

⁴² S. 1002.81(6), F.S.

⁴³ S. 1002.81(15), F.S.

⁴⁴ Florida Department of Education, 2021 Agency Legislative Bill Analysis for HB 1349, p. 3 (Mar. 5, 2021).

⁴⁵ Office of Early Learning, School Readiness, <http://www.floridaearlylearning.com/school-readiness#:~:text=There%20are%20approximately%201.1%20million,readiness%20services%20from%207%2C676%20providers.> (last visited Apr. 15, 2021).

⁴⁶ S. 1002.87, F.S.

1. Children younger than age 13 whose parents receive temporary cash assistance and are subject to federal work requirements.
2. At-risk children younger than age 9.
3. Economically disadvantaged children until eligible to enter kindergarten. Their older siblings up to the age they are eligible to enter 6th grade may also be served.
4. Children from birth to kindergarten whose parents are transitioning from the temporary cash assistance work program to employment.
5. At-risk children who are at least age 9 but younger than 13. Those with siblings in priority groups 1-3 are higher priority than other children ages 9-13 in this priority group.
6. Economically disadvantaged children younger than 13. Priority in this category is given to children who have a younger sibling in the School Readiness Program under priority 3.
7. Children younger than 13 whose parents are transitioning from the temporary cash assistance work program to employment.
8. Children who have special needs and current individual educational plans from age 3 until they are eligible to enter kindergarten.
9. Children concurrently enrolled in the federal Head Start Program and VPK, regardless of priorities 1-4.

The DCF Office of Child Care Regulation, as the regulatory agency over child care providers, inspects all child care providers that provide the School Readiness services for compliance with specified health and safety standards.⁴⁷ In lieu of DCF regulation, counties may designate a local licensing agency to license providers if its licensing standards meet or exceed DCF's standards. Five counties have done this – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota. In these five counties the local licensing agency, not the DCF, inspects child care providers that provide the School Readiness services⁴⁸ for compliance with health and safety standards.

Florida law prohibits disclosure of School Readiness program enrolled children's assessment data, health data, records of teacher observations, and personal identifying information.⁴⁹

Workforce Individual Training Accounts

The Workforce Innovation and Opportunity Act (WIOA), signed into law on July 22, 2014, requires employment training services to be provided to adults and dislocated workers through the use of Individual Training Accounts (ITA), which allow participants to choose among eligible providers. An ITA is sometimes referred to as Intensive Service Account. These accounts are used by the state's workforce program, CareerSource Florida, Inc., to assist persons with job referral and placement.

Early Childhood Studies and Research

Early childhood studies is a transdisciplinary field comprising early development, learning and intervention as well as family support, health, nutrition and mental health. The University of Florida Anita Zucker Center for Excellence in Early Childhood Studies (Center) was founded in 2010 to provide an educational hub within the university dedicated to specialized expertise in early childhood studies.⁵⁰

The Center's research focuses on early childhood assessment; embedded learning; family support; integrated systems and data supports; professional development; and social-emotional and behavioral supports.⁵¹ This research is shared in a variety of ways, including publications and presentations,

⁴⁷ See ss. 402.301-402.319 and 1002.88, F.S.

⁴⁸ S. 402.306(1), F.S.

⁴⁹ S. 1002.97, F.S.

⁵⁰ University of Florida Anita Zucker Center for Excellence in Early Childhood Studies, *Our Mission*, <https://ceecs.education.ufl.edu/about/mission/> (last visited Apr. 11, 2021).

⁵¹ *Id.*

community outreach, technical assistance and professional development activities.⁵² The Center's work is not conducted in laboratories; it happens in homes and community-based settings with families, practitioners and young children.⁵³

Currently, the Center is attempting to conduct research analyzing and evaluating core public benefits serving families across multiple state agencies. However, because federal law limits the use or disclosure of information on applicants and beneficiaries of SNAP, TANF, and Medicaid to purposes connected to administering these programs, the Center has been unable to obtain data required to conduct this analysis from the DCF, the state agency that administers these programs.⁵⁴ For uses outside the legal authority or administration by the DCF, the Center would need to seek approval from the applicable federal agencies as to the assurance and protocols required based on the information the Center is requesting and the purpose for it would be used.⁵⁵

Effect of the Bill

Assistance Programs

The bill requires the OEL to coordinate with the Center to conduct an analysis of recipients of:

- Medicaid;
- The temporary cash assistance program;
- The School Readiness program;
- The Supplemental Nutrition Assistance Program; and
- The Housing Choice Voucher Program.

The analysis must include a review of eligibility, including criteria for eligibility; frequency of eligibility determinations; the number of families receiving multiple program services out of the total number of eligible families; and the process used to establish and document eligibility and disbursement policies.

The bill requires the Center, through its analysis, to develop participant profiles based on the number of families receiving multiple program services that include family composition and the most frequent program services or combination of services families are accessing in each county or geographic area.

The bill also requires each agency responsible for the administration of the specified assistance programs to enter into a data sharing agreement with the OEL and the Center by September 1, 2021. These agencies must submit a program services data file containing specified information to the Center by November 1, 2021, subject to any federal requirements, and submit a supplemental data file to the Center containing specified information by November 1, 2022.

The bill requires the DCF to assist the Center with receiving DCF administered programs' information that must be analyzed, including providing the Center assistance with seeking any required approvals or waivers from applicable federal agencies.

The bill requires the Center to provide a report of its analysis to the OEL by May 31 in 2022 and 2023. Within 30 days of receiving the report, the OEL is required to submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

⁵² University of Florida Anita Zucker Center for Excellence in Early Childhood Studies, *Our Work: Project Areas*, <https://ceecs.education.ufl.edu/work/#project-areas> (last visited Apr. 11, 2021).

⁵³ *Id.*

⁵⁴ Telephone conference with Dr. Herman T. Knopf, PhD., Research Scientist, University of Florida; Hilary Brazzell, Policy Chief, Florida House of Representatives, Children, Families, & Seniors Subcommittee, and Deanna Rahming, Analyst; held on Mar. 18, 2021 at 3:30 PM.

⁵⁵ Florida Department of Children and Families, 2021 Agency Legislative Bill Analysis for HB 1349, p. 6 (Mar. 19, 2021).

The bill repeals the section of law with these requirements on June 30, 2023, unless reviewed and reenacted by the Legislature before that date.

Federal laws related to the use or disclosure of information on applicants and beneficiaries of SNAP, TANF, and Medicaid, may limit or prevent the implementation of the bill's requirement for the DCF to share program data, since disclosing such information to the Center for research and analysis is not directly connected to administering these programs and does not meet any federal exception. Federal limitations regarding the accessibility of individual federal income tax information may also prove to be problematic for determining the number of families receiving services and using the Earned Income Tax Credit.

School Readiness

The bill deletes the "earned income" and "unearned income" definitions from s. 1002.81, F.S., which help define eligibility for the OEL School Readiness program. This gives the OEL authority to establish the income eligibility criteria by rule,⁵⁶ by defining what income is included or excluded from the income calculation. The OEL plans to research how other states define income and possibly change the eligibility criteria in rule in the future.⁵⁷

Workforce Individual Training Accounts

The bill requires the School Readiness program to equally prioritize program participation for parents who have an intensive services account or an individual training account and parents receiving temporary cash assistance benefits.

The bill provides an effective date of July 1, 2021.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

⁵⁶ S. 1001.213(2), F.S., authorizes the OEL to adopt rules to establish and operate the School Readiness program.

⁵⁷ Email from Jessica A. Fowler, Deputy Legislative Affairs Director, Florida Department of Education, RE: CS/CS/ HB 1349, regarding removal of "earned income" and "unearned income" definitions from current law (May 11, 2021).

D. FISCAL COMMENTS:

None.