

1 HB454  
2 149895-4  
3 By Representative McClendon  
4 RFD: Ways and Means General Fund  
5 First Read: 20-MAR-13

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8 SYNOPSIS: This bill would provide for the delivery of  
9 health care services under the Medicaid program on  
10 a managed care basis through the Medicaid Agency or  
11 through regional care organizations or alternate  
12 care providers that would operate in not more than  
13 eight geographic Medicaid regions.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 Relating to the Medicaid Agency; to provide for the  
20 delivery of medical services to Medicaid beneficiaries on a  
21 managed care basis through regional care organizations or  
22 alternate care providers.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. For the purposes of this act, the  
25 following words shall have the following meanings:

26 (1) ALTERNATE CARE PROVIDER. A contractor, other  
27 than a regional care organization, that agrees to provide a

1 comprehensive package of Medicaid benefits to Medicaid  
2 beneficiaries in a defined region of the state pursuant to a  
3 risk contract.

4 (2) CAPITATION PAYMENT. A payment the state Medicaid  
5 Agency makes periodically to a contractor on behalf of each  
6 recipient enrolled under a contract for the provision of  
7 medical services.

8 (3) CARE DELIVERY SYSTEM. The manner in which the  
9 benefits and services set forth in the state Medicaid plan are  
10 provided to Medicaid beneficiaries.

11 (4) LONG-TERM CARE. Medicaid-funded nursing facility  
12 services or services in intermediate care facilities for the  
13 developmentally disabled, or home- and community-based  
14 supports services provided to individuals who might otherwise  
15 require such services.

16 (5) MEDICAID AGENCY. The Alabama Medicaid Agency or  
17 any successor agency of the state designated as the "single  
18 state agency" to administer the medical assistance program  
19 described in Title XIX of the Social Security act.

20 (6) MEDICAID BENEFICIARY. Anyone determined by the  
21 Medicaid Agency to be eligible for Medicaid.

22 (7) QUALITY-ASSURANCE PROVISIONS. Specifications for  
23 assessing and improving the quality of care provided by a  
24 regional care organization or an alternative care plan.

25 (8) REGIONAL CARE ORGANIZATION. An organization of  
26 health care providers that contracts with the Medicaid Agency  
27 to provide a comprehensive package of Medicaid benefits to

1 Medicaid beneficiaries in a defined region of the state and  
2 that meets the requirements set forth in this act.

3 (9) RISK CONTRACT. A contract under which the  
4 contractor a. assumes risk for the cost of the services  
5 covered under the contract; and b. incurs loss if the cost of  
6 furnishing the services exceeds the payments under the  
7 contract.

8 Section 2. (a) A regional care organization shall  
9 serve only Medicaid beneficiaries in providing medical care  
10 and services.

11 (b) Notwithstanding any other provision of law, a  
12 regional care organization shall not be deemed an insurance  
13 company under state law.

14 (c) (1) Each regional care organization shall  
15 establish a governing board with at least 60 percent of the  
16 seats on the board held by a participant in the organization  
17 as a provider that either contributes capital to the regional  
18 care organization or has agreed to provide services to  
19 Medicaid enrollees of the regional care organization. No  
20 single type of provider, such as hospitals or doctors engaged  
21 in medical practices, shall hold a majority of seats on the  
22 board. The governing board shall include at least two  
23 physicians, two hospital representatives, one dentist, one  
24 optometrist, one pharmacist, and such other providers as shall  
25 be deemed appropriate by the regional care organization and  
26 approved by the Medicaid Agency. The chair of the Citizen's  
27 Advisory Committee established by the regional care

1 organization pursuant to subsection (d) shall be a voting  
2 member of the board.

3 (2) The Medicaid Agency shall approve at its  
4 discretion the governing board and structure of a regional  
5 care organization. No regional care organization shall be  
6 granted probationary or fully certified status unless  
7 approved.

8 (d) Each regional care organization shall establish  
9 a citizen's advisory committee to the board. The committee  
10 shall meet all of the following criteria:

11 (1) Be selected in a method established by the  
12 regional care organization and approved by the Medicaid  
13 Agency.

14 (2) Have at least 20 percent of the board positions  
15 held by enrollees of the regional care organization.

16 (3) Elect a chair who shall sit on the governing  
17 body of the regional care organization.

18 (4) Carry out those functions and duties assigned to  
19 it by the regional care organization.

20 (5) Meet at least every three months.

21 (e) Each regional care organization shall meet  
22 minimum solvency and financial requirements as provided in  
23 this subsection. The Medicaid Agency shall require a regional  
24 care organization, as a condition of certification or  
25 continued certification, to maintain financial reserves at the  
26 following levels:

1 (1) Restricted reserves of two hundred fifty  
2 thousand dollars (\$250,000) or an amount equal to 50 percent  
3 of the regional care organization's total actual or projected  
4 average monthly liabilities, whichever is greater.

5 (2) Capital or surplus, or any combination thereof,  
6 equal to the greater of two million five hundred thousand  
7 dollars (\$2,500,000) or the amount required from the  
8 application of the risk-based capital standards referenced by  
9 Title 27, Chapter 2B of the Code of Alabama 1975.

10 (f) A regional care organization shall provide such  
11 financial reports and information as shall be required by the  
12 Medicaid Agency.

13 (g) A regional care organization shall report all  
14 data as required by the Medicaid Agency, consistent with the  
15 federal Health Insurance Portability and Accountability Act  
16 (HIPAA).

17 Section 3. The Medicaid Agency shall establish by  
18 rule not more than eight geographic Medicaid regions which  
19 shall together cover the entire state, in which a regional  
20 care organization or alternate care provider may operate. Each  
21 Medicaid region, according to an actuary working for Medicaid,  
22 shall be capable of supporting at least two regional care  
23 organizations or alternate care providers.

24 Section 4. (a) Subject to approval of the federal  
25 Centers for Medicare and Medicaid Services, the Medicaid  
26 Agency shall enter into a contract in each Medicaid region for  
27 at least one fully certified regional care organization to

1 provide, pursuant to a risk contract, under which the Medicaid  
2 Agency makes a capitated payment, medical care to Medicaid  
3 beneficiaries. The Medicaid Agency may enter into a contract  
4 pursuant to this section only if, in the judgment of the  
5 Medicaid Agency, care of Medicaid beneficiaries would be  
6 better, more efficient, and less costly than under the then  
7 existing care delivery system. The Medicaid Agency may  
8 contract with more than one regional care organization in a  
9 Medicaid region. Pursuant to the contract, the Medicaid Agency  
10 may set capitation payments for the regional care  
11 organization.

12 (b) The Medicaid Agency shall enroll beneficiaries  
13 into regional care organizations. If more than one regional  
14 care organization operates in a Medicaid region, a Medicaid  
15 beneficiary may choose the organization to provide his or her  
16 care. If a Medicaid beneficiary does not make a choice, the  
17 Medicaid Agency shall assign the person to a care  
18 organization. Medicaid may limit the circumstances under which  
19 a Medicaid beneficiary may change care organizations.

20 (c) A regional care organization shall provide  
21 Medicaid services to Medicaid enrollees directly or by  
22 contract with other providers. The regional care organization  
23 shall establish an adequate medical service delivery network  
24 as determined by the Medicaid Agency. An alternate care  
25 provider contracting with Medicaid shall also establish such a  
26 network.

1 (d) The Medicaid Agency shall establish by rule  
2 procedures for addressing grievances of enrollees in a  
3 regional care organization or an alternate care provider. The  
4 procedures shall provide for hearing procedures and other  
5 procedures for responding to claims of denial of service or  
6 inadequate service and other complaints brought by Medicaid  
7 enrollees.

8 (e) In addition to the foregoing, the Medicaid  
9 Agency shall do all of the following:

10 (1) Establish by rule the criteria for probationary  
11 and full certification of regional care organizations.

12 (2) Establish the quality standards and minimum  
13 medical service delivery network requirements for regional  
14 care organizations or an alternate care provider to provide  
15 care to Medicaid beneficiaries.

16 (3) Establish by rule and implement  
17 quality-assurance provisions for each regional care  
18 organization.

19 (4) Adopt and implement, at its discretion,  
20 requirements for a regional care organization concerning  
21 health information technology, data analytics, quality of  
22 care, and care-quality improvement.

23 (5) Conduct or contract for financial audits of each  
24 regional care organization. The audits shall be based on  
25 requirements established by the Medicaid Agency by rule or  
26 established by law. The audit of each regional care



1 organization shall be conducted at least every three years or  
2 more frequently if requested by the Medicaid Agency.

3 (6) Take such other action with respect to regional  
4 care organizations or alternate care providers as may be  
5 required by federal Medicaid regulations or under terms and  
6 conditions imposed by the Centers for Medicare and Medicaid  
7 Services in order to assure that payments to the regional care  
8 organizations or alternate care providers qualify for federal  
9 matching funds.

10 Section 5. An initial contract between the Medicaid  
11 Agency and a regional care organization shall be for three  
12 years, with the option for Medicaid to renew the contract for  
13 not more than two additional one-year periods. The Medicaid  
14 Agency shall obtain an independent evaluation of the cost  
15 savings, patient outcomes and quality of care provided by each  
16 regional care organization, and obtain the results of each  
17 regional care organization's evaluation in time to use the  
18 findings to decide whether to contract again with the regional  
19 care organization or change the Medicaid region's  
20 care-delivery system.

21 Section 6. The Medicaid Agency may contract with an  
22 alternate care provider in a Medicaid region if a regional  
23 care organization has failed to provide adequate service  
24 pursuant to its contract, or if the certification of a  
25 regional care organization is terminated or never granted. The  
26 Medicaid Agency may contract with an alternate care provider  
27 only if, in the judgment of the Medicaid Agency, care of

1 Medicaid enrollees would be better, more efficient, and less  
2 costly than under the then existing care delivery system.  
3 Medicaid may contract with more than one alternate care  
4 provider in a Medicaid region.

5 Section 7. (a) The Medicaid Agency shall establish  
6 by rule the procedure for the termination of the certification  
7 or probationary certification of a regional care organization  
8 for non-performance of contractual duty or for failure to meet  
9 or maintain benchmarks provided by this act.

10 (b) Termination of a regional care organization  
11 certification or probationary certification shall follow the  
12 standard administrative process, with the right to a hearing  
13 before a hearing officer appointed by the Medicaid Agency.  
14 Appeal shall lie with the Alabama Court of Civil Appeals and  
15 shall be based on the record.

16 (c) Upon termination of a regional care organization  
17 certification or probationary certification in a Medicaid  
18 region, the Medicaid Agency may contract with an alternative  
19 provider, or more than one such provider, to serve the region.

20 Section 8. A regional care organization shall  
21 contract with any willing hospital, doctor, or other provider  
22 to provide services in a Medicaid region if the provider is  
23 willing to accept the payments and terms offered comparable  
24 providers. Any provider shall meet licensing requirements set  
25 by law.

26 Section 9. The following is the timeline for  
27 implementation of this act:

1 (1) Not later than October 1, 2013, the Medicaid  
2 Agency shall establish not more than eight Medicaid regions.

3 (2) Not later than October 1, 2014, an organization  
4 seeking to become a regional care organization shall have  
5 established a governing board and structure as approved by the  
6 Medicaid Agency. An organization may receive probationary  
7 certification as a regional care organization upon submission  
8 of an application for, and demonstration of, a governing board  
9 acceptable to the Medicaid Agency. Probationary certification  
10 shall last no more than 36 months.

11 (3) Not later than April 1, 2015, an organization  
12 with probationary regional care organization certification  
13 shall have demonstrated to Medicaid's approval the ability to  
14 establish an adequate medical service delivery network.

15 (4) Not later than October 1, 2015, an organization  
16 with probationary regional care organization certification  
17 shall have demonstrated to Medicaid's approval that it has met  
18 the solvency and financial requirements outlined in this act.

19 (5) Not later than October 1, 2016, an organization  
20 with probationary regional care organization certification  
21 shall demonstrate to Medicaid's approval that it is capable of  
22 providing services pursuant to a risk contract.

23 (6) The above timeline and benchmarks shall not  
24 preclude a regional care organization from meeting the  
25 timelines and benchmarks at an earlier date.

26 (7) Failure to meet and maintain any one of the  
27 above benchmarks shall constitute grounds for termination of a

1 regional care organization probationary certification or full  
2 regional care organization certification. The Medicaid Agency  
3 shall award full regional care organization certification to  
4 an organization with probationary regional care organization  
5 certification if the organization timely meets each of the  
6 above benchmarks. Failure by an organization to meet one or  
7 more of the benchmarks by the above deadlines shall not  
8 prevent the Medicaid Agency, at its sole discretion, from  
9 granting full regional care organization certification to the  
10 organization as long as it has met all the benchmarks by  
11 October 1, 2016.

12 Section 10. (a) The Medicaid Agency shall conduct an  
13 evaluation of the existing long-term care system for Medicaid  
14 beneficiaries and, by October 1, 2014, shall report the  
15 findings of the evaluation to the Legislature and Governor.

16 (b) The Medicaid Agency, by October 1, 2017, shall  
17 integrate long-term care for Medicaid beneficiaries into the  
18 care-delivery system of each region.

19 (c) The Medicaid Agency shall decide which groups of  
20 Medicaid beneficiaries to include for coverage in a regional  
21 care organization or alternate care provider.

22 Section 11. This act shall authorize the Attorney  
23 General to actively supervise regional care organizations to  
24 provide immunity from federal anti-trust laws.

25 Section 12. All laws or parts of laws which conflict  
26 with this act are repealed.

1                   Section 13. This act shall become effective  
2 immediately following its passage and approval by the  
3 Governor, or its otherwise becoming law.