



Florida CHAIN

COMMUNITY HEALTH ACTION INFORMATION NETWORK

January 22, 2009

The Honorable Charlie Crist
Governor of the State of Florida
400 South Monroe Street
Tallahassee, FL 32399-0001
Via Email: Charlie.Crist@myflorida.com and Fax: 850-487-0801

Dear Governor Crist:

I am writing on behalf of Florida CHAIN to **respectfully urge you to veto Section 16 of Senate Bill 2-A**, now on your desk for approval. It is our strong belief that a veto of Section 16 would prevent short-term harm to the vulnerable Floridians who rely on Medicaid and Medicaid-funded providers as well as pre-empt a longer-term threat to Medicaid and Medicaid recipients that it sets in motion.

We greatly appreciate your concerted efforts to date to shield Medicaid recipients from yet another round of cuts and to encourage the Legislature to do so as well. We hope, as we know you do, that the economic stimulus package now pending in Congress will provide an opportunity to stem the tide of cuts through an infusion of federal Medicaid funds by increasing Florida's Federal Medical Assistance Percentage (FMAP).

However, we believe – albeit as laypersons - that efforts to do this will be thwarted if Section 16 is allowed to stand. In particular, Section 16 requires that:

[a]ny federal legislation becoming law that results in an improvement to the state's federal medical assistance percentage (FMAP) shall result in a realignment of the associated budget authority provided in Chapter 2008-152, Laws of Florida, and any subsequent amendments thereto. The affected agencies are hereby directed to submit budget amendments in accordance with the provisions of Chapter 216, Florida Statutes, within 30 days of such a federal change becoming law. The amendments shall be developed to reduce the state's reliance on general revenue, while preserving the total funding level anticipated within Chapter 2008-152, Laws of Florida, and any subsequent amendments thereto.ⁱ

Section 16 would – unless Congress pre-empts it –**appear to preclude any attempt to use additional federal funds** appropriated for the purpose of sustaining Medicaid programs and services **from restoring any cuts made to Medicaid**, with the exception of hospital payment rate cuts.ⁱⁱ

Of equal or perhaps greater concern is the fact that Section 16 also appears to mandate the supplanting of recurring general revenue dollars with non-recurring supplemental Medicaid funds, because the proposed FMAP increase under discussion is only temporary. Once the FMAP formula reverts to the current version, even more funding for Medicaid programs and services would evaporate.

The directive in Section 16 is particularly disconcerting in light of provisions in the emerging stimulus bill that would make states' receipt of any additional Medicaid funding contingent upon restoration of any reductions in eligibility since July 1.

We believe that it is within your purview to veto or, at a minimum, to question whether Section 16 meets the single-subject requirement. As you know, the Florida Constitution provides that:



Florida CHAIN

COMMUNITY HEALTH ACTION INFORMATION NETWORK

[L]aws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject,ⁱⁱⁱ

and that the Florida Supreme Court has further clarified that:

...two major considerations underlie this one subject requirement: to prevent logrolling in appropriations bills; and to ensure the integrity of the legislative process in substantive lawmaking.^{iv}

We believe, however, that Section 16 is neither a specific appropriation nor proviso. Rather, the measure is a general policy directive pertaining to the process by which revenue that may be received in the future is to be appropriated.

More specifically, the Supreme Court ruled that:

A specific appropriation is an identifiable, integrated fund which the legislature has allocated for a specified purpose.^v

Section 16 is not an identifiable fund (i.e., an exact amount of money^{vi}), nor does it pertain to any identifiable fund. Furthermore, the provision does not serve to effect any specified purpose, but rather sets forth expectations to which future budget amendments must purportedly adhere. In particular, Section 16 provides or references no specific line item amount, only hypothetical budget amendments impacting numerous but unspecified and almost certainly unrelated specific appropriations.

The Supreme Court further clarified that:

[a] fund is not 'integrated' - it is not a 'specific appropriation'- unless it consists of all those elements necessary to achieve the stated purpose.^{vii}

We believe, therefore, that Section 16 cannot be understood to be a specific appropriation. Neither can it be characterized as proviso language, however, as it does not qualify or restrict a specific appropriation found elsewhere in the bill, nor does it logically and directly relate to any specific appropriation.^{viii}

Most importantly, **Section 16 would have a deleterious and in some cases irreversible effect on the health of the most vulnerable Floridians who have no other meaningful safety net.** Primarily for that reason and for the reasons explained here as well, we urge you to veto or take other recourse to ensure that Section 16 of Senate Bill 2-A is stricken.

Thank you for your consideration.

Respectfully submitted,

Laura Goodhue
Executive Director
laurag@floridachain.org
561-691-4062

cc: Ms. Holly Benson, Secretary, Agency for Health Care Administration



Florida CHAIN

COMMUNITY HEALTH ACTION INFORMATION NETWORK

ⁱ See p. 117, Conference Report on Senate Bill 2-A (2009A).

ⁱⁱ See p. 20, Id. (proviso language for Specific Appropriation 110).

ⁱⁱⁱ See Fla. Const., art. III, §12.

^{iv} See Florida Senate v. Harris, 750 So. 2d 626 (Fla. 1999).

^v See Brown v. Firestone, 382 So. 2d 654, 663 (Fla. 1980).

^{vi} Florida House of Representatives v. Martinez, 555 So. 2d 844 (Fla. 1990).

^{vii} See id. at 845.

^{viii} See Fla. Stat., § 216.011(l).