

ages 20-64, ranged from \$49,678 to \$75,006.³ In contrast, non-ESRD Medicare costs per patient per year for ages 20-64 ranged from \$5,470-\$9,766. In Florida, there are an estimated 430,000 persons with a disability under the age of 65. Disability determination by the Social Security Administration is based on the income of a person as well as the severity of the person's physical or mental impairment.

This bill substantially amends the following section of the Florida Statutes: 627.6741.

II. Present Situation:

Medicare Coverage

Generally, Medicare is health insurance for people age 65 and older, as well as people under age 65 with a disability or end-stage renal disease.⁴ Medicare Part A provides coverage for certain inpatient care provided by hospitals, skilled nursing facilities, and hospice care for the aged and disabled. Medicare Part B pays for physician services, outpatient hospital, home health, and other services for the aged and disabled. Part D helps provide coverage for prescription drugs.

In Florida, approximately 3.1 million persons (2,699,180 age 65 and older and 429,344 disabled) were covered by Medicare in 2007.⁵ Another 2007 survey, conducted by the U.S. Census Bureau, reported that Medicare provided coverage for 485,000 people in Florida under the age of 65. The U.S. Census Bureau also noted that 33 percent of this population (or 161,000) in Florida had Medicare coverage and secondary insurance with a private insurer.⁶ There were 108,000 persons under age 65 who had Medicare and secondary coverage with Medicaid.

Generally, in order to be eligible for Medicare under age 65, a person with ESRD must have initiated dialysis or transplantation and be eligible for Social Security or be a spouse or dependent of an eligible person.⁷ Medicare's coverage for ESRD is not based on financial need.

Medigap Insurance

A Medigap or Medicare supplement insurance policy, which is sold by private insurers, helps supplement or fill the gaps in Part A and Part B coverage (e.g., coinsurance, copayments, and deductibles). The standardized plans in this market are designated by the letters A through L.

The Office of Insurance Regulation (OIR) has identified seven insurers currently selling to the under-65 disabled population. According to the OIR, there are four types of standardized policies in the Medigap market: individual standard, individual select, group standard, and group select. Select is a special category of policies that incorporate a network element. Insurers may have up to five forms within a plan or type combination (i.e., up to five forms for individual standard plan A). Insurers are allowed the following form variations: guaranteed issue versus underwritten; aged versus disabled; agent sale versus direct response; and innovative benefits.

³ *Ibid.* Based on costs of primary payor and the primary diagnosis.

⁴ Medicare defines end-stage renal disease as permanent kidney failure requiring dialysis or a kidney transplant. See www.medicare.gov/medigap/under65.asp. (Last visited on March 13, 2008.)

⁵ Medicare Aged and Disabled by State and County, as of July 1, 2007. See www.cms.hhs.gov. (Last visited March 10, 2009.)

⁶ *Income, Poverty, and Health Insurance Coverage in the United States: 2007*, U.S. Census Bureau.

⁷ See www.kidney.org/patients/plu/plu_manag/x.cfm. (Last visited March 13, 2009.)

Under federal law, Medicare beneficiaries age 65 and older are guaranteed an open enrollment period in which to buy Medicare supplemental coverage. This period lasts for 6 months and begins on the first day of the month in which a person is age 65 or older and enrolled in Medicare Part B.⁸ Current Florida law does not mandate an open enrollment for those eligible for Medicare under the age of 65, who qualify based on a disability or ESRD.

Currently, 28 states mandate insurance companies to offer at least one type of Medigap policy to Medicare enrollees under age 65 with a disability or ESRD.⁹ Of these states, California, Massachusetts, and Vermont exclude such coverage for ESRD. Delaware limits such coverage to ESRD only.¹⁰

Social Security Disability

To be deemed disabled by the Social Security Administration, a person must be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that is expected to result in death or has lasted, or can be expected to last, for a continuous period of 12 months. Social Security pays disability benefits under two programs:

- Social Security Disability Insurance (SSDI) for insured workers, their disabled surviving spouses and children (disabled before age 22) of disabled, retired, or deceased workers.¹¹
- Supplemental Security Income (SSI) for the aged, the blind, and people who have disabilities and very low income. If a person is receiving SSI, the person will also most likely qualify for food stamps and Medicaid, too.¹²

Prevalence, Costs, and Coverage of ESRD in Florida

According to the United States Renal Data System (USRDS), the point prevalence count of reported ESRD patients in the U.S. is 406,812 persons, as of December 31, 2005.¹³ In Florida, the point prevalence count of reported ESRD patients is 23,465, for the same period.¹⁴ In Florida, the prevalence count for the population count under age 65 was 17,184 and 10,689 for age 65 and over.¹⁵

Medical expenses associated with ESRD are significant. The ESRD-related expenses were \$23 billion in 2006 and represented 6.4 percent of the total Medicare budget. The total costs for ESRD increased 103 percent during the period of 1996 to 2006. Per patient per month costs for

⁸ Section 627.6741, F.S.

⁹ *Medigap Expansion Study*, Florida Renal Coalition, Jessica Cabness, Assistant Professor of Social Work, University of South Florida and Richard B. Smith, Assistant Professor of Economics, University of South Florida, 2009.

¹⁰ *2009 Choosing a Medigap Policy: A guide to Health Insurance for People with Medicare*, Centers for Medicare and Medicaid Services and the National Association of Insurance Commissioners.

¹¹ See <http://www.cms.hhs.gov/apps/firststep/content/ssdi-qa.html>. (Last visited March 18, 2009.)

¹² See <http://www.ssa.gov/pubs/11000.html>. (Last visited March 18, 2009.)

¹³ The United States Renal Data System (USRDS), funded by the National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, is the national data registry that collects, analyzes, and distributes information on the end-stage renal disease (ESRD) population in the U.S., including treatments and outcomes.

¹⁴ ESRD patients, regardless of insurance coverage and age, are included in the USRDS database.

¹⁵ U.S. Renal Data System, *USRDS 2008 Annual Data Report: Atlas of Chronic Kidney Disease and End-Stage Renal Disease in the United States*, National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Bethesda, MD, 2008.

dialysis treatment for these patients was \$4,300 in 2006. The estimated U.S. average first-year billed charges per kidney-only transplant were \$246,400, which included the costs for procurement, hospital, physician, evaluation, follow-up, and immune-suppressants.¹⁶ Medical costs for ESRD patients are substantially higher than other Medicare patients, as reflected in the chart below:¹⁷

Age	Non-ESRD Medicare Patients	ESRD Medicare Patients*
20-44	\$5,470	\$49,678
45-54	6,701	56,891
55-64	6,993	
65-74	6,009	
75+	9,766	75,006

*Primary payor and primary diagnosis only.

Secondary insurance for Medicare coverage can be provided by various sources, including Medicaid and employers. If a person is unable to work, coverage options are more limited. Insurance coverage (by percentages) in the ESRD incident population nationwide is depicted below:¹⁸

Age	Medicaid	Medicare	DVA*	Employer	Other	None	Medicare Advantage	Applying for Medicare
0-19	45.2	3.9	0.2	33.4	21.3	9.0	0.1	87.6
20-44	32.5	13.7	0.5	32.3	12.8	20.3	0.2	87.1
45-64	28.2	27.3	2.0	33.7	17.4	11.7	0.5	84.3
65-74	22.1	85.2	1.5	16.4	36.8	1.8	2.0	68.7
75+	17.3	88.7	1.2	13.9	46.3	1.2	2.3	66.3

*U.S. Department of Veterans' Affairs

Medicaid is the state and federal partnership that provides health coverage for selected categories of people including categorically needy (pregnant women, children in families below the Federal poverty level, other families, qualified Medicare beneficiaries and individuals receiving Social Security Income) and the medically needy. Medicaid can pay Medicare premiums, deductibles, coinsurance, and some costs Medicare doesn't cover. According to the Agency for Health Care Administration, for fiscal year 2007-08, there were a total of 6,482 ESRD patients dually enrolled in Medicaid and Medicare. Of this total, 4,117 individuals were under the age of 65.

¹⁶ *Financing a Transplant: The Costs*, at www.transplantliving.org/beforethetransplant/finance/costs.sapx. (Last visited March 15, 2009.)

¹⁷ U.S. Renal Data System, *USRDS 2008 Annual Data Report: Atlas of Chronic Kidney Disease and End-Stage Renal Disease in the United States*, National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Bethesda, MD, 2008.

¹⁸ U.S. Renal Data System, *USRDS 2008 Annual Data Report: Atlas of Chronic Kidney Disease and End-Stage Renal Disease in the United States*, National Institutes of Health, National Institute of Diabetes and Digestive and Kidney Diseases, Bethesda, MD, 2008.

III. Effect of Proposed Changes:

Section 1 amends s. 627.6741, F.S., by mandating insurers to offer Medicare supplement insurance on a guaranteed-issue basis to an individual within 6 months after they become eligible for Medicare due to a disability or end-stage renal disease. The individual must also be enrolled in Medicare Part B as a condition of being entitled to the guaranteed-issue coverage. This allows a person who is covered by Medicare due to a disability or ERSD to have a 6-month open enrollment period to purchase a Medicare supplement policy on a guaranteed-issue basis.

This section also contains two rating provisions. The first provision allows insurers who currently offer coverage to enrollees under age 65 a process to address problems in the premium relativities between the premium class, which includes the under age 65 and the balance of the block, by redefining the age bands of the premium classes without activating the period of discontinuance of forms required under s. 627.410(6)(e)2, F.S.

The other rating provision allows an insurer to address problems in the premium relativities between the premium class, which includes the under age 65 and the balance of the block, in the first rate filing in 2012. This provision is intended to allow a company to consider the experience data for the premium class, including the under age 65 individuals, on a much more credible basis than the current rules authorize. First, the credibility is measured by the number of Florida policies. If a block of policy forms has 1,250 or more policies, full or 100 percent credibility applies to the experience. If there are less than 1,250 policies in the under age 65 class, the insurer could take a credibility-weighted average with their nationwide business in that age class. After 2012, experience could be pooled throughout the block as authorized in the OIR's current rating rules. That is, the over age 65 Medigap policyholders could incur a premium increase attributable to the under age 65 Medigap policyholders.

Section 2 provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Approximately 17,000 Medicare beneficiaries under age 65 with ESRD would be eligible to purchase Medigap policies. The actual number of enrollees is indeterminate. The amount of pent-up demand for the coverage and affordability of such coverage is unknown. Based on U.S. Census data on the under-age 65 Medicare population in Florida, approximately 33 percent of this population already has secondary coverage with a private insurer and 25 percent of this population was dually enrolled in Medicaid.

According to the advocates of the bill, transplant centers generally require persons without secondary insurance coverage (through an employer, federal government, Medicaid, or other source) to pay \$1,000 to \$5,000 in order to be placed on the transplant waiting list. The bill would provide a mechanism for those under age 65 with Medicare and no secondary coverage to purchase such insurance.

In Florida, there are an estimated 430,000 persons under the age of 65 with a disability. The median household income for this group, ages 18-64, was \$28,400 in 2007. The anticipated number of under age 65 Medigap enrollees is not expected to be significant since disability determination is tied to the income of a person as well as the severity of the medical condition. For example, if a person was working in 2009 and his or her earnings averaged more than \$980 a month, a person generally would not be eligible for disability.

To the extent that expanding eligibility for Medicare supplement insurance for those with ESRD and disability increases overall claims costs for an insurer, these costs may be passed through to policyholders in the form of premium increases.

C. Government Sector Impact:

According to the Agency for Health Care Administration, the bill does not have a fiscal impact on the agency, which includes Medicaid.

There is no fiscal impact on the OIR.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on March 17, 2009:

- The CS requires insurers offering Medigap or Medicare supplement policies in Florida to issue these policies on a guaranteed-issue basis to any person who is under age 65, is eligible for Medicare due to a disability or end-stage renal disease (ESRD), and is enrolled in Medicare, within 6 months after becoming eligible for Medicare.
- The original bill limited the under age 65 guaranteed issue to persons with end-stage renal disease only.

The CS creates two additional rating provisions related to Medigap policies.

- B. **Amendments:**

None.