

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: HB 6031 Florida Kidcare Program
SPONSOR(S): Pigman
TIED BILLS: **IDEN./SIM. BILLS:** SB 348

FINAL HOUSE FLOOR ACTION: 115 Y's 0 N's **GOVERNOR'S ACTION:** Approved

SUMMARY ANALYSIS

HB 6031 passed the House on March 11, 2020, as SB 348.

The Florida Kidcare Program (Kidcare) was created by the Florida Legislature in 1998 in response to the federal enactment of the State Children's Health Insurance Program in 1997 (CHIP). Kidcare provides subsidized health insurance coverage to uninsured children who do not qualify for Medicaid but who meet other eligibility requirements. Kidcare encompasses four programs: Medicaid for children, the Medikids program, the Children's Medical Services Network and the Florida Healthy Kids program. The Florida Healthy Kids program under the Florida Healthy Kids Corporation (FHKC) provides health coverage to children from age 5 through age 18 who live in households meeting certain eligibility thresholds.

Health care coverage provided under the Healthy Kids program is subject to a \$1 million lifetime limit for each enrolled child. If an enrolled child incurs \$1 million in health benefits expenditures, the child is disenrolled from the Healthy Kids program. In 2018, the federal Centers for Medicare and Medicaid Services (CMS) informed the Agency for Health Care Administration (AHCA) that Florida's use of the \$1 million lifetime coverage limit for the Healthy Kids program was in violation of federal Title XXI regulations related to program eligibility and enrollment. As part of a required corrective action plan, the CMS directed AHCA to either eliminate the annual coverage limit or institute a coverage limit in compliance with federal CHIP regulations.

HB 6031 deletes the \$1 million lifetime coverage limit that currently applies to each child enrolled in the Florida Healthy Kids program. With this change, no child will be removed from coverage eligibility by virtue of accumulating benefit claims that exceed a dollar amount threshold.

The bill has a significant, negative, recurring fiscal impact to the AHCA and no fiscal impact on local governments. See Fiscal Analysis.

The bill was approved by the Governor on April 8, 2020, ch. 2020-12, L.O.F., and became effective on that date.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Florida Kidcare Program

The Florida Kidcare Program (Kidcare) was created by the Florida Legislature in 1998 in response to the federal enactment of the State Children's Health Insurance Program (CHIP) in 1997. The CHIP provides subsidized health insurance coverage to uninsured children who do not qualify for Medicaid but who meet other eligibility requirements. The state statutory authority for the Program is found in part II of ch. 409, F.S.

Kidcare encompasses four programs:

- Medicaid for children;
- The Medikids program;
- The Children's Medical Services Network; and
- The Florida Healthy Kids program.

Kidcare coverage is funded by state and federal funds through Title XIX (Medicaid) and Title XXI (CHIP) of the federal Social Security Act. Families also contribute to the monthly premium cost of the coverage under the Title XXI-funded components of Kidcare based on their household size, income, and other eligibility factors. For families with incomes above the income limits for monthly premium assistance, or who do not otherwise qualify for assistance, Kidcare also offers an option under the Healthy Kids and Medikids components for the family to obtain coverage for their children by paying the full premium.

Eligibility for the Program components is determined in part by age and household income:

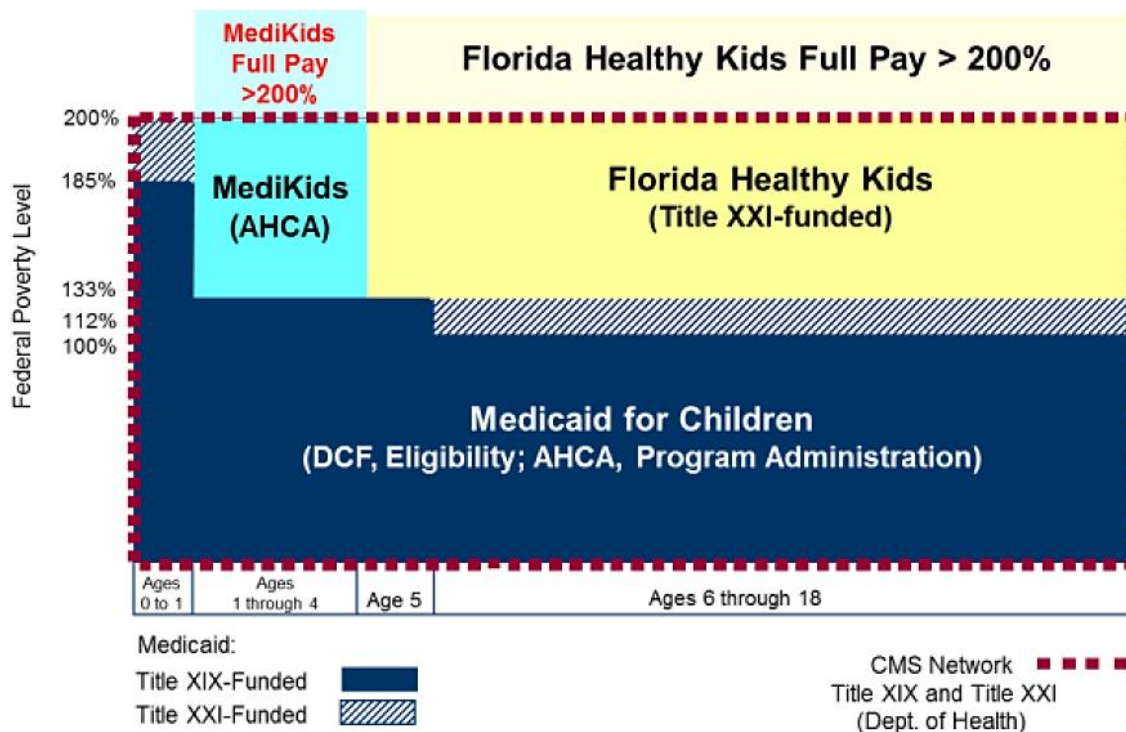
Program	Age Range	Family Income
Medicaid for Children	Birth until age 1	185-200% of federal poverty level (FPL)
Medikids	Age 1 until age 5	133-200% of FPL
Healthy Kids	Age 5 until age 6	133-200% of FPL
	Age 6 until age 19	100-200% FPL
Children's Medical Services Network	Birth until age 19 (children with special needs)	Up to 200% FPL

Kidcare is administered jointly by the Agency for Health Care Administration (AHCA), the Department of Children and Families (DCF), the Department of Health (DOH), and the Florida Healthy Kids Corporation (FHKC). Each entity has specific duties and responsibilities under Kidcare as detailed in part II of ch. 409, F.S. The DCF determines eligibility for Medicaid, and the FHKC processes all Kidcare applications and determines eligibility for the CHIP, which includes a Medicaid screening and referral process to the DCF, as appropriate. The Department of Health assesses whether children meet the Children's Medical Services Network clinical requirements.

At present, more than 2.4 million Florida children are enrolled in Kidcare.¹

¹ Healthy Kids, *What is Florida KidCare?*, available at: <https://www.healthykids.org/kidcare/what/> (last accessed March 6, 2020).

The following chart summarizes eligibility and funding for Kidcare.²



Florida Healthy Kids Lifetime Maximum

Unlike the other components of Florida Kidcare, coverage provided under the Healthy Kids program is subject to a statutory \$1 million lifetime limit for each enrolled child.³ If an enrolled child incurs \$1 million in health benefits expenditures, the FHKC removes that child from the Healthy Kids program. The FHKC reports that 12 children have been disenrolled from Health Kids in the past five years for exceeding the lifetime maximum coverage limit.⁴ The FHKC notifies a family when a child has reached \$700,000 in covered benefits, reminds the family of the \$1 million coverage limit, and informs the family of alternative coverage options.⁵

On November 13, 2018, the federal Centers for Medicare and Medicaid Services (CMS) informed AHCA that Florida's use of the \$1 million lifetime coverage limit for the Healthy Kids program was in violation of federal Title XXI regulations related to program eligibility and enrollment.⁶ The CMS ordered the AHCA to complete a corrective action plan to address these violations and bring the Healthy Kids program into compliance with relevant federal regulations. The agency initially submitted a corrective action plan to the CMS in February of 2019⁷; a revised version of this plan was approved by the CMS on July 26, 2019.⁸

² Institute for Child Health Policy at University of Florida, *Florida KidCare Program Evaluation 2015*, available at http://ahca.myflorida.com/medicaid/Policy_and_Quality/Policy/program_policy/FLKidCare/PDF/2015_Florida_Kidcare_Evaluation_Report.pdf (last accessed March 6, 2020).

³ S. 409.815(2)(r), F.S.

⁴ E-mail correspondence from Mr. Jeff Dykes, Interim Chief Executive Office for FHKC (September 27, 2019)(On file with the Health Quality Subcommittee).

⁵ Agency for Health Care Administration, *Agency Analysis of Senate Bill 348 Analysis* (October 9, 2019).

⁶ Correspondence from the Centers for Medicare and Medicaid Services to the Agency for Health Care Administration (November 13, 2018)(On file with the Health Quality Subcommittee). The letter indicates violations of several federal regulations under 42 CFR 457.342.

⁷ Correspondence from the Agency for Health Care Administration to the Centers for Medicare and Medicaid Services (February 11, 2019)(On file with the Health Quality Subcommittee).

⁸ Correspondence from the Centers for Medicare and Medicaid Services to the Agency for Health Care Administration (July 26, 2019)(On file with the Health Quality Subcommittee).

The CMS guidance does not explicitly prohibit a lifetime coverage limit under the Healthy Kids program. Rather, the guidance indicates that such a limit must meet certain criteria. If the state wishes to establish a lifetime coverage limit for the Healthy Kids program, it must be in compliance with federal CHIP enrollment and eligibility regulations.⁹ In particular, the CMS noted:

- The state never reflected the \$1 million lifetime coverage limit in its Medicaid state plan. A state plan amendment would be necessary to implement such a limit.¹⁰
- The automatic disenrollment of children who reach a certain coverage threshold is inconsistent with federal continuous enrollment policies. A state may only disenroll a child from eligibility upon providing sufficient notice to a child's family so that gaps in coverage do not occur.¹¹
- Only on establishment of a clear beginning date for a lifetime coverage limit in the Medicaid state plan can expenses count towards that limit. In other words, AHCA would need to eliminate the accrued balances for all children currently enrolled in the Healthy Kids program and set a future date on which balances would begin to accrue.¹²
- Federal Medicaid regulations require that enrollees be given the ability to review and appeal coverage determinations.¹³ Children meeting the \$1 million lifetime limit under Healthy Kids were not provided such rights.

In order for the CMS to approve a lifetime coverage limit, these deficiencies would need to be addressed. The CMS approval of Florida's corrective action plan was contingent upon the state submitting a Medicaid state plan amendment to the CMS, with an effective date of January 1, 2020.¹⁴ AHCA submitted such an amendment to CMS, which is pending approval, but also communicated to CMS that legislation under consideration by the Legislature would eliminate the lifetime coverage limit altogether and negate the need for the amendment.¹⁵

Effect of the Bill

HB 6031 repeals the \$1 million lifetime coverage limit that currently applies to each child enrolled in the Florida Healthy Kids program. With this change, no child will be removed from coverage eligibility by virtue of accumulating benefit claims that exceed a dollar amount threshold.

Removing the lifetime coverage limit will require expenditure of additional state and federal revenues in support of the Healthy Kids program. See Fiscal Analysis & Economic Impact Statement.

Subject to the Governor's veto powers, the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

⁹ Id.

¹⁰ Supra note 5.

¹¹ 42 CFR 457.340.

¹² Supra note 5.

¹³ 42 CFR 457.1130.

¹⁴ Supra note 5.

¹⁵ E-mail correspondence from James Kotas, Director of Legislative Affairs for the Agency for Health Care Administration (March 30, 2020)(On file with the Health Quality Subcommittee).

The FHKC has developed estimates of the additional federal Medicaid matching funds that would become available to the state following the elimination of the Healthy Kids lifetime limit¹⁶, as follows:

FY 2019-20: \$233,668 (assumes fourth quarter FY impact, if bill is effective April 1, 2020)

FY 2020-21: \$893,373

FY 2021-22: \$947,956

These estimates are based on the payment rate proposals submitted by the three carriers selected to contract with FHKC effective January 1, 2020.¹⁷ The state would continue to collect recurring federal Medicaid funds in future years, relative to what would have been collected under current law.

2. Expenditures:

The FHKC also developed estimates of increased state general revenue spending that may occur following elimination of the Healthy Kids lifetime limit¹⁸, as follows:

FY 2019-20: \$42,764 (assumes fourth quarter FY impact, if bill is effective April 1, 2020)

FY 2020-21: \$281,163

FY 2021-22: \$344,467

These estimates are based on the payment rate proposals submitted by the three carriers selected to contract with FHKC effective January 1, 2020.¹⁹ The state will continue to spend recurring general revenue in future years, relative to what would have been spent under current law. The FHKC should be able to absorb the state and federal costs within existing appropriations and corporate reserve funds. The Social Services Estimating Conference will incorporate the future costs in the official expenditure estimates.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

¹⁶ Letter from Mercer Consulting Services to Mr. Jeff Dykes, Chief Financial Officer for FHKC (January 17, 2020)(On file with the Health Care Appropriations Subcommittee).

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.