

STORAGE NAME: h1447.hcs

DATE: April 9, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
HEALTH CARE SERVICES
ANALYSIS**

BILL #: HB 1447

RELATING TO: Medicaid Eligibility for Certain Disabled Persons

SPONSOR(S): Representatives Levine and Wiles & others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ELDER AFFAIRS & LONG TERM CARE YEAS 8 NAYS 0
 - (2) HEALTH CARE SERVICES
 - (3) HEALTH & HUMAN SERVICES APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 1447 authorizes the state to extend Medicaid eligibility to disabled persons who participate in the newly enacted federal "Ticket to Work and Work Incentives Improvement Act of 1999," Public Law No. 106-170. Disabled persons who return to work can earn up to 250% of the federal poverty level and "buy-in" to Medicaid coverage.

Subject to a specific appropriation, the Agency for Health Care Administration (AHCA) is directed to seek a federal grant, waiver, or demonstration project if such is authorized by the Secretary of the federal Department of Health & Human Services (HHS) to establish a Medicaid buy-in program for disabled persons whose medical improvements allow them to return to work but who require medical assistance services to remain employed.

This act shall take effect October 1, 2000.

Estimates of the fiscal impact as prepared by the Agency for Health Care Administration indicate that the maximum potential fiscal impact will be \$5.9 million, of which \$2.66 million will be state funding.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

1. Less Government: The bill creates a new category of Medicaid eligibility for persons who return to work and are able to buy-in to Medicaid. This optional Medicaid eligibility group would create new responsibilities and obligations for state government.

B. PRESENT SITUATION:

Demographics of Disabled Persons

Almost one in five Americans and more than ten percent of all Floridians has a disability. Individuals with disabilities have lower employment rates and lower incomes than persons who do not have a disability, according to the ABLE Trust, December 1999 report: Cost-Benefit Analysis of Employment of Floridians with Disabilities. The ABLE Trust report estimates that the cost of unemployment for Floridians with disabilities is \$8.1 - \$10.5 billion dollars annually.

In 1998, 281,910 Floridians received benefits averaging \$739 per month under the Social Security Disability Insurance program. Total SSDI payments in Florida for 1998 were \$228 million dollars. During that same year, 266,325 persons received benefits under Supplemental Security Income (SSI) with an average payment of \$359 per month. This was a total of \$95.6 million dollars for the year.

Federal Benefits

SSI pays a cash benefit to individuals who are age 65 or older, or who are blind, or who have a disability **and** who have limited income and assets. Persons who qualify for SSI automatically qualify for Medicaid. Social Security Disability Insurance (SSDI) pays disabled former workers a monthly benefit based on their prior work and contributions under Social Security. After approximately two years of a qualifying disability, SSDI beneficiaries qualify for Medicare.

Social Security does **not** pay for short-term or partial disability. Applicants are considered disabled if they cannot do the work they did before sustaining the disability and Social Security confirms that each applicant cannot adjust to other work because of a medical condition. The disability also must last, or be expected to last, a year or to result in death.

Over the years, the Social Security disability programs have developed a number of work incentives to encourage disabled persons to return to work. The loss of health care benefits (Medicaid) has frequently been cited as a barrier, or disincentive, for persons with disabilities to return to the workforce.

Ticket to Work and Work Incentives Improvement Act of 1999

The federal "Ticket to Work and Work Incentives Improvement Act of 1999" was signed into law on December 17, 1999. It allows states to provide Medicaid coverage to certain disabled persons who are transitioning from Social Security disability (SSI or SSDI) to gainful employment. The provisions of the law become effective at various times, generally beginning one year after enactment. The program will be phased in nationally over a three-year period beginning January 1, 2001, with the first Tickets issued early in 2001. Social Security and Supplemental Security Income (SSI and SSDI) disability beneficiaries will receive a "Ticket" they may use to obtain vocational rehabilitation (VR), employment, or other support services from an approved provider of their choice. The Ticket program is voluntary.

Expanded Availability of Health Care Services

Effective October 1, 2000, states will have the option to provide Medicaid coverage to more people ages 16-64 with disabilities who work. States will have the option to permit working individuals with incomes up to 250 percent of the federal poverty level to "buy-in" to Medicaid. This is section 101 of the federal law.

If a state provides Medicaid coverage to the individuals described above who return to work, the state may also opt to continue to provide coverage to certain individuals whose improved medical condition would otherwise make them ineligible.

Further, the law also extends Medicare coverage for people with disabilities who return to work. It extends Part A premium-free coverage for 4½ years beyond the current limit for Social Security disability beneficiaries who return to work. This is section 102 of the federal law.

Individuals covered under these options could "**buy into**" Medicaid coverage by paying premiums or other cost-sharing charges on a sliding fee scale based on an individual's income. The state would be required to make premium or other cost-sharing charges the same for both these two new eligibility groups. In addition, a state may require individuals with income above 250 percent of the federal poverty level to pay the full premium cost.

Federal funds paid to a state for Medicaid coverage of these new eligibility groups must be used to supplement state funds used for their existing programs that assist disabled individuals to work. In order to receive federal funds, states are required to maintain their current level of effort for these groups.

Section 103 of the federal law provides that the Secretary of HHS award "infrastructure grants" to states to design, establish, and operate infrastructures that provide items and services to support working individuals with disabilities, and to conduct outreach campaigns to inform them about the infrastructures. States would be eligible for these grants under the following conditions:

- (1) the state must provide Medicaid coverage to the first new eligibility category described above; and

- (2) the state must provide personal assistance services to assist individuals eligible under the proposal to remain employed (that is, earn at least the federal minimum wage and work at least 40 hours per month, or engage in work that meets criteria for work hours, wages, or other measures established by the State and approved by the Secretary of HHS). [NOTE: In this context, "personal assistance services" refers to a range of services, provided by one or more persons, to assist individuals with disabilities to perform daily activities on and off the job. These services would be designed to increase individuals' control of their life and their ability to perform the activities of daily living on or off the job. Source: HHS Internet Page.]

Section 104 of the federal law, "Demonstration of Coverage of Workers with Potentially Severe Disabilities," requires the Secretary of HHS to establish a state *demonstration program* that would provide medical assistance equal to that provided under Medicaid for disabled persons age 16-64 who are "*workers with a potentially severe disability.*" These are individuals who meet a state's definition of physical or mental impairment, who are employed, and who are reasonably expected to meet SSI's definition of blindness or disability if they did not receive Medicaid services.

Payments under this demonstration program could not exceed, in the aggregate, \$300 million. Payments may be provided to states only through FY 2005. The Secretary is required to allocate funds to states based on states' applications and the availability of funds. Funds awarded to states would equal their federal medical assistance percentage (FMAP) of expenditures for medical assistance to workers with a potentially severe disability.

The Florida Medicaid Program

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The program is jointly funded by the federal government, the state, and the counties. The federal government, through law and regulations, has established extensive requirements for the Medicaid Program. The Agency for Health Care Administration is the single state agency responsible for administering the Florida Medicaid Program. The statutory provisions for the Medicaid Program appear in ss. 409.901 through 409.9205, F.S. The state budget for the program for the current fiscal year is \$7,416,045,061, and the program anticipates serving 1,607,144 clients this year.

Individuals who are elderly or disabled, whose incomes are under 100 percent of the federal poverty level (FPL) are an optional coverage group eligible for Medicaid under s. 409.904(1), F.S. Payments for services to individuals in the optional categories are subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, F.S. In the 1992 special session of the Legislature, proviso language in the amended General Appropriations Act reduced Medicaid eligibility for elderly and disabled persons from 100 percent FPL to 90 percent FPL.

Section 409.914, F.S., authorizes AHCA to use its resources to assist in various insurance assistance programs for the uninsured. This section, in subsection (2), provides authority to AHCA to establish a Medicaid "buy-in" program for those persons ineligible for Medicaid because of current income and categorical restrictions. This authorization has never been operationalized.

Federal Poverty Level

The federal Department of Health and Human Services annually updates the federal poverty guidelines used as the basis for eligibility for a variety of federal and state programs. These data, generally referred to as the "federal poverty level" are published in the *Federal Register*. As published on February 15, 2000, the federal poverty level for the indicated family sizes and percentage levels for the year 2000 are as follows:

<u>Size of Family Unit</u>	<u>100% of FPL</u>	<u>250% of FPL</u>
1	\$8,350	\$20,875
2	\$11,250	\$28,125
3	\$14,150	\$35,375
4	\$17,050	\$42,625

Unemployment in Florida

Unemployment in Florida has declined steadily since 1992. The state's overall unemployment rate is 4.0 percent. Over half of Florida's counties have unemployment rates below the national average. Alachua county had the state's lowest unemployment rate (2.1 percent), and unemployment rates in the Orlando area, the areas around Sarasota, Bradenton, and Pinellas, Ft. Myers and Tallahassee, are under 3 percent.

People with disabilities represent a willing workforce to which businesses are beginning to turn to meet the growing demand for labor. According to a recent article in *Business Week* (March 20, 2000):

"Facing the worst labor shortage in modern history, recruiters are tapping into the kinds of workers they would have easily blown off just 10 years ago...next up are the disabled, who may prove to be the last great hope - if only because they're the only labor pool that hasn't been completely drained. At the same time, ground-breaking technology is creating ways for people with disabilities to better perform jobs, helping them to erase the deep divisions that once existed between them and everybody else"

C. EFFECT OF PROPOSED CHANGES:

The bill authorizes Medicaid coverage for individuals with disabilities who choose to participate in the new federal "Ticket to Work and Work Incentives Improvement Act of 1999" and return to work. Eligible participants are able to work and earn compensation up to 250 percent of the most current federal poverty level, without losing Medicaid eligibility. (Staff from the Department of Children & Family Services determine eligibility as they do for other benefit programs.)

The bill authorizes AHCA to apply for waivers and demonstration projects to implement a Medicaid buy-in for certain disabled persons who return to work and would not qualify for Medicaid. Under this demonstration project, the state could extend Medicaid eligibility to them through a buy-in provision, if their medical condition was such that they needed

Medicaid coverage to continue working. Implementation of the bill is contingent upon a specific appropriation.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 409.904, F.S., relating to Medicaid optional payments for eligible persons, to provide that persons age 16 through 64 who have a disability and return to work may qualify for a Medicaid buy-in program established under the federal "Ticket to Work and Work Incentives Improvement Act of 1999," Title II of Pub. L. No. 06-170. Requires income-related premiums and cost-sharing.

Section 2. Subject to a specific appropriation, AHCA is directed to apply for a federal waiver, grant, or demonstration project to establish a Medicaid buy-in program for certain disabled adults. The buy-in would be available to disabled persons whose medical condition improved sufficiently to allow them to work, but whose continuing disability requires Medicaid services to remain employed.

Section 3. Provides an effective date of October 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No revenue source is specifically identified. The Agency for Health Care Administration is, however, granted authority to seek a federal grant, demonstration project, or waiver for purposes of the bill.

2. Expenditures:

Accurately estimating the cost of implementing the buy-in is difficult, since there are no data on the number of current Medicaid recipients who would become employed due to the presence of the program.

The Congressional Budget Office estimated that 12 states will implement the buy-in program authorized under the new federal law, increasing the Medicaid caseload by 1,200 individuals nationwide, for a fiscal impact of \$10 million.

In developing its Florida fiscal impact statement, AHCA assumed that the program would increase Medicaid caseload by 1,200 individuals in Florida for a first-year fiscal impact of approximately \$3.3 million (\$1.49 million General Revenue). The agency assumed approximately 1,000 individuals who lose SSI or SSDI due to medical improvement would participate in expanded coverage under the program for an annual cost of approximately \$2.6 million (\$1.17 million General Revenue).

The state of Oregon has operated a similar Medicaid buy-in program since 1998. According to officials at the Oregon Division of Senior and Disabled Services, 90 percent of enrollees in the program over the past two years were current Medicaid recipients at the time of program enrollment. The division believes that virtually all of these individuals would have remained unemployed, on Medicaid, without the program. The division believes that the program is cost-neutral to the state because, under the

program, participants begin to pay premiums for Medicaid, whereas without the program they are provided Medicaid at no cost. In addition, some participants gain access to employer-sponsored health care coverage, which reduces Medicaid costs, and there is a gain to the state in tax revenues due to participant employment.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The continuation of Medicaid coverage for disabled persons returning to work is not projected to have a direct economic impact on the private sector. However, since one reason given for disabled people not returning to work is their fear of losing Medicaid, this bill may increase the pool of disabled willing to return to work.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

When SB 1974, the companion bill, was heard by the Senate Health, Aging and Long-term Care Committee on March 28, 2000, the committee adopted an amendment which clarified that the waivers, grants, or demonstration projects the agency is to seek are for the purpose of developing programs to assist individuals with disabilities to gain or keep employment. Consideration should be given to that same amendment by the Health Care Services Committee.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

When heard by the Elder Affairs and Long-Term Care Committee on March 16, 2000, HB 1447 was amended to allow the Department of Children and Family Services to promulgate an administrative rule to establish eligibility standards, application requirements, benefits, and other provisions necessary to implement, conduct, and monitor the programs authorized pursuant to Public Law No. 106-170.

This amendment seems unnecessary, and was more broadly worded than needed for this bill, in an effort to address the rulemaking authority for the Department of Children and Family Services relating to Medicaid eligibility. Other pending legislation addresses that issue. This amendment should be removed from the bill.

VII. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

Staff Director:

Melanie Meyer

Tom Batchelor, Ph.D.

AS REVISED BY THE COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Staff Director:

Phil E. Williams

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