

**STORAGE NAME:** h1447a.lt

**DATE:** March 16, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
Elder Affairs & Long Term Care  
ANALYSIS**

**BILL #:** HB 1447

**RELATING TO:** Medicaid Eligibility for Certain Disabled Persons

**SPONSOR(S):** Representative Levine

**TIED BILL(S):** SB 1974

**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)

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**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 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 are being prepared by the Agency for Health Care Administration.

I. 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.<sup>1</sup>

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.

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<sup>1</sup> A Cost-Benefit Analysis of the Employment of People with Disabilities in Florida. December 1999. Prepared by: Assessment & Evaluation, The Education Services Program, Florida State University. Tallahassee, Florida, by Derek H. Hemenway, M.S. and Faranak Rohani, Ph.D. for the ABLE Trust: Florida Governor's Alliance.

### Federal Poverty Level<sup>2</sup>

Family Size	ANNUAL INCOME	
	100%	250%
1 person =	\$8,240	\$20,600
2 persons =	\$11,060	\$27,650
3 persons =	\$13,880	\$34,700

### 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 above 250 percent of the federal poverty level to "buy-in" to Medicaid. This is section 101 of the federal law.

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<sup>2</sup>From Federal Register, Vol. 64 No. 52, March 19, 1999, pp. 13428-13430. Health and Human Services, Notice: Annual Update of the HHS Poverty Guidelines.

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 4 ½ 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).<sup>3</sup>

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 their applications and the availability of funds.

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<sup>3</sup> “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.

Funds awarded to States would equal their Federal medical assistance percentage (FMAP) of expenditures for medical assistance to workers with a potentially severe disability.

**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% 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:**

This section need be completed only in the discretion of the Committee.

**Section 1.** Amends section 409.904 Optional payments for eligible persons. This section provides 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 authorized 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.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

No revenue is identified. The Agency for Health Care Administration is granted authority, however, to seek a federal grant or demonstration project.

2. Expenditures:

AHCA did not have an estimate of the fiscal impact of these proposals prepared.

Section 1 creates a Medicaid buy-in for disabled persons who return to work; therefore, it is not likely to add new cases to the Medicaid caseload. Very few disabled persons currently move from Medicaid to gainful employment; so, as people gain employment under the provisions of the bill and purchase their continued Medicaid coverage, it may be that the net fiscal impact will not be great.

Section 2 of the bill is contingent upon receipt of a federal demonstration grant. It is not known what level of financial participation, if any, the state would be required to provide.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None are anticipated.

2. Expenditures:

None are anticipated.

**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.

**D. FISCAL COMMENTS:**

**III. 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 municipalities or counties 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.

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IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

No rule making authority is granted. However, DCFS reports that they do not currently have sufficient rule writing authority to prepare the necessary administrative rule to implement this program. An amendment to section 1 of the bill is prepared to provide the required statutory authority for rule development.

C. OTHER COMMENTS:

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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.

VI. SIGNATURES:

COMMITTEE ON Elder Affairs & Long Term Care:

Prepared by:

Staff Director:

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Melanie Meyer

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Tom Batchelor, Ph.D.