

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1238

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Jones

SUBJECT: Displaced Low-Income Workers

DATE: February 6, 2002      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Liem	Wilson	HC	Favorable/CS
2.	_____	_____	CF	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Committee Substitute for Senate Bill 1238 grants Medicaid eligibility to people who become or became unemployed after September 11, 2001, and before December 31, 2002, and their families. To be eligible, a person must be ineligible for insurance coverage under COBRA or the Florida Health Insurance Coverage Continuation Act. The bill would provide up to a 25 percent premium subsidy for people who become or became unemployed after September 11, 2001, and before December 31, 2002, who are eligible for continuation of coverage under COBRA but are unable to afford the premium. The bill would provide up to a 75 percent premium subsidy for people who become or became unemployed after September 11, 2001, and before December 31, 2002, who are eligible for continuation of coverage under the Florida Health Insurance Coverage Continuation Act but are unable to afford the premium. Both the Medicaid eligibility and premium subsidy provisions are contingent on passage of federal legislation facilitating these actions, and both would expire December 31, 2002.

This bill creates three undesignated sections of law.

**II. Present Situation:**

**Federal Economic Stimulus Legislation**

Since the September 11, 2001, terrorist attack, Congress has been debating various proposals to stimulate the economy. Among the proposals being discussed are proposals to expand Medicaid coverage to persons who became unemployed after September 11, 2001, and premium subsidies to persons who are eligible for continuation of coverage under COBRA but who cannot afford the premiums. Congress has not yet enacted any legislation containing these provisions.

## COBRA Coverage

The Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 gives workers who lose their employer-sponsored health benefits the right to choose to continue group health benefits provided by the plan under certain circumstances. COBRA generally requires that group health plans sponsored by employers with 20 or more employees in the prior year offer employees and their families the opportunity for a temporary extension of health coverage (called continuation coverage) in certain instances where coverage under the plan would otherwise end. It applies to plans in the private sector and those sponsored by state and local governments. Provisions of COBRA covering state and local government plans are administered by the Federal Department of Health and Human Services.

Several events that can cause workers and their family members to lose group health coverage may result in the right to COBRA coverage. These include:

- voluntary or involuntary termination of the covered employee's employment for reasons other than "gross misconduct";
- reduced hours of work for the covered employee;
- covered employee becoming entitled to Medicare;
- divorce or legal separation of a covered employee;
- death of a covered employee; or
- loss of status as a "dependent child" under plan rules.

To qualify for coverage, an individual must elect the coverage within 60 days of notification by the health plan administrator that the individual has the right to choose continuation coverage. Coverage is limited to 18 months in the event of a termination of employment or reduced hours.

COBRA coverage can be considered advantageous for most workers, as it allows continuation of the health insurance policy they had in place at work when they lose or leave a job. Although employees can be required to pay 102 percent of the premium for COBRA coverage, they can usually realize significant savings compared with the cost of purchasing the equivalent insurance policy in the private market. However, many individuals who are eligible for COBRA coverage determine that they cannot afford the premium. According to the Employee Benefits Research Institute, 28 percent of individuals eligible for COBRA continuation coverage elect such coverage.

Many employers consider COBRA to be a costly mandate for three reasons. First, premiums collected from COBRA beneficiaries typically do not cover the costs of the health care services rendered. Average employer claims costs for COBRA beneficiaries amounted to \$5,591, compared with \$3,332 for active employees in surveyed plans. Second, COBRA imposes an additional administrative cost on employers. Third, many employers view the penalties for noncompliance as excessively large.

The "Florida Health Insurance Coverage Continuation Act" (s. 627.6692, F.S.) provides for an 18-month continuation of insurance coverage for employees not protected by COBRA by virtue of having been employed by an employer having fewer than 20 employees.

## **The Medicaid Program**

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The federal government, the state, and the counties jointly fund the program. The federal government, through law and regulations, has established extensive requirements for the Medicaid Program. The Agency for Health Care Administration (AHCA) is the single state agency responsible for the Florida Medicaid Program. The Department of Children and Family Services (DCFS) is responsible for determining Medicaid eligibility and managing Medicaid eligibility policy, with approval of any changes by AHCA.

The statutory provisions for the Medicaid Program appear in ss. 409.901 through 409.9205, F.S. Section 409.903, F.S., specifies categories of individuals who are required by federal law to be covered, if determined eligible, by the Medicaid Program (mandatory coverage groups). Section 409.904, F.S., specifies categories of individuals who the federal government gives state Medicaid programs the choice of covering (optional coverage groups). 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.

## **Unemployment in Florida**

According to the Florida Research and Economic database of the Agency for Workforce Innovation, between August, 2001, and December 2001, there was an increase in total unemployment in Florida from 349,000 to 400,000 individuals.

### **III. Effect of Proposed Changes:**

**Section 1.** Allows the Agency for Health Care Administration to make payments for medical assistance on behalf of persons and the families of persons unemployed after September 11, 2001, who were not terminated from employment due to gross misconduct, and who are not eligible for insurance coverage under COBRA or the Florida Health Insurance Coverage Continuation Act. Payment on behalf of these person is subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, F.S. The section is effective on the effective date of federal legislation authorizing expansion of Medicaid coverage to persons who are unemployed after September 11, 2001, if such legislation provides for enhanced federal Medicaid matching rates.

**Section 2.** Allows the Agency for Health Care Administration to subsidize up to 25 percent of COBRA premiums for people who are unable to afford the premium and who are unemployed after September 11, 2001, subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, F.S. For persons unemployed after September 11, 2001, who are eligible for continuing coverage under the Florida Health Insurance Coverage Continuation Act, the agency may subsidize up to 75 percent of the premium, subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, F.S. The Department of Children and Family Services is to determine eligibility. The section takes effect on the effective date of federal legislation authorizing a 75 percent COBRA premium subsidy for the same group of people and expires December 31, 2002.

**Section 3.** Provides a finding that the provisions of the law fulfill an important state interest.

**Section 4.** Provides an effective date of upon becoming a law, except as otherwise specifically provided in the bill.

**IV. Constitutional Issues:**

**A. Municipality/County Mandates Restrictions:**

The bill adds additional individuals to Medicaid. Since counties currently contribute 35 percent of the cost of hospital inpatient care for their residents, beginning with the 12th day through the 45th day, adding a new group of individuals to the Medicaid program has the effect of increasing county contributions to Medicaid. Article VII, s. 18, Florida Constitution, requires that no county or municipality shall be bound by any general law requiring such local government to spend funds or to take action requiring the expenditure of funds unless the legislature has formally determined in the bill that such law fulfills an important state interest and the bill must pass by at least a 2/3 vote of the membership of each house of the Legislature.

The bill contains the required finding of an important state interest.

**B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

**C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Providing additional health care coverage will decrease uncompensated care that may be provided to individuals who are uninsured after September 11, 2001. Assisting individuals with payment of COBRA premiums, thereby increasing the number of people who elect COBRA coverage, may increase costs for employers who sponsor health insurance coverage for their employees.

**C. Government Sector Impact:**

The Agency for Health Care Administration cannot provide cost estimates for the bill due to a lack of data on the number who have a COBRA option. Based on the September

2001 Social Services Estimating Conference, the projected average Medicaid cost per person per month in the categorical eligibility group that includes the unemployed parent/family program is \$156.03 for FY 2002-03.

The cost of COBRA benefits will vary depending on the type of coverage each individual had through their employer. Using the State of Florida employee group plan premiums as a base, the total monthly premium is \$257.38 for individual coverage and \$583.96 for family coverage. A 25 percent subsidy would equal \$64.35 monthly for individuals and \$145.99 for family coverage.

The Department of Children and Family Services will incur costs to determine eligibility of persons covered by the bill.

**VI. Technical Deficiencies:**

The bill does not set income caps for Medicaid eligibility or for the state COBRA subsidy.

It is unclear what level is contemplated in the proposed legislation's reference to "enhanced" federal Medicaid match.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.