

# 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.)

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Prepared By: Health Care Committee

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BILL: CS/SB 2050

INTRODUCER: Committee on Health Care and Senators Peaden and Hill

SUBJECT: Florida Healthy Kids Corporation

DATE: April 5, 2006

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/1 amendment</u>
2.	<u>Garner</u>	<u>Wilson</u>	<u>HE</u>	<u>Fav/CS</u>
3.	_____	_____	<u>HA</u>	_____
4.	_____	_____	<u>WM</u>	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

This bill changes eligibility requirements in the Florida KidCare Program to allow a child who is an alien, but does not meet the definition of qualified alien, and a child who is eligible for coverage under a state health benefit plan to receive non-federal premium assistance through the program's components. The bill repeals the requirement of local match for non-federal premium assistance.

The bill directs the Agency for Health Care Administration (AHCA) to pursue a federal waiver to increase the financial eligibility threshold for Title XXI premium assistance to up to 300 percent of the federal poverty level (FPL). The bill defines the maximum income threshold for federal premium assistance at a minimum of 200 percent of the FPL until an approved federal waiver authorizes a higher threshold.

The bill allows health and dental plans participating in the Healthy Kids Program to market the program in certain situations and clarifies that the Florida Healthy Kids Corporation may release certain information concerning a child's application to parents or legal guardians of the child.

The bill amends ss. 409.811, 409.8132, 409.8134, 409.814, 409.816, 409.818, 409.821, and 624.91, F.S.

## II. Present Situation:

### State Children's Health Insurance Program

The State Children's Health Insurance Program (SCHIP), enacted as part of the Balanced Budget Act of 1997, created Title XXI of the Social Security Act, which provides insurance to uninsured

children in low-income families either through a Medicaid expansion, a separate children's health program, or a combination of both. SCHIP was designed as a federal/state partnership, similar to Medicaid, with the goal of expanding health insurance to children whose families earn too much money to be eligible for Medicaid, but not enough money to purchase private insurance. SCHIP is the single largest expansion of health insurance coverage for children since the initiation of Medicaid in the mid-1960s.

Congress set aside approximately \$40 billion over 10 years (1998 through 2007) for states to expand health insurance coverage for millions of children. Under SCHIP, the federal government provides a capped amount of funds to states on a matching basis. For the 2005-06 fiscal year, the federal allocation is \$249,329,871 and the federal matching rate is 71.22 percent.

To be eligible for coverage under Title XXI, a child must meet certain eligibility guidelines. The guidelines require the child to be:

- In a household with an income at or below 200 percent of the FLP (\$40,000 for a family of four in 2006);
- Between the ages of birth through age 18;
- Not the dependant of a state employee eligible for state benefits;
- A U.S. citizen or qualified alien;
- Not an inmate of a public institution or patient in an institution for mental diseases; and,
- Not eligible for Medicaid.

### **The Florida KidCare Program**

The 1998 Florida Legislature enacted the Florida KidCare program in response to the passage by Congress of SCHIP.<sup>1</sup> KidCare is Florida's children's health insurance program primarily targeted to uninsured children under age 19 whose family income is at or below 200 percent of the FPL (\$40,000 for a family of four).<sup>2</sup>

KidCare is an "umbrella" program that currently includes the following four components, all of which offer comprehensive benefits for eligible children: Florida Healthy Kids, Medicaid for children, Medikids, and the Children's Medical Services (CMS) Network (which includes a behavioral health component). The KidCare program is designed to maximize coverage for eligible children and federal funding participation for Florida, while avoiding the creation of an additional entitlement program under Medicaid. Enrollment was initiated on October 1, 1998, and as of March 6, 2006, 1,456,425 children are enrolled in the various components of the KidCare Program. The eligibility requirements and current enrollment for the four KidCare components are as follows:

- Healthy Kids - for children ages 5 through 18 who qualify for Title XXI up to 200 percent of the FPL. A limited number of non-Title XXI non-qualified alien children are enrolled in the non-federally funded program and are funded with state and local funds. There are also a number of children who have family incomes over 200 percent of

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<sup>1</sup> Section 409.812, F.S. (2003).

<sup>2</sup> 2006 Federal Poverty Level.

- the FPL who are enrolled in the unsubsidized full pay category in which the family pays the entire cost of the premium, including administrative costs. Total enrollment: 187,212.
- Medicaid for children - for low-income children who qualify under Title XIX of the Social Security Act under the following limitations: from birth to age 1, up to 200 percent of the FPL; ages 1 through 5, up to 133 percent of the FPL; and, ages 6 through 18, up to 100 percent of the FPL. Total enrollment: 1,244,304.
  - Medikids - for children ages 1 through 4 who qualify for Title XXI (of the Social Security Act) with incomes up to 200 percent of the FPL. Total enrollment: 16,791.
  - Children's Medical Services (CMS) Network - for children ages birth through age 18 who have serious health care problems. Also, the Department of Health (DOH) contracts with the Department of Children and Family Services (DCF) to provide behavioral health services to non-Medicaid eligible children with special health care needs. Total enrollment: 8,118.

An applicant is required to provide documentation of income at the time of application and then through an annual renewal process. Children enrolled in the non-Medicaid components of the KidCare program are not eligible if they are covered under another comprehensive health insurance plan. A child is also ineligible for subsidized coverage if coverage is available through a parent's employer that costs less than 5 percent of the family's household income.

The KidCare application is a simplified application that serves applicants for both the Title XXI KidCare program as well as Title XIX Medicaid. Pursuant to federal law, each application is screened for the child's eligibility for Title XIX Medicaid. The fiscal agent refers children who appear to be eligible for Medicaid to DCF for Medicaid eligibility determination, and children who appear to have a special health care need to the CMS Network within the Department of Health for evaluation. If eligible for Medicaid, the child is enrolled immediately into that program. If the child is not eligible for Medicaid, the application is processed for Title XXI and if the child is eligible under Title XXI, the child is enrolled into the appropriate KidCare component.

### **Florida Healthy Kids**

The Florida Healthy Kids program component of KidCare is administered by the non-profit Florida Healthy Kids Corporation (FHKC) established in s. 624.91, F.S.<sup>3</sup> The FHKC, pursuant to a contract with AHCA, administers the Healthy Kids program and its responsibilities include eligibility determination, collection of premiums, contracting with authorized insurers, and the development of benefit packages.

Section 624.91(3), F.S., establishes eligibility criteria for state-funded premium assistance in the Healthy Kids program. The following categories are eligible for state-funded premium assistance:

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<sup>3</sup> The Florida Healthy Kids program existed prior to the implementation of the federal Title XXI State Children's Health Insurance Program (SCHIP). Florida was one of three states to have the benefit package of an existing child health insurance program grandfathered in as part of the Balanced Budget Act of 1997.

- Residents of Florida who are eligible for the Florida KidCare program pursuant to s. 408.814, F.S.
- Legal aliens, who were enrolled in the Healthy Kids program as of January 31, 2004, and who, because of their alien status, i.e., are not “qualified aliens,” do not qualify for Title XXI federal funds.<sup>4</sup>
- Individuals who turned 19 as of March 31, 2004, who were receiving Healthy Kids coverage prior to the enactment of the Florida KidCare program. This provision is repealed March 31, 2005.
- Dependents of state employees who were enrolled in the Healthy Kids program as of January 31, 2004. Such dependents remain eligible until January 1, 2005.

### **Florida Healthy Kids Funding and Enrollment**

The Healthy Kids program is funded through a combination of state funds (general revenue and tobacco settlement funds), federal matching funds (Title XXI of the Social Security Act), family premiums and local funds. The amount of federal funds available to Florida each year is established through a formula that takes into account the number of children in each state and a cost factor. Each annual federal allotment is available to the state over a three year period, i.e., for the allocated fiscal year and the two subsequent fiscal years. Unspent funds after that third year can be re-allocated to other states. Federal matching funds are available on expenditures for eligible individuals only and the federal SCHIP legislation prohibits coverage of certain non-citizen children and dependants of state employees.

Healthy Kids currently covers 3,841 non-qualified, non-citizen children (i.e., non-Title XXI) utilizing state funds and local matching funds, and family contributions. Families participating in the program pay either \$15 or \$20 per family per month depending upon their family size and income. Each fiscal year since 2002-03, the Legislature has established the maximum amount of state funds that can be spent on this population and the minimum amount of local match that must be collected. For the 2006-07 fiscal year, the local match cash contribution minimum is \$7 million and the maximum state contribution is \$1.9 million. Because of declining enrollment in this population, it is expected that local match collections will exceed the projected costs for this fiscal year. The current number of Title XXI (federal/state) enrollees is 160,089 and the non-subsidized/full-pay<sup>5</sup> enrollees total 23,282.

The local match formula is established by FHKC. The FHKC calculates the county’s local match rate based upon that county’s percentage of the state’s total non-Title XXI expenditures for providing Healthy Kids coverage to non-Title XXI children, as reported in the FHKC’s most recently audited financial statement. The FHKC provides written notification to the counties by May 1 of each year. The FHKC accepts voluntary local match money from municipalities, counties, school boards, etc., to pay for the premium of children who are not eligible for

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<sup>4</sup> Section 408.811, F.S., defines qualified aliens as defined in s. 431 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, Pub. L. No. 104-193.

<sup>5</sup> Non-subsidized/full pay enrollees are mostly those enrollees over 200 percent of the federal poverty level who pay 100 percent of the costs of their coverage at the statewide full pay rate of \$110 per member per month for medical and dental coverage or \$98 per member per month for just medical coverage, according to FHKC representatives.

Title XXI federal funds. If local match money is not collected from a county, then non-Title XXI children from that county may not participate in the Healthy Kids program.

### **Legislative Commission on Migrant and Seasonal Labor**

Originally established in 1970, the Legislative Commission on Migrant and Seasonal Labor (the commission) is responsible for identifying issues, improving conditions and reducing problems affecting migrant and seasonal workers and their families pursuant to s. 450.201, F.S. The commission was somewhat inactive until 2004, when the Legislature renamed the commission and required it to produce a report to the Legislature by February 1 of each year, beginning in 2006.

The commission began meeting in October 2005, to create a forum for discussions of issues of concern to migrant and seasonal laborers and their dependents. The commission heard from various stakeholders with an interest in migrant and seasonal labor issues, including advocacy groups, agriculture industry representatives, state agency personnel, and the farmworkers themselves.

Housing, employment, safety and sanitation, education, transportation, disaster relief, and health care surfaced as the topics of major concern. Concerning health care issues, the commission determined that the ability of migrant and seasonal laborers to receive adequate health care for themselves and their families, especially the children, is an issue of concern. Furthermore, the role of KidCare in addressing the needs of these workers and their families was discussed as a possible way to address these concerns. As a result, the commission included as one of its final recommendations that they endorse funding of KidCare benefits for all children of migrant and seasonal laborers.<sup>6</sup>

### **Federal State Children's Health Insurance Program (SCHIP) Waivers**

Federal law sets Title XXI income eligibility at 200 percent of the FPL. As SCHIP evolved and grew, a new option became available to the states to expand coverage under the program. Since 2000, the federal government allows states to apply for waivers of the income eligibility threshold so they can increase eligibility over 200 percent of the FPL. The specific authority is a research and demonstration project waiver, authorized by Section 1115 of the Social Security Act, also known as a "Section 1115 waiver." This authority allows the secretary of Health and Human Services to waive certain provisions in the legislation of some "grant-in-aid" programs such as Medicaid - and now SCHIP - to authorize a pilot or demonstration project aimed at promoting the objectives of the program. It also allows the secretary to provide matching funds where such funds normally are not available.

The Centers for Medicare and Medicaid Services (CMS, previously known as the Health Care Financing Administration), released the Section 1115 waiver guidance for SCHIP to states on July 31, 2000. The guidance describes factors to be considered in granting states permission to implement state-devised approaches that ordinarily are not permitted under the SCHIP law in order to meet programmatic goals and objectives and still receive an enhanced match rate. CMS

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<sup>6</sup> [http://www.leg.state.fl.us/data/committees/joint/Jcml/Report\\_To\\_The\\_Legislature.pdf](http://www.leg.state.fl.us/data/committees/joint/Jcml/Report_To_The_Legislature.pdf) (last visited on March 30, 2006)

examines the overall state approach instead of basing its decision solely on the criteria provided in the guidance. These demonstration projects can be used to research an issue of interest to CMS, to test a program, or to otherwise fulfill a research purpose. Section 1115 demonstration projects are given five years in which to prove their research and public policy value. The demonstration projects must contain specific objectives and an evaluation component.

Most importantly from a fiscal perspective, all state activities under SCHIP 1115 waivers must be “budget neutral.” In the case of SCHIP, this means “allotment neutrality,” that is, a state cannot exceed its individual SCHIP funds allotment. Reallocated funds from previously unspent SCHIP allotments do not count toward the available amount. Rules on budget neutrality and funding differ somewhat between SCHIP Medicaid expansions and SCHIP state-designed programs. In the case of Medicaid expansion 1115 waivers, a state could receive funds from a Medicaid amendment or waiver should its SCHIP allotment run out. If an SCHIP demonstration waiver is operated under an SCHIP state-designed program, no more federal funds are available once SCHIP funds are exhausted. Three possible options are generally possible for an SCHIP demonstration waiver. It can: 1) expand benefits and services; 2) expand coverage to new populations; or 3) both.

Expanded services and benefits can be provided to discrete populations as long as these services do not substitute for existing services funded by state or federal money. The two types of additional services are: supplemental services and public health initiatives.

New populations-such as parents of eligible children, pregnant women and children age 18 to 21 otherwise eligible for SCHIP- could be covered under a SCHIP 1115 demonstration waiver. Adults with no children and who are not pregnant will not be considered an eligible population for demonstration projects. Other demonstration waivers that CMS has said it would consider are:

- Extending coverage for children who become ineligible for SCHIP because of their age while in treatment for a specific condition; and
- Proposals to promote enrollment of children eligible for other programs such as the free and reduced school lunch program and the Healthy Start program.

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

**Section 1.** Amends s. 409.811, F.S., adding a definition of “Healthy Kids” as a component of the Florida KidCare program of medical assistance for children 5 through 18 years of age as authorized under s. 624.91, F.S., and administered by the Florida Healthy Kids Corporation; and a definition of the “maximum income threshold” as a percentage of the current FPL used to determine eligibility for certain program components, as approved by federal waiver or an amendment to the state plan.

**Section 2.** Amends s. 409.8132, F.S., changing the set income eligibility from 200 percent of the FPL to the maximum income threshold; inserting a cross reference; and changing a reference to the Health Care Financing Administration to the Centers for Medicare and Medicaid Services.

**Section 3.** Amends s. 409.8134, F.S., removing references to federal and state funding and removing a reference to funding through 2007.

**Section 4.** Amends s. 409.814, F.S., changing the set income eligibility from 200 percent of the FPL to the maximum income threshold; specifying groups that are not eligible for federal premium assistance; and specifying children that are eligible for nonfederal premium assistance, subject to appropriations, including a child that is an alien, but does not meet the definition of qualified alien, and a child who is eligible for coverage under a state health benefit plan.

**Section 5.** Amends s. 409.816, F.S., correcting a cross reference.

**Section 6.** Amends s. 409.818, F.S., requiring AHCA to seek approval from CMS for the highest maximum income threshold of up to 300 percent of the FPL. Until the waiver is approved, the maximum income threshold used for the Florida KidCare program shall be 200 percent of the FPL or the highest income threshold allowed under current federal law. Any such expansion under this subsection is subject to a specified appropriation.

**Section 7.** Amends s. 409.821, F.S., clarifying that the Healthy Kids Corporation may release certain information concerning a child's application to parents or legal guardians of the child.

**Section 8.** Amends s. 624.91, F.S., revising eligibility for nonfederal premium assistance in the Florida Healthy Kids program; repealing the requirement for local match for nonfederal premium assistance; allowing participating health and dental plans to develop marketing and other promotional materials and participate in activities, such as health fairs and public events, as approved by the corporation; and allowing plans to contact their enrollees and former enrollees to encourage participation in the Florida Healthy Kids program.

**Section 9.** The bill takes effect July 1, 2006.

#### **IV. Constitutional Issues:**

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

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

**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, Subsection 19(f) of the Florida Constitution.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

Non-Title XXI children not currently in the Healthy Kids program would benefit under the provisions of this bill because such children could receive benefits under the program. As these children gain health coverage, there will be less uncompensated care.

**C. Government Sector Impact:**

Representatives with the staff of the FHKC estimate that the fiscal impact of this bill is as set forth below:

**Projected Expenditures if Enrollment at March 1, 2004 levels (Annualized)**

March 1, 2004 Non-Title XXI Enrollment:	13, 703	
Member Months:	164,436	
Estimated Medical Per Member Per Month:		\$105.20
Estimated Dental Per Member Per Month:		\$11.59
Estimated Admin. Per Member Per Month:		\$5.82
TOTAL AMOUNT Per Member Per Month:		\$122.61
TOTAL COSTS:		\$20,161,497.96
LESS FAMILY PREMIUMS:		\$1,442,104
<b>NET COSTS TO COVER:</b>		<b>\$18,719,394.24</b>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to representatives with the Florida Healthy Kids program and AHCA, removing the non-Title XXI eligibility criteria under the Healthy Kids program could be interpreted as expanding the opportunity for non-Title XXI children to receive Healthy Kids coverage. Under s. 624.91(2)(b), F.S., it is the intent of the FHKC to provide coverage to children not eligible for federal matching Title XXI funds. The largest category affected under the bill would be legal aliens who do not qualify for Title XXI federal funds because of their alien status, according to AHCA representatives. By removing the current qualification that these children had to have been enrolled in Healthy Kids prior to January 31, 2004, the bill would allow children who have moved to Florida since February 1, 2004, or have become uninsured, the opportunity to receive Healthy Kids coverage. Also, children from families with incomes within 200 percent of the FPL, but who do not meet all of the other technical eligibility factors, would be able to apply for subsidized state coverage.



## **VIII. Summary of Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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