

By Senator Fasano

11-1208-07

1 A bill to be entitled
2 An act relating to the Florida Kidcare program;
3 amending s. 409.811, F.S.; defining the term
4 "maximum income threshold"; amending s.
5 409.8132, F.S.; revising the income eligibility
6 requirements for enrollment in the Medikids
7 program; amending s. 409.8134, F.S.; providing
8 for year-round enrollment only when funding is
9 available to finance increased enrollment;
10 amending s. 409.814, F.S.; revising the income
11 eligibility requirements for enrollment in the
12 Florida Kidcare program and the Florida Healthy
13 Kids program; amending s. 409.818, F.S.;
14 providing requirements for the maximum income
15 threshold; authorizing the Agency for Health
16 Care Administration to seek a state plan
17 amendment and waiver authority if necessary;
18 amending s. 624.91, F.S.; revising legislative
19 intent concerning eligibility for the Florida
20 Healthy Kids program; providing an effective
21 date.

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23 Be It Enacted by the Legislature of the State of Florida:

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25 Section 1. Section 409.811, Florida Statutes, is
26 amended to read:

27 409.811 Definitions relating to Florida Kidcare
28 Act.--As used in ss. 409.810-409.820, the term:

29 (1) "Actuarially equivalent" means that:
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1 (a) The aggregate value of the benefits included in
2 health benefits coverage is equal to the value of the benefits
3 in the benchmark benefit plan; and

4 (b) The benefits included in health benefits coverage
5 are substantially similar to the benefits included in the
6 benchmark benefit plan, except that preventive health services
7 must be the same as in the benchmark benefit plan.

8 (2) "Agency" means the Agency for Health Care
9 Administration.

10 (3) "Applicant" means a parent or guardian of a child
11 or a child whose disability of nonage has been removed under
12 chapter 743, who applies for determination of eligibility for
13 health benefits coverage under ss. 409.810-409.820.

14 (4) "Benchmark benefit plan" means the form and level
15 of health benefits coverage established in s. 409.815.

16 (5) "Child" means any person under 19 years of age.

17 (6) "Child with special health care needs" means a
18 child whose serious or chronic physical or developmental
19 condition requires extensive preventive and maintenance care
20 beyond that required by typically healthy children. Health
21 care utilization by such a child exceeds the statistically
22 expected usage of the normal child adjusted for chronological
23 age, and such a child often needs complex care requiring
24 multiple providers, rehabilitation services, and specialized
25 equipment in a number of different settings.

26 (7) "Children's Medical Services Network" or "network"
27 means a statewide managed care service system as defined in s.
28 391.021(1).

29 (8) "Community rate" means a method used to develop
30 premiums for a health insurance plan that spreads financial
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1 risk across a large population and allows adjustments only for
2 age, gender, family composition, and geographic area.

3 (9) "Department" means the Department of Health.

4 (10) "Enrollee" means a child who has been determined
5 eligible for and is receiving coverage under ss.
6 409.810-409.820.

7 (11) "Family" means the group or the individuals whose
8 income is considered in determining eligibility for the
9 Florida Kidcare program. The family includes a child with a
10 custodial parent or caretaker relative who resides in the same
11 house or living unit or, in the case of a child whose
12 disability of nonage has been removed under chapter 743, the
13 child. The family may also include other individuals whose
14 income and resources are considered in whole or in part in
15 determining eligibility of the child.

16 (12) "Family income" means cash received at periodic
17 intervals from any source, such as wages, benefits,
18 contributions, or rental property. Income also may include any
19 money that would have been counted as income under the Aid to
20 Families with Dependent Children (AFDC) state plan in effect
21 prior to August 22, 1996.

22 (13) "Florida Kidcare program," "Kidcare program," or
23 "program" means the health benefits program administered
24 through ss. 409.810-409.820.

25 (14) "Guarantee issue" means that health benefits
26 coverage must be offered to an individual regardless of the
27 individual's health status, preexisting condition, or claims
28 history.

29 (15) "Health benefits coverage" means protection that
30 provides payment of benefits for covered health care services
31 or that otherwise provides, either directly or through

1 | arrangements with other persons, covered health care services
2 | on a prepaid per capita basis or on a prepaid aggregate
3 | fixed-sum basis.

4 | (16) "Health insurance plan" means health benefits
5 | coverage under the following:

6 | (a) A health plan offered by any certified health
7 | maintenance organization or authorized health insurer, except
8 | a plan that is limited to the following: a limited benefit,
9 | specified disease, or specified accident; hospital indemnity;
10 | accident only; limited benefit convalescent care; Medicare
11 | supplement; credit disability; dental; vision; long-term care;
12 | disability income; coverage issued as a supplement to another
13 | health plan; workers' compensation liability or other
14 | insurance; or motor vehicle medical payment only; or

15 | (b) An employee welfare benefit plan that includes
16 | health benefits established under the Employee Retirement
17 | Income Security Act of 1974, as amended.

18 | (17) "Maximum income threshold" means a percentage of
19 | the current federal poverty level used to determine
20 | eligibility for certain program components, as approved by
21 | federal waiver or an amendment to the state plan.

22 | ~~(18)(17)~~ "Medicaid" means the medical assistance
23 | program authorized by Title XIX of the Social Security Act,
24 | and regulations thereunder, and ss. 409.901-409.920, as
25 | administered in this state by the agency.

26 | ~~(19)(18)~~ "Medically necessary" means the use of any
27 | medical treatment, service, equipment, or supply necessary to
28 | palliate the effects of a terminal condition, or to prevent,
29 | diagnose, correct, cure, alleviate, or preclude deterioration
30 | of a condition that threatens life, causes pain or suffering,
31 | or results in illness or infirmity and which is:

1 (a) Consistent with the symptom, diagnosis, and
2 treatment of the enrollee's condition;

3 (b) Provided in accordance with generally accepted
4 standards of medical practice;

5 (c) Not primarily intended for the convenience of the
6 enrollee, the enrollee's family, or the health care provider;

7 (d) The most appropriate level of supply or service
8 for the diagnosis and treatment of the enrollee's condition;
9 and

10 (e) Approved by the appropriate medical body or health
11 care specialty involved as effective, appropriate, and
12 essential for the care and treatment of the enrollee's
13 condition.

14 ~~(20)~~~~(19)~~ "Medikids" means a component of the Florida
15 Kidcare program of medical assistance authorized by Title XXI
16 of the Social Security Act, and regulations thereunder, and s.
17 409.8132, as administered in the state by the agency.

18 ~~(21)~~~~(20)~~ "Preexisting condition exclusion" means, with
19 respect to coverage, a limitation or exclusion of benefits
20 relating to a condition based on the fact that the condition
21 was present before the date of enrollment for such coverage,
22 whether or not any medical advice, diagnosis, care, or
23 treatment was recommended or received before such date.

24 ~~(22)~~~~(21)~~ "Premium" means the entire cost of a health
25 insurance plan, including the administration fee or the risk
26 assumption charge.

27 ~~(23)~~~~(22)~~ "Premium assistance payment" means the
28 monthly consideration paid by the agency per enrollee in the
29 Florida Kidcare program towards health insurance premiums.
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1 ~~(24)~~~~(23)~~ "Qualified alien" means an alien as defined
2 in s. 431 of the Personal Responsibility and Work Opportunity
3 Reconciliation Act of 1996, as amended, Pub. L. No. 104-193.

4 ~~(25)~~~~(24)~~ "Resident" means a United States citizen, or
5 qualified alien, who is domiciled in this state.

6 ~~(26)~~~~(25)~~ "Rural county" means a county having a
7 population density of less than 100 persons per square mile,
8 or a county defined by the most recent United States Census as
9 rural, in which there is no prepaid health plan participating
10 in the Medicaid program as of July 1, 1998.

11 ~~(27)~~~~(26)~~ "Substantially similar" means that, with
12 respect to additional services as defined in s. 2103(c)(2) of
13 Title XXI of the Social Security Act, these services must have
14 an actuarial value equal to at least 75 percent of the
15 actuarial value of the coverage for that service in the
16 benchmark benefit plan and, with respect to the basic services
17 as defined in s. 2103(c)(1) of Title XXI of the Social
18 Security Act, these services must be the same as the services
19 in the benchmark benefit plan.

20 Section 2. Subsection (6) of section 409.8132, Florida
21 Statutes, is amended to read:

22 409.8132 Medikids program component.--

23 (6) ELIGIBILITY.--

24 (a) A child who has attained the age of 1 year but who
25 is under the age of 5 years is eligible to enroll in the
26 Medikids program component of the Florida Kidcare program, if
27 the child is a member of a family that has a family income
28 which exceeds the Medicaid applicable income level as
29 specified in s. 409.903, but which is equal to or below the
30 maximum income threshold ~~200 percent of the current federal~~
31 ~~poverty level~~. In determining the eligibility of such a

1 child, an assets test is not required. A child who is eligible
2 for Medikids may elect to enroll in Florida Healthy Kids
3 coverage or employer-sponsored group coverage. However, a
4 child who is eligible for Medikids may participate in the
5 Florida Healthy Kids program only if the child has a sibling
6 participating in the Florida Healthy Kids program and the
7 child's county of residence permits such enrollment.

8 (b) The provisions of s. 409.814(3), (4), and (5)
9 shall be applicable to the Medikids program.

10 Section 3. Subsection (2) of section 409.8134, Florida
11 Statutes, is amended to read:

12 409.8134 Program expenditure ceiling.--

13 (2) The Florida Kidcare program may conduct enrollment
14 at any time throughout the year for the purpose of enrolling
15 children eligible for all program components listed in s.
16 409.813 except Medicaid. The four Florida Kidcare
17 administrators shall work together to ensure that the
18 year-round enrollment period is announced statewide. Eligible
19 children shall be enrolled on a first-come, first-served basis
20 using the date the enrollment application is received.
21 Enrollment shall immediately cease when the expenditure
22 ceiling is reached. Year-round enrollment shall ~~only~~ be held
23 only if the Social Services Estimating Conference determines
24 that sufficient ~~federal and state~~ funds will be available to
25 finance the increased enrollment ~~through federal fiscal year~~
26 ~~2007~~. Any individual who is not enrolled must reapply by
27 submitting a new application. The application for the Florida
28 Kidcare program shall be valid for a period of 120 days after
29 the date it was received. At the end of the 120-day period, if
30 the applicant has not been enrolled in the program, the
31 application shall be invalid and the applicant shall be

1 notified of the action. The applicant may resubmit the
2 application after notification of the action taken by the
3 program. Except for the Medicaid program, whenever the Social
4 Services Estimating Conference determines that there are
5 presently, or will be by the end of the current fiscal year,
6 insufficient funds to finance the current or projected
7 enrollment in the Florida Kidcare program, all additional
8 enrollment must cease and additional enrollment may not resume
9 until sufficient funds are available to finance such
10 enrollment.

11 Section 4. Section 409.814, Florida Statutes, is
12 amended to read:

13 409.814 Eligibility.--A child who has not reached 19
14 years of age whose family income is equal to or below the
15 maximum income threshold ~~200 percent of the federal poverty~~
16 ~~level~~ is eligible for the Florida Kidcare program as provided
17 in this section. For enrollment in the Children's Medical
18 Services Network, a complete application includes the medical
19 or behavioral health screening. If, subsequently, an
20 individual is determined to be ineligible for coverage, he or
21 she must immediately be disenrolled from the respective
22 Florida Kidcare program component.

23 (1) A child who is eligible for Medicaid coverage
24 under s. 409.903 or s. 409.904 must be enrolled in Medicaid
25 and is not eligible to receive health benefits under any other
26 health benefits coverage authorized under the Florida Kidcare
27 program.

28 (2) A child who is not eligible for Medicaid, but who
29 is eligible for the Florida Kidcare program, may obtain health
30 benefits coverage under any of the other components listed in
31 s. 409.813 if such coverage is approved and available in the

1 county in which the child resides. However, a child who is
2 eligible for Medikids may participate in the Florida Healthy
3 Kids program only if the child has a sibling participating in
4 the Florida Healthy Kids program and the child's county of
5 residence permits such enrollment.

6 (3) A child who is eligible for the Florida Kidcare
7 program who is a child with special health care needs, as
8 determined through a medical or behavioral screening
9 instrument, is eligible for health benefits coverage from and
10 shall be referred to the Children's Medical Services Network.

11 (4) The following children are not eligible to receive
12 premium assistance for health benefits coverage under the
13 Florida Kidcare program, except under Medicaid if the child
14 would have been eligible for Medicaid under s. 409.903 or s.
15 409.904 as of June 1, 1997:

16 (a) A child who is eligible for coverage under a state
17 health benefit plan on the basis of a family member's
18 employment with a public agency in the state.

19 (b) A child who is currently eligible for or covered
20 under a family member's group health benefit plan or under
21 other employer health insurance coverage, excluding coverage
22 provided under the Florida Healthy Kids Corporation as
23 established under s. 624.91, provided that the cost of the
24 child's participation is not greater than 5 percent of the
25 family's income. This provision shall be applied during
26 redetermination for children who were enrolled prior to July
27 1, 2004. These enrollees shall have 6 months of eligibility
28 following redetermination to allow for a transition to the
29 other health benefit plan.

30 (c) A child who is seeking premium assistance for the
31 Florida Kidcare program through employer-sponsored group

1 coverage, if the child has been covered by the same employer's
2 group coverage during the 6 months prior to the family's
3 submitting an application for determination of eligibility
4 under the program.

5 (d) A child who is an alien, but who does not meet the
6 definition of qualified alien, in the United States.

7 (e) A child who is an inmate of a public institution
8 or a patient in an institution for mental diseases.

9 (f) A child who has had his or her coverage in an
10 employer-sponsored health benefit plan voluntarily canceled in
11 the last 6 months, except those children who were on the
12 waiting list prior to March 12, 2004.

13 (g) A child who is otherwise eligible for Kidcare and
14 who has a preexisting condition that prevents coverage under
15 another insurance plan as described in paragraph (b) which
16 would have disqualified the child for Kidcare if the child
17 were able to enroll in the plan shall be eligible for Kidcare
18 coverage when enrollment is possible.

19 (5) A child whose family income is above the maximum
20 income threshold ~~200 percent of the federal poverty level~~ or a
21 child who is excluded under the provisions of subsection (4)
22 may participate in the Medikids program as provided in s.
23 409.8132 or, if the child is ineligible for Medikids by reason
24 of age, in the Florida Healthy Kids program, subject to the
25 following provisions:

26 (a) The family is not eligible for premium assistance
27 payments and must pay the full cost of the premium, including
28 any administrative costs.

29 (b) The agency is authorized to place limits on
30 enrollment in Medikids by these children in order to avoid
31 adverse selection. The number of children participating in

1 Medikids whose family income exceeds the maximum income
2 threshold ~~200 percent of the federal poverty level~~ must not
3 exceed 10 percent of total enrollees in the Medikids program.

4 (c) The board of directors of the Florida Healthy Kids
5 Corporation is authorized to place limits on enrollment of
6 these children in order to avoid adverse selection. In
7 addition, the board is authorized to offer a reduced benefit
8 package to these children in order to limit program costs for
9 such families. The number of children participating in the
10 Florida Healthy Kids program whose family income exceeds the
11 maximum income threshold ~~200 percent of the federal poverty~~
12 ~~level~~ must not exceed 10 percent of total enrollees in the
13 Florida Healthy Kids program.

14 (6) Once a child is enrolled in the Florida Kidcare
15 program, the child is eligible for coverage under the program
16 for 12 months without a redetermination or reverification of
17 eligibility, if the family continues to pay the applicable
18 premium. Eligibility for program components funded through
19 Title XXI of the Social Security Act shall terminate when a
20 child attains the age of 19. Effective January 1, 1999, a
21 child who has not attained the age of 5 and who has been
22 determined eligible for the Medicaid program is eligible for
23 coverage for 12 months without a redetermination or
24 reverification of eligibility.

25 (7) When determining or reviewing a child's
26 eligibility under the Florida Kidcare program, the applicant
27 shall be provided with reasonable notice of changes in
28 eligibility which may affect enrollment in one or more of the
29 program components. When a transition from one program
30 component to another is authorized, there shall be cooperation
31 between the program components and the affected family which

1 promotes continuity of health care coverage. Any authorized
2 transfers must be managed within the program's overall
3 appropriated or authorized levels of funding. Each component
4 of the program shall establish a reserve to ensure that
5 transfers between components will be accomplished within
6 current year appropriations. These reserves shall be reviewed
7 by each convening of the Social Services Estimating Conference
8 to determine the adequacy of such reserves to meet actual
9 experience.

10 (8) In determining the eligibility of a child, an
11 assets test is not required. Each applicant shall provide
12 written documentation during the application process and the
13 redetermination process, including, but not limited to, the
14 following:

15 (a) Proof of family income, which must include a copy
16 of the applicant's most recent federal income tax return. In
17 the absence of a federal income tax return, an applicant may
18 submit wages and earnings statements (pay stubs), W-2 forms,
19 or other appropriate documents.

20 (b) A statement from all family members that:

21 1. Their employer does not sponsor a health benefit
22 plan for employees; or

23 2. The potential enrollee is not covered by the
24 employer-sponsored health benefit plan because the potential
25 enrollee is not eligible for coverage, or, if the potential
26 enrollee is eligible but not covered, a statement of the cost
27 to enroll the potential enrollee in the employer-sponsored
28 health benefit plan.

29 (9) Subject to paragraph (4)(b) and s. 624.91(4), the
30 Florida Kidcare program shall withhold benefits from an
31 enrollee if the program obtains evidence that the enrollee is

1 no longer eligible, submitted incorrect or fraudulent
2 information in order to establish eligibility, or failed to
3 provide verification of eligibility. The applicant or enrollee
4 shall be notified that because of such evidence program
5 benefits will be withheld unless the applicant or enrollee
6 contacts a designated representative of the program by a
7 specified date, which must be within 10 days after the date of
8 notice, to discuss and resolve the matter. The program shall
9 make every effort to resolve the matter within a timeframe
10 that will not cause benefits to be withheld from an eligible
11 enrollee.

12 (10) The following individuals may be subject to
13 prosecution in accordance with s. 414.39:

14 (a) An applicant obtaining or attempting to obtain
15 benefits for a potential enrollee under the Florida Kidcare
16 program when the applicant knows or should have known the
17 potential enrollee does not qualify for the Florida Kidcare
18 program.

19 (b) An individual who assists an applicant in
20 obtaining or attempting to obtain benefits for a potential
21 enrollee under the Florida Kidcare program when the individual
22 knows or should have known the potential enrollee does not
23 qualify for the Florida Kidcare program.

24 Section 5. Subsection (3) of section 409.818, Florida
25 Statutes, is amended to read:

26 409.818 Administration.--In order to implement ss.
27 409.810-409.820, the following agencies shall have the
28 following duties:

29 (3) The Agency for Health Care Administration, under
30 the authority granted in s. 409.914(1), shall:

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1 (a) Calculate the premium assistance payment necessary
2 to comply with the premium and cost-sharing limitations
3 specified in s. 409.816. The premium assistance payment for
4 each enrollee in a health insurance plan participating in the
5 Florida Healthy Kids Corporation shall equal the premium
6 approved by the Florida Healthy Kids Corporation and the
7 Office of Insurance Regulation of the Financial Services
8 Commission pursuant to ss. 627.410 and 641.31, less any
9 enrollee's share of the premium established within the
10 limitations specified in s. 409.816. The premium assistance
11 payment for each enrollee in an employer-sponsored health
12 insurance plan approved under ss. 409.810-409.820 shall equal
13 the premium for the plan adjusted for any benchmark benefit
14 plan actuarial equivalent benefit rider approved by the Office
15 of Insurance Regulation pursuant to ss. 627.410 and 641.31,
16 less any enrollee's share of the premium established within
17 the limitations specified in s. 409.816. In calculating the
18 premium assistance payment levels for children with family
19 coverage, the agency shall set the premium assistance payment
20 levels for each child proportionately to the total cost of
21 family coverage.

22 (b) Make premium assistance payments to health
23 insurance plans on a periodic basis. The agency may use its
24 Medicaid fiscal agent or a contracted third-party
25 administrator in making these payments. The agency may
26 require health insurance plans that participate in the
27 Medikids program or employer-sponsored group health insurance
28 to collect premium payments from an enrollee's family.
29 Participating health insurance plans shall report premium
30 payments collected on behalf of enrollees in the program to
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1 the agency in accordance with a schedule established by the
2 agency.

3 (c) Monitor compliance with quality assurance and
4 access standards developed under s. 409.820.

5 (d) Establish a mechanism for investigating and
6 resolving complaints and grievances from program applicants,
7 enrollees, and health benefits coverage providers, and
8 maintain a record of complaints and confirmed problems. In the
9 case of a child who is enrolled in a health maintenance
10 organization, the agency must use the provisions of s. 641.511
11 to address grievance reporting and resolution requirements.

12 (e) Approve health benefits coverage for participation
13 in the program, following certification by the Office of
14 Insurance Regulation under subsection (4).

15 (f) Adopt rules necessary for calculating premium
16 assistance payment levels, making premium assistance payments,
17 monitoring access and quality assurance standards,
18 investigating and resolving complaints and grievances,
19 administering the Medikids program, and approving health
20 benefits coverage.

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22 The agency is designated the lead state agency for Title XXI
23 of the Social Security Act for purposes of receipt of federal
24 funds, for reporting purposes, and for ensuring compliance
25 with federal and state regulations and rules. The agency shall
26 seek a state plan amendment and waiver authority, if
27 necessary, from the federal Centers for Medicare and Medicaid
28 Services for the highest maximum income threshold of up to 300
29 percent of the most recently stated federal poverty limit.
30 Until the federal agency approves the request, the maximum
31 income threshold used for the Florida Kidcare program shall be

1 200 percent of the most recently stated federal poverty limit
2 or the highest income threshold allowed under current federal
3 law and the state plan amendment, whichever is higher. Any
4 such expansion under this subsection is subject to a specified
5 appropriation for such purpose.

6 Section 6. Paragraph (b) of subsection (2) of section
7 624.91, Florida Statutes, is amended to read:

8 624.91 The Florida Healthy Kids Corporation Act.--

9 (2) LEGISLATIVE INTENT.--

10 (b) It is the intent of the Legislature that the
11 Florida Healthy Kids Corporation serve as one of several
12 providers of services to children eligible for medical
13 assistance under Title XXI of the Social Security Act.
14 Although the corporation may serve other children, the
15 Legislature intends the primary recipients of services
16 provided through the corporation be school-age children with a
17 family income below the maximum income threshold as defined in
18 s. 409.811(17) ~~200 percent of the federal poverty level~~, who
19 do not qualify for Medicaid. It is also the intent of the
20 Legislature that state and local government Florida Healthy
21 Kids funds be used to continue coverage, subject to specific
22 appropriations in the General Appropriations Act, to children
23 not eligible for federal matching funds under Title XXI.

24 Section 7. This act shall take effect upon becoming a
25 law.

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SENATE SUMMARY

Defines "maximum income threshold." Provides income eligibility requirements for enrollment in the Medikids program. Provides for year-round enrollment only when funding is available to finance increased enrollment. Provides income eligibility requirements for enrollment in the Florida Kidcare program. Provides requirements for the maximum income threshold. Authorizes the Agency for Health Care Administration to seek a state plan amendment and waiver authority if necessary. Provides legislative intent.