By the Committee on Health Policy; and Senators Fasano and Lynn

581-2269-07

A bill to be entitled

An act relating to the Florida Kidcare program; amending s. 409.811, F.S.; defining the term "maximum income threshold"; amending s. 409.8132, F.S.; revising the income eligibility requirements for enrollment in the Medikids program; specifying a mandatory assignment process; amending s. 409.8134, F.S.; providing for year-round enrollment only when funding is available to finance increased enrollment; allowing applicants to reactivate an application; amending s. 409.814, F.S.; revising the income eligibility requirements for enrollment in the Florida Kidcare program and the Florida Healthy Kids program; establishing presumptive eligibility for children transferring to title XXI-funded Florida Kidcare coverage; repealing provisions limiting eligibility for a child who had his or her employer-based coverage voluntarily canceled; requiring that plans and providers are notified regarding a member's or patient's loss of eligibility; requiring that eligibility information be electronically verified; specifying that full-pay enrollees are not required to provide eligibility information; amending s. 409.818, F.S.; requiring a standardized application; requiring that the Department of Children and Family Services design a plan to change the eligibility determination system; authorizing the Agency

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for Health Care Administration to seek a state plan amendment and waiver authority if necessary to increase the maximum income threshold to 225 percent of the federal poverty level; amending s. 624.91, F.S.; revising legislative intent concerning eligibility for the Florida Healthy Kids program; allowing health and dental plans to develop and distribute marketing materials; requiring the Florida Healthy Kids Corporation to establish an assignment process for Healthy Kids enrollees; providing an effective date.

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

Section 1. Subsection (27) is added to section 409.811, Florida Statutes, to read:

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

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

Section 2. Paragraph (a) of subsection (6) and subsection (7) of section 409.8132, Florida Statutes, are amended to read:

409.8132 Medikids program component.--

(6) ELIGIBILITY.--

(a) A child who has attained the age of 1 year but who is under the age of 5 years is eligible to enroll in the Medikids program component of the Florida Kidcare program, if

the child is a member of a family that has a family income which exceeds the Medicaid applicable income level as specified in s. 409.903, but which is equal to or below the maximum income threshold ~~200 percent of the current federal poverty level~~. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medikids may elect to enroll in Florida Healthy Kids coverage or employer-sponsored group coverage. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.

(7) ENROLLMENT.--Enrollment in the Medikids program component may occur at any time throughout the year. A child may not receive services under the Medikids program until the child is enrolled in a managed care plan or MediPass. Once determined eligible, an applicant may receive choice counseling and select a managed care plan or MediPass. The agency may initiate mandatory assignment for a Medikids applicant who has not chosen a managed care plan or MediPass provider after the applicant's voluntary choice period ends. The Medikids mandatory assignment process shall assign applicants to managed care plans or MediPass providers in order to keep family members assigned to the same managed care plan or MediPass provider to the greatest extent possible, including situations in which some family members are enrolled in Medicaid and others are enrolled in a Title XXI Kidcare component. An applicant may select MediPass under the Medikids program component only in counties that have fewer than two managed care plans available to serve Medicaid recipients and only if the federal Health Care Financing Administration

determines that MediPass constitutes "health insurance coverage" as defined in Title XXI of the Social Security Act.

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

409.8134 Program expenditure ceiling.--

(2) The Florida Kidcare program may conduct enrollment at any time throughout the year for the purpose of enrolling children eligible for all program components listed in s. 409.813 except Medicaid. The four Florida Kidcare administrators shall work together to ensure that the year-round enrollment period is announced statewide. Eligible children shall be enrolled on a first-come, first-served basis using the date the enrollment application is received. Enrollment shall immediately cease when the expenditure ceiling is reached. Year-round enrollment shall ~~only~~ be held only if the Social Services Estimating Conference determines that sufficient ~~federal and state~~ funds will be available to finance the increased enrollment ~~through federal fiscal year 2007~~. Any individual who is not enrolled must reapply by submitting a new application. The application for the Florida Kidcare program shall be valid for a period of 120 days after the date it was received. At the end of the 120-day period, if the applicant has not been enrolled in the program, the application shall be invalid and the applicant shall be notified of the action. The applicant may reactivate ~~resubmit~~ the application after notification of the action taken by the program. Except for the Medicaid program, whenever the Social Services Estimating Conference determines that there are presently, or will be by the end of the current fiscal year, insufficient funds to finance the current or projected enrollment in the Florida Kidcare program, all additional

enrollment must cease and additional enrollment may not resume until sufficient funds are available to finance such enrollment.

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

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

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

(2) A child who is not eligible for Medicaid, but who is eligible for the Florida Kidcare program, may obtain health benefits coverage under any of the other components listed in s. 409.813 if such coverage is approved and available in the county in which the child resides. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.

(3) A child who is eligible for the Florida Kidcare program who is a child with special health care needs, as

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determined through a medical or behavioral screening instrument, is eligible for health benefits coverage from and shall be referred to the Children's Medical Services Network.

(4) A child who will lose eligibility for Florida Kidcare coverage funded under Title XIX because the child has exceeded income or age limits shall be presumed eligible for the Florida Kidcare program and shall have 60 days of continued eligibility within his or her existing plan or coverage following redetermination in order to allow for a transition to Title XXI-funded Florida Kidcare coverage without a lapse in coverage. The Agency for Health Care Administration shall seek federal waiver authority under Title XIX or Title XXI for such continued eligibility with the goal of securing federal matching funds consistent with the federal SCHIP match for the additional 60 days of eligibility.

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

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

(b) A child who is currently eligible for or covered under a family member's group health benefit plan or under other employer health insurance coverage, excluding coverage provided under the Florida Healthy Kids Corporation as established under s. 624.91, provided that the cost of the child's participation is not greater than 5 percent of the family's income. ~~This provision shall be applied during redetermination for children who were enrolled prior to July~~

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~~1, 2004. These enrollees shall have 6 months of eligibility following redetermination to allow for a transition to the other health benefit plan.~~

(c) A child who is seeking premium assistance for the Florida Kidcare program through employer-sponsored group coverage, if the child has been covered by the same employer's group coverage during the 6 months prior to the family's submitting an application for determination of eligibility under the program.

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

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

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

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

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

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

(b) The agency is authorized to place limits on enrollment in Medikids by these children in order to avoid adverse selection. The number of children participating in Medikids whose family income exceeds the maximum income threshold ~~200 percent of the federal poverty level~~ must not exceed 10 percent of total enrollees in the Medikids program.

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

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

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(8)~~(7)~~ When determining or reviewing a child's eligibility under the Florida Kidcare program, the applicant shall be provided with reasonable notice of changes in eligibility which may affect enrollment in one or more of the program components. When a transition from one program component to another is authorized, there shall be cooperation between the program components, ~~and~~ the affected family, the child's health plan, and the child's health care providers to promote ~~which promotes~~ continuity of health care coverage. The agency, in coordination with the Department of Children and Family Services, shall notify the Medicaid managed care plans and MediPass providers concerning their members' or patients' loss of eligibility for Medicaid or Medikids no less than 60 days in advance so that the health plans and providers may assist the families in applying for the Florida Healthy Kids program. Any authorized transfers must be managed within the program's overall appropriated or authorized levels of funding. Each component of the program shall establish a reserve to ensure that transfers between components will be accomplished within current year appropriations. These reserves shall be reviewed by each convening of the Social Services Estimating Conference to determine the adequacy of such reserves to meet actual experience.

(9)~~(8)~~ In determining the eligibility of a child, an assets test is not required. Each applicant's family income, birth certificate, and proof of identity shall be verified electronically in order to determine eligibility for the Florida Kidcare program. If electronic verification of eligibility information is not available, an ~~Each~~ applicant shall provide written documentation during the application

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process and the redetermination process, including, but not limited to, the following:

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

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

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

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

Anyone applying for full-pay coverage under the Florida Kidcare program is not required to provide the eligibility information required under this section.

(10)~~(9)~~ Subject to paragraph(5)~~(4)~~(b) and s. 624.91(4), the Florida Kidcare program shall withhold benefits from an enrollee if the program obtains evidence that the enrollee is no longer eligible, submitted incorrect or fraudulent information in order to establish eligibility, or failed to provide verification of eligibility. The applicant or enrollee shall be notified that because of such evidence program benefits will be withheld unless the applicant or enrollee contacts a designated representative of the program by a specified date, which must be within 10 days after the date of notice, to discuss and resolve the matter. The program

shall make every effort to resolve the matter within a timeframe that will not cause benefits to be withheld from an eligible enrollee.

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

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

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

Section 5. Subsection (1) of section 409.818, Florida Statutes, is amended, and paragraph (g) is added to subsection (3) of that section, to read:

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

(1) The Department of Children and Family Services shall:

(a) Develop a standardized ~~simplified~~ eligibility application ~~mail-in~~ form to be used for determining the eligibility of children for coverage for all components of ~~under~~ the Florida Kidcare program, in consultation with the agency, the Department of Health, and the Florida Healthy Kids Corporation. The standardized ~~simplified~~ eligibility application form must include an item that provides an opportunity for the applicant to indicate whether coverage is

being sought for a child with special health care needs. Families applying for children's Medicaid coverage must also be able to use the simplified application form without having to pay a premium.

(b) Establish and maintain the eligibility determination process under the program except as specified in subsection (5). The department shall directly, or through the services of a contracted third-party administrator, establish and maintain a process for determining eligibility of children for coverage under the program. The eligibility determination process must be used solely for determining eligibility of applicants for health benefits coverage under the program. The eligibility determination process must include an initial determination of eligibility for any coverage offered under the program, as well as a redetermination or reverification of eligibility<u>, 12 months after enrollment</u> ~~each subsequent 6 months~~. Effective January 1, 1999, a child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is eligible for coverage for 12 months without a redetermination or reverification of eligibility. In conducting an eligibility determination, the department shall determine if the child has special health care needs. The department, in consultation with the Agency for Health Care Administration and the Florida Healthy Kids Corporation, shall develop procedures for redetermining eligibility which enable a family to easily update any change in circumstances which could affect eligibility. The department may accept changes in a family's status as reported to the department by the Florida Healthy Kids Corporation without requiring a new application from the family. Redetermination of a child's eligibility for

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Medicaid may not be linked to a child's eligibility determination for other programs.

(c) Inform program applicants about eligibility determinations and provide information about eligibility of applicants to Medicaid, Medikids, the Children's Medical Services Network, and the Florida Healthy Kids Corporation, and to insurers and their agents, through a centralized coordinating office.

(d) Design a plan, in consultation with the Florida Healthy Kids Corporation, for determining eligibility for public assistance or Medicaid which will enable applicants with children who apply to the department for Medicaid or other public assistance to apply for the Healthy Kids program using the same application information in the event they are found ineligible for Medicaid. The plan must be sufficient to enable such applicants to submit all information necessary for enrollment in the Healthy Kids program, including the opportunity for such applicants to indicate whether coverage is being sought for a child with special health care needs. The plan shall allow the department to forward such application information, together with accompanying documentation as necessary, to the Florida Healthy Kids Corporation, and the plan shall allow such application information and documents to be processed for Healthy Kids program enrollment by the Florida Healthy Kids Corporation in accordance with eligibility criteria then in effect without requiring the applicant to submit a separate application for the Healthy Kids program. The department shall submit such plan to the President of the Senate, the Speaker of the House of Representatives, and the Governor no later than December 31, 2007.

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(e)~~(d)~~ Adopt rules necessary for conducting program eligibility functions.

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

(g) The agency shall seek a state plan amendment and waiver authority, if necessary, from the federal Centers for Medicare and Medicaid Services for a maximum income threshold of up to 225 percent of the federal poverty level. Until the federal agency approves the request, the maximum income threshold used for the Florida Kidcare program shall be 200 percent of the federal poverty level or the highest income threshold allowed under current federal law and state plan amendment, whichever is higher, up to 225 percent of the federal poverty level. Any such expansion under this subsection is subject to a specified appropriation for such purpose and the availability of federal matching funds for children in families above 200 percent of the federal poverty level.

The agency is designated the lead state agency for Title XXI of the Social Security Act for purposes of receipt of federal funds, for reporting purposes, and for ensuring compliance with federal and state regulations and rules.

Section 6. Paragraph (b) of subsection (2) and paragraph (b) of subsection (5) of section 624.91, Florida Statutes, are amended to read:

624.91 The Florida Healthy Kids Corporation Act.--

(2) LEGISLATIVE INTENT.--

(b) It is the intent of the Legislature that the Florida Healthy Kids Corporation serve as one of several providers of services to children eligible for medical

assistance under Title XXI of the Social Security Act. Although the corporation may serve other children, the Legislature intends that the primary recipients of services provided through the corporation be school-age children with a family income below the maximum income threshold as defined in s. 409.811(27) ~~200 percent of the federal poverty level,~~ who do not qualify for Medicaid. It is also the intent of the Legislature that state and local government Florida Healthy Kids funds be used to continue coverage, subject to specific appropriations in the General Appropriations Act, to children not eligible for federal matching funds under Title XXI.

(5) CORPORATION AUTHORIZATION, DUTIES, POWERS.--

(b) The Florida Healthy Kids Corporation shall:

1. Arrange for the collection of any family, local contributions, or employer payment or premium, in an amount to be determined by the board of directors, to provide for payment of premiums for comprehensive insurance coverage and for the actual or estimated administrative expenses.

2. Arrange for the collection of any voluntary contributions to provide for payment of premiums for children who are not eligible for medical assistance under Title XXI of the Social Security Act.

3. Subject to the provisions of s. 409.8134, accept voluntary supplemental local match contributions that comply with the requirements of Title XXI of the Social Security Act for the purpose of providing additional coverage in contributing counties under Title XXI.

4. Establish the administrative and accounting procedures for the operation of the corporation.

5. Establish, with consultation from appropriate professional organizations, standards for preventive health

services and providers and comprehensive insurance benefits appropriate to children, provided that such standards for rural areas shall not limit primary care providers to board-certified pediatricians.

6. Determine eligibility for children seeking to participate in the Title XXI-funded components of the Florida Kidcare program consistent with the requirements specified in s. 409.814, as well as the non-Title-XXI-eligible children as provided in subsection (3).

7. Establish procedures under which providers of local match to, applicants to and participants in the program may have grievances reviewed by an impartial body and reported to the board of directors of the corporation.

8. Establish participation criteria and, if appropriate, contract with an authorized insurer, health maintenance organization, or third-party administrator to provide administrative services to the corporation.

9. Establish enrollment criteria which shall include penalties or waiting periods of not fewer than 60 days for reinstatement of coverage upon voluntary cancellation for nonpayment of family premiums.

10. Contract with authorized insurers or any provider of health care services, meeting standards established by the corporation, for the provision of comprehensive insurance coverage to participants. Such standards shall include criteria under which the corporation may contract with more than one provider of health care services in program sites. Health plans shall be selected through a competitive bid process. The Florida Healthy Kids Corporation shall purchase goods and services in the most cost-effective manner consistent with the delivery of quality medical care. The

maximum administrative cost for a Florida Healthy Kids Corporation contract shall be 15 percent. For health care contracts, the minimum medical loss ratio for a Florida Healthy Kids Corporation contract shall be 85 percent. For dental contracts, the remaining compensation to be paid to the authorized insurer or provider under a Florida Healthy Kids Corporation contract shall be no less than an amount which is 85 percent of premium; to the extent any contract provision does not provide for this minimum compensation, this section shall prevail. The health plan selection criteria and scoring system, and the scoring results, shall be available upon request for inspection after the bids have been awarded.

11. Establish disenrollment criteria in the event local matching funds are insufficient to cover enrollments.

12. Develop and implement a plan to publicize the Florida Healthy Kids Corporation, the eligibility requirements of the program, and the procedures for enrollment in the program and to maintain public awareness of the corporation and the program. Health and dental plans participating in the Florida Healthy Kids program may develop and distribute marketing and other promotional materials and participate in activities, such as health fairs and public events, as approved by the corporation. The health and dental plans may also contact their current and former enrollees to encourage continued participation in the program and to assist the enrollee in transferring from a Title XIX-financed plan to a Title XXI-financed plan.

13. Secure staff necessary to properly administer the corporation. Staff costs shall be funded from state and local matching funds and such other private or public funds as become available. The board of directors shall determine the

number of staff members necessary to administer the corporation.

14. Provide a report annually to the Governor, Chief Financial Officer, Commissioner of Education, Senate President, Speaker of the House of Representatives, and Minority Leaders of the Senate and the House of Representatives.

15. Establish benefit packages which conform to the provisions of the Florida Kidcare program, as created in ss. 409.810-409.820.

16. Establish an assignment process for Healthy Kids enrollees in order to keep family members assigned to the same managed care plan to the greatest extent possible, including situations in which some family members are enrolled in a Medicaid managed care plan and others are enrolled in a Healthy Kids plan. The Agency for Health Care Administration shall work together with the corporation to implement this subparagraph.

(c) Coverage under the corporation's program is secondary to any other available private coverage held by, or applicable to, the participant child or family member. Insurers under contract with the corporation are the payors of last resort and must coordinate benefits with any other third-party payor that may be liable for the participant's medical care.

(d) The Florida Healthy Kids Corporation shall be a private corporation not for profit, organized pursuant to chapter 617, and shall have all powers necessary to carry out the purposes of this act, including, but not limited to, the power to receive and accept grants, loans, or advances of funds from any public or private agency and to receive and

accept from any source contributions of money, property, labor, or any other thing of value, to be held, used, and applied for the purposes of this act.

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

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR Senate Bill 1740

The committee substitute requires the Agency for Health Care Administration to seek a state plan amendment and waiver authority, if necessary, from the federal Centers for Medicare and Medicaid Services to establish the highest "maximum income threshold" of up to 225 percent of the most recently stated federal poverty limit for eligibility in Florida Kidcare programs like Medikids and Florida Healthy Kids.

The committee substitute modifies the Medikids mandatory assignment process; establishes presumptive eligibility for a child transitioning from Medicaid to Title XXI-funded program components; repeals the requirement that a child who is dropped from employer-sponsored coverage is ineligible for Florida Kidcare for 6 months; requires plans and providers to be notified that their members' or patients' eligibility status is changing; requires eligibility information to be electronically verified; specifies that full-pay applicants are not required to provide eligibility information; requires the Department of Children and Families to design a plan for determining eligibility for public assistance and Medicaid that will allow children to also apply for the Healthy Kids program using the same application; allows health and dental plans to develop and distribute marketing and other promotional materials; and requires the Florida Healthy Kids Corporation to establish an assignment process to keep family members assigned to the same managed care plan to the greatest extent possible.