

By the Committee on Banking and Insurance; and Senators Peaden and Gaetz

597-05250A-08

20082534c1

1 A bill to be entitled
2 An act relating to health insurance; amending s. 408.814,
3 F.S.; revising the eligibility requirements for
4 participation in the Medikids program or the Florida
5 Healthy Kids program; removing certain limitations;
6 amending s. 408.909, F.S.; revising eligibility for
7 enrollment in a health flex plan; revising the expiration
8 date of the health flex plan program; creating s.
9 408.9091, F.S.; creating the Cover Florida Health Care
10 Access Program; providing a short title; providing
11 legislative intent; providing definitions; requiring the
12 Agency for Health Care Administration and the Office of
13 Insurance Regulation of the Financial Services Commission
14 within the Department of Financial Services to jointly
15 administer the program; providing program requirements;
16 requiring the development of guidelines to meet minimum
17 standards for quality care and access to care; requiring
18 the agency to ensure that the Cover Florida plans follow
19 standardized grievance procedures; requiring the Executive
20 Office of the Governor, the agency, and the office to
21 develop a public awareness program; authorizing public and
22 private entities to design or extend incentives for
23 participation in the Cover Florida Access Program;
24 requiring the agency and the office to announce an
25 invitation to negotiate for Cover Florida plan entities to
26 design a coverage proposal; requiring the agency and the
27 office to approve one plan entity; authorizing the agency
28 and the office to approve one regional network plan in
29 each existing Medicaid area; requiring the invitation to

597-05250A-08

20082534c1

30 negotiate to include certain guidelines; providing certain
31 conditions in which plans are disapproved or withdrawn;
32 authorizing the agency and the office to announce an
33 invitation to negotiate for companies that offer
34 supplemental insurance or discount medical plans;
35 providing that certain licensing requirements or ch. 641,
36 F.S., are not applicable to a Cover Florida plan;
37 providing that Cover Florida plans are considered
38 insurance under certain conditions; excluding Cover
39 Florida plans from the Florida Life and Health Insurance
40 Guaranty Association and the Health Maintenance
41 Organization Consumer Assistance Plan; providing
42 requirements for eligibility in a Cover Florida plan;
43 requiring each Cover Florida plan to maintain and provide
44 certain records; providing that coverage under a Cover
45 Florida plan is not an entitlement and does not give rise
46 to a cause of action; requiring the agency and the office
47 to evaluate the Cover Florida program and submit an annual
48 report to the Governor and the Legislature; requiring the
49 agency and the Financial Services Commission to adopt
50 rules; amending s. 627.6562, F.S.; requiring insurance
51 policies that provide dependent coverage to provide the
52 policyholder with the option of insuring a child until the
53 age of 30 under certain circumstances; providing an
54 effective date.

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Subsection (5) of section 409.814, Florida

597-05250A-08

20082534c1

59 Statutes, is amended to read:

60 409.814 Eligibility.--A child who has not reached 19 years
61 of age whose family income is equal to or below 200 percent of
62 the federal poverty level is eligible for the Florida Kidcare
63 program as provided in this section. For enrollment in the
64 Children's Medical Services Network, a complete application
65 includes the medical or behavioral health screening. If,
66 subsequently, an individual is determined to be ineligible for
67 coverage, he or she must immediately be disenrolled from the
68 respective Florida Kidcare program component.

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

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

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

84 (b)(e) The board of directors of the Florida Healthy Kids
85 Corporation may ~~is authorized to place limits on enrollment of~~
86 ~~these children in order to avoid adverse selection. In addition,~~
87 ~~the board is authorized to offer a reduced benefit package to~~

597-05250A-08

20082534c1

88 these children in order to limit program costs for such families.
89 ~~The number of children participating in the Florida Healthy Kids~~
90 ~~program whose family income exceeds 200 percent of the federal~~
91 ~~poverty level must not exceed 10 percent of total enrollees in~~
92 ~~the Florida Healthy Kids program.~~

93 Section 2. Subsections (5) and (10) of section 408.909,
94 Florida Statutes, are amended to read:

95 408.909 Health flex plans.--

96 (5) ELIGIBILITY.--Eligibility to enroll in an approved
97 health flex plan is limited to residents of this state who:

98 (a) Are 64 years of age or younger;

99 (b) Have a family income equal to or less than 300 ~~200~~
100 percent of the federal poverty level;

101 ~~(c) Are eligible under a federally approved Medicaid~~
102 ~~demonstration waiver and reside in Palm Beach County or Miami-~~
103 ~~Dade County;~~

104 (c) ~~(d)~~ Are not covered by a private insurance policy and
105 are not eligible for coverage through a public health insurance
106 program, such as Medicare or Medicaid, ~~unless specifically~~
107 ~~authorized under paragraph (e),~~ or another public health care
108 program, such as Kidcare, and have not been covered at any time
109 during the past 6 months; and

110 (d) ~~(e)~~ Have applied for health care coverage through an
111 approved health flex plan and have agreed to make any payments
112 required for participation, including periodic payments or
113 payments due at the time health care services are provided.

114 (10) EXPIRATION.--This section expires July 1, 2013 ~~2008~~.

115 Section 3. Section 408.9091, Florida Statutes, is created
116 to read:

597-05250A-08

20082534c1

117 408.9091 Cover Florida Health Care Access Act.--

118 (1) SHORT TITLE.--This section may be cited as the "Cover
119 Florida Health Access Program Act."

120 (2) INTENT.--The Legislature finds that a significant
121 proportion of state residents are unable to obtain affordable
122 health insurance coverage. The Legislature also finds that
123 existing "health flex" plan coverage has had limited
124 participation due in part to narrow eligibility restrictions as
125 well as minimal benefit options for catastrophic and emergency
126 care coverage. Therefore, it is the Legislature's intent to
127 expand the availability of health care options for uninsured
128 residents by developing an affordable health care product that
129 emphasizes coverage for basic and preventive health care
130 services; provides inpatient hospital, urgent, and emergency care
131 services; and is offered statewide by approved health insurers,
132 health maintenance organizations, health-care-provider-sponsored
133 organizations, or health care districts.

134 (3) DEFINITIONS.--As used in this section, the term:

135 (a) "Agency" means the Agency for Health Care
136 Administration.

137 (b) "Office" means the Office of Insurance Regulation of
138 the Financial Services Commission.

139 (c) "Enrollee" means an individual who has been determined
140 to be eligible for and is receiving health insurance coverage
141 under a Cover Florida plan.

142 (d) "Cover Florida plan" means a consumer choice benefit
143 plan approved under this section which guarantees payment or
144 coverage for specified benefits provided to an enrollee.

145 (e) "Cover Florida plan coverage" means health care

597-05250A-08

20082534c1

146 services that are covered as benefits under a Cover Florida plan.

147 (f) "Cover Florida plan entity" means a health insurer,
148 health maintenance organization, health-care-provider-sponsored
149 organization, or health care district that develops and
150 implements a Cover Florida plan and is responsible for
151 administering the plan and paying all claims for Cover Florida
152 plan coverage by enrollees.

153 (g) "Cover Florida Plus" plan means a supplemental
154 insurance product, such as for additional catastrophic coverage
155 or dental, vision, or cancer coverage, approved under this
156 section and offered to all enrollees.

157 (4) PROGRAM.--The agency and the office shall jointly
158 establish and administer the Cover Florida Health Care Access
159 Program.

160 (a) General Cover Florida plan components must require
161 that:

162 1. Plans are offered as guaranteed issue to enrollees,
163 subject to exclusions for preexisting conditions approved by the
164 office and the agency.

165 2. Plans are portable, such that the enrollee remains
166 covered regardless of employment status or the cost-sharing of
167 premiums.

168 3. Plans may provide for cost containment through limits on
169 the number of services, caps on benefit payments, and copayments
170 for services.

171 4. A Cover Florida health plan entity makes all benefit
172 plan and marketing materials available in English and Spanish.

173 5. In order to provide for consumer choice, Cover Florida
174 health plan entities develop two alternative benefit option plans

597-05250A-08

20082534c1

175 having different cost and benefit levels, including at least one
176 plan that provides catastrophic coverage.

177 6. Plans without catastrophic coverage provide coverage
178 options for the following services, including, but not limited
179 to:

180 a. Preventive health services, including preventive
181 screenings, annual health assessments, and well-care and well-
182 woman services, including mammograms, screenings for cervical
183 cancer, noninvasive colorectal or prostate screenings, and
184 immunizations.

185 b. Incentives for routine, preventive care.

186 c. Office visits for the diagnosis and treatment of illness
187 or injury.

188 d. Office surgery, including anesthesia.

189 e. Services related to behavioral health services.

190 f. Durable medical equipment and prosthetics.

191 g. Diabetic supplies.

192 7. Plans providing catastrophic coverage, at a minimum,
193 provide coverage options for all of the services listed under
194 subparagraph 6., and in addition include, but are not limited to,
195 coverage options for:

196 a. Inpatient hospital stays.

197 b. Hospital emergency care services.

198 c. Urgent care services.

199 d. Outpatient facility services, outpatient surgery, and
200 outpatient diagnostic services.

201 8. Plans offer prescription drug benefit coverage on all
202 plans, or use a prescription drug manager, such as the Florida
203 Discount Drug Card Program.

597-05250A-08

20082534c1

204 9. Plans provide, in enrollment materials, plain-language
205 information on policy benefit coverage, benefit limits, cost-
206 sharing requirements, and exclusions and a clear representation
207 of what is not covered in the plan.

208 10. Plans offered through a qualified employer meet the
209 requirements of s. 125 of the Internal Revenue Code.

210 (b) Guidelines shall be developed to ensure that Cover
211 Florida plans meet minimum standards for quality of care and
212 access to care. The agency shall ensure that the Cover Florida
213 plans follow standardized grievance procedures.

214 (c) Changes in Cover Florida plan benefits, premiums, and
215 policy forms are subject to regulatory oversight by the office
216 and agency as provided by rules adopted by the Financial Services
217 Commission and the agency.

218 (d) The agency, the office, and the Executive Office of the
219 Governor shall develop a public awareness program to be
220 implemented throughout the state for the promotion of the Cover
221 Florida Health Access Program.

222 (e) Public or private entities may design programs to
223 encourage Floridians to participate in the Cover Florida Health
224 Access Program, or to encourage employers to cosponsor some share
225 of Cover Florida plan premiums for employees.

226 (5) PLAN PROPOSALS.--The agency and the office shall
227 announce, no later than July 1, 2008, an invitation to negotiate
228 for Cover Florida plan entities to design a Cover Florida plan
229 proposal in which benefits and premiums are specified.

230 (a) The invitation to negotiate shall include guidelines
231 for the review of Cover Florida plan applications, policy forms,
232 and all associated forms, and provide regulatory oversight of

597-05250A-08

20082534c1

233 Cover Florida plan advertisement and marketing procedures. A plan
234 shall be disapproved or withdrawn if the plan:

235 1. Contains any ambiguous, inconsistent, or misleading
236 provisions or any exceptions or conditions that deceptively
237 affect or limit the benefits purported to be assumed in the
238 general coverage provided by the plan;

239 2. Provides benefits that are unreasonable in relation to
240 the premium charged or contains provisions that are unfair or
241 inequitable, that are contrary to the public policy of this
242 state, that encourage misrepresentation, or that result in unfair
243 discrimination in sales practices;

244 3. Cannot demonstrate that the plan is financially sound
245 and that the applicant is able to underwrite or finance the
246 health care coverage provided;

247 4. Cannot demonstrate that the applicant and its management
248 are in compliance with the standards required under s.
249 624.404(3); or

250 5. Does not guarantee that enrollees may participate in the
251 Cover Florida plan entity's comprehensive network of providers,
252 as determined by the office, the agency, and the contract.

253 (b) The agency and the office may announce an invitation to
254 negotiate for companies that offer supplemental insurance or
255 discount medical plans that are licensed under part II of chapter
256 636 to design Cover Florida Plus products.

257 (c) The agency and office shall approve at least one Cover
258 Florida plan entity having an existing statewide network of
259 providers, and may approve at least one regional network plan in
260 each existing Medicaid area.

261 (6) LICENSE NOT REQUIRED.--

597-05250A-08

20082534c1

262 (a) The licensing requirements of the Florida Insurance
263 Code and chapter 641, relating to health maintenance
264 organizations, do not apply to a Cover Florida plan approved
265 under this section unless expressly made applicable. However, for
266 the purpose of prohibiting unfair trade practices, Cover Florida
267 plans are considered to be insurance subject to the applicable
268 provisions of part IX of chapter 626, except as otherwise
269 provided in this section.

270 (b) Cover Florida plans are not covered by the Florida Life
271 and Health Insurance Guaranty Association under part III of
272 chapter 631 or by the Health Maintenance Organization Consumer
273 Assistance Plan under part IV of chapter 631.

274 (7) ELIGIBILITY.--Eligibility to enroll in a Cover Florida
275 plan is limited to residents of this state who meet all of the
276 following:

277 (a) Are 19 to 64 years of age.

278 (b) Are not covered by a private insurance policy and are
279 not eligible for coverage through a public health insurance
280 program, such as Medicare, Medicaid, or Kidcare.

281 (c) Have not been covered by any health insurance program
282 at any time during the past 6 months, unless coverage under a
283 health insurance program was terminated within the previous 6
284 months due to:

285 1. Loss of a job that provided an employer-sponsored health
286 benefit plan;

287 2. Exhaustion of coverage that was continued under COBRA or
288 continuation-of-coverage requirements under s. 627.6692;

289 3. Reaching the limiting age under the policy; or

290 4. Death of, or divorce from, a spouse who was provided

597-05250A-08

20082534c1

291 employer-sponsored health benefit plan.

292 (d) Have applied for health care coverage through a Cover
293 Florida plan and have agreed to make any payments required for
294 participation, including periodic payments or payments due at the
295 time health care services are provided.

296 (8) RECORDS.--Each Cover Florida plan must maintain
297 enrollment data and provide network data and reasonable records
298 to enable the office and agency to monitor plans and to determine
299 the financial viability of the Cover Florida plan, as necessary.

300 (9) NONENTITLEMENT.--Coverage under a Cover Florida plan is
301 not an entitlement, and a cause of action does not arise against
302 the state, a local government entity, any other political
303 subdivision of this state, or the agency or office for failure to
304 make coverage available to eligible persons under this section.

305 (10) PROGRAM EVALUATION.--The agency and the office shall:

306 (a) Evaluate the Cover Florida program and its effect on
307 the entities that seek approval as Cover Florida plans, on the
308 number of enrollees, and on the scope of the health care coverage
309 offered under a Cover Florida plan;

310 (b) Provide an assessment of the Cover Florida plans and
311 their potential applicability in other settings;

312 (c) Use Cover Florida plans to gather more information to
313 evaluate low-income, consumer-driven benefit packages; and

314 (d) Jointly submit by March 1, 2009, and annually
315 thereafter, a report to the Governor, the President of the
316 Senate, and the Speaker of the House of Representatives providing
317 the information specified in paragraphs (a)-(c) and
318 recommendations relating to the successful implementation and
319 administration of the program.

597-05250A-08

20082534c1

320 (11) RULEMAKING AUTHORITY.--The agency and the Financial
321 Services Commission may adopt rules as needed to administer this
322 section.

323 Section 4. Effective upon this act becoming law and
324 applicable to policies issued or renewed on or after October 1,
325 2008, section 627.6562, Florida Statutes, is amended to read:

326 627.6562 Dependent coverage.--

327 (1) If an insurer offers coverage that insures dependent
328 children of the policyholder or certificateholder, the policy
329 must insure a dependent child of the policyholder or
330 certificateholder at least until the end of the calendar year in
331 which the child reaches the age of 25, if the child meets all of
332 the following:

333 (a) The child is dependent upon the policyholder or
334 certificateholder for support.

335 (b) The child is living in the household of the
336 policyholder or certificateholder, or the child is a full-time or
337 part-time student.

338 (2) A policy that is subject to the requirements of
339 subsection (1) must also offer the policyholder or
340 certificateholder the option to insure a child of the
341 policyholder or certificateholder at least until the end of the
342 calendar year in which the child reaches the age of 30, if the
343 child:

344 (a) Is unmarried and does not have a dependent of his or
345 her own;

346 (b) Is a resident of this state or a full-time or part-time
347 student; and

348 (c) Is not provided coverage as a named subscriber,

597-05250A-08

20082534c1

349 insured, enrollee, or covered person under any other group,
350 blanket, or franchise health insurance policy or individual
351 health benefits plan, or entitled to benefits under Title XVIII
352 of the Social Security Act.

353 (3) If, pursuant to subsection (2), a child is provided
354 coverage under the parent's policy after the end of the calendar
355 year in which the child reaches age 25, and coverage for the
356 child is subsequently terminated, the child is not eligible to be
357 covered under the parent's policy unless the child was
358 continuously covered by other creditable coverage without a gap
359 in coverage of more than 63 days. For the purposes of this
360 subsection, the term "creditable coverage" has the same meaning
361 as defined in s. 627.6561(5).

362 (4)(2) Nothing in This section does not affect or preempt
363 affects or preempts an insurer's right to medically underwrite or
364 charge the appropriate premium.

365 Section 5. This act shall take effect upon becoming a law.