

By the Committees on Health and Human Services Appropriations;
Banking and Insurance; and Senators Peaden and Gaetz

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1 A bill to be entitled

2 An act relating to health insurance; amending s. 112.363,
3 F.S.; specifying that coverage provided through the Cover
4 Florida Health Care Access Program is considered health
5 insurance coverage for the purposes of determining
6 eligibility for the state retiree health insurance
7 subsidy; amending s. 408.909, F.S.; revising eligibility
8 for enrollment in a health flex plan; revising the
9 expiration date of the health flex plan program; creating
10 s. 408.9091, F.S.; creating the Cover Florida Health Care
11 Access Program; providing a short title; providing
12 legislative intent; providing definitions; requiring the
13 Agency for Health Care Administration and the Office of
14 Insurance Regulation of the Financial Services Commission
15 within the Department of Financial Services to jointly
16 administer the program; providing program requirements;
17 requiring the development of guidelines to meet minimum
18 standards for quality care and access to care; requiring
19 the agency to ensure that the Cover Florida plans follow
20 standardized grievance procedures; requiring the Executive
21 Office of the Governor, the agency, and the office to
22 develop a public awareness program; authorizing public and
23 private entities to design or extend incentives for
24 participation in the Cover Florida Access Program;
25 requiring the agency and the office to announce an
26 invitation to negotiate for Cover Florida plan entities to
27 design a coverage proposal; requiring the agency and the
28 office to approve one plan entity; authorizing the agency
29 and the office to approve one regional network plan in

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32 conditions in which plans are disapproved or withdrawn;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

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Paragraph (d) of subsection (2) of section
60 112.363, Florida Statutes, is amended to read:

61 112.363 Retiree health insurance subsidy.--

62 (2) ELIGIBILITY FOR RETIREE HEALTH INSURANCE SUBSIDY.--

63 (d) Payment of the retiree health insurance subsidy shall
64 be made only after coverage for health insurance for the retiree
65 or beneficiary has been certified in writing to the Department of
66 Management Services. Participation in a former employer's group
67 health insurance program is not a requirement for eligibility
68 under this section. Coverage issued pursuant to s. 408.9091 is
69 considered health insurance for the purposes of this section.

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

72 408.909 Health flex plans.--

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

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

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

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

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

87 (d) ~~(e)~~ Have applied for health care coverage through an

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88 approved health flex plan and have agreed to make any payments
89 required for participation, including periodic payments or
90 payments due at the time health care services are provided.

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

92 Section 3. Section 408.9091, Florida Statutes, is created
93 to read:

94 408.9091 Cover Florida Health Care Access Act.--

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

97 (2) INTENT.--The Legislature finds that a significant
98 proportion of state residents are unable to obtain affordable
99 health insurance coverage. The Legislature also finds that
100 existing "health flex" plan coverage has had limited
101 participation due in part to narrow eligibility restrictions as
102 well as minimal benefit options for catastrophic and emergency
103 care coverage. Therefore, it is the Legislature's intent to
104 expand the availability of health care options for uninsured
105 residents by developing an affordable health care product that
106 emphasizes coverage for basic and preventive health care
107 services; provides inpatient hospital, urgent, and emergency care
108 services; and is offered statewide by approved health insurers,
109 health maintenance organizations, health-care-provider-sponsored
110 organizations, or health care districts.

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

112 (a) "Agency" means the Agency for Health Care
113 Administration.

114 (b) "Office" means the Office of Insurance Regulation of
115 the Financial Services Commission.

116 (c) "Enrollee" means an individual who has been determined

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117 to be eligible for and is receiving health insurance coverage
118 under a Cover Florida plan.

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

122 (e) "Cover Florida plan coverage" means health care
123 services that are covered as benefits under a Cover Florida plan.

124 (f) "Cover Florida plan entity" means a health insurer,
125 health maintenance organization, health-care-provider-sponsored
126 organization, or health care district that develops and
127 implements a Cover Florida plan and is responsible for
128 administering the plan and paying all claims for Cover Florida
129 plan coverage by enrollees.

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

134 (4) PROGRAM.--The agency and the office shall jointly
135 establish and administer the Cover Florida Health Care Access
136 Program.

137 (a) General Cover Florida plan components must require
138 that:

139 1. Plans are offered as guaranteed issue to enrollees,
140 subject to exclusions for preexisting conditions approved by the
141 office and the agency.

142 2. Plans are portable, such that the enrollee remains
143 covered regardless of employment status or the cost-sharing of
144 premiums.

145 3. Plans may provide for cost containment through limits on

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146 the number of services, caps on benefit payments, and copayments
147 for services.

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

150 5. In order to provide for consumer choice, Cover Florida
151 health plan entities develop two alternative benefit option plans
152 having different cost and benefit levels, including at least one
153 plan that provides catastrophic coverage.

154 6. Plans without catastrophic coverage provide coverage
155 options for the following services, including, but not limited
156 to:

157 a. Preventive health services, including preventive
158 screenings, annual health assessments, and well-care and well-
159 woman services, including mammograms, screenings for cervical
160 cancer, noninvasive colorectal or prostate screenings, and
161 immunizations.

162 b. Incentives for routine, preventive care.

163 c. Office visits for the diagnosis and treatment of illness
164 or injury.

165 d. Office surgery, including anesthesia.

166 e. Services related to behavioral health services.

167 f. Durable medical equipment and prosthetics.

168 g. Diabetic supplies.

169 7. Plans providing catastrophic coverage, at a minimum,
170 provide coverage options for all of the services listed under
171 subparagraph 6., and in addition include, but are not limited to,
172 coverage options for:

173 a. Inpatient hospital stays.

174 b. Hospital emergency care services.

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175 c. Urgent care services.

176 d. Outpatient facility services, outpatient surgery, and
177 outpatient diagnostic services.

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

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

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

187 (b) Guidelines shall be developed to ensure that Cover
188 Florida plans meet minimum standards for quality of care and
189 access to care. The agency shall ensure that the Cover Florida
190 plans follow standardized grievance procedures.

191 (c) Changes in Cover Florida plan benefits, premiums, and
192 policy forms are subject to regulatory oversight by the office
193 and agency as provided by rules adopted by the Financial Services
194 Commission and the agency.

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

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

203 (5) PLAN PROPOSALS.--The agency and the office shall

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204 announce, no later than July 1, 2008, an invitation to negotiate
205 for Cover Florida plan entities to design a Cover Florida plan
206 proposal in which benefits and premiums are specified.

207 (a) The invitation to negotiate shall include guidelines
208 for the review of Cover Florida plan applications, policy forms,
209 and all associated forms, and provide regulatory oversight of
210 Cover Florida plan advertisement and marketing procedures. A plan
211 shall be disapproved or withdrawn if the plan:

212 1. Contains any ambiguous, inconsistent, or misleading
213 provisions or any exceptions or conditions that deceptively
214 affect or limit the benefits purported to be assumed in the
215 general coverage provided by the plan;

216 2. Provides benefits that are unreasonable in relation to
217 the premium charged or contains provisions that are unfair or
218 inequitable, that are contrary to the public policy of this
219 state, that encourage misrepresentation, or that result in unfair
220 discrimination in sales practices;

221 3. Cannot demonstrate that the plan is financially sound
222 and that the applicant is able to underwrite or finance the
223 health care coverage provided;

224 4. Cannot demonstrate that the applicant and its management
225 are in compliance with the standards required under s.
226 624.404(3); or

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

230 (b) The agency and the office may announce an invitation to
231 negotiate for companies that offer supplemental insurance or
232 discount medical plans that are licensed under part II of chapter

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233 636 to design Cover Florida Plus products.

234 (c) The agency and office shall approve at least one Cover
235 Florida plan entity having an existing statewide network of
236 providers, and may approve at least one regional network plan in
237 each existing Medicaid area.

238 (6) LICENSE NOT REQUIRED.--

239 (a) The licensing requirements of the Florida Insurance
240 Code and chapter 641, relating to health maintenance
241 organizations, do not apply to a Cover Florida plan approved
242 under this section unless expressly made applicable. However, for
243 the purpose of prohibiting unfair trade practices, Cover Florida
244 plans are considered to be insurance subject to the applicable
245 provisions of part IX of chapter 626, except as otherwise
246 provided in this section.

247 (b) Cover Florida plans are not covered by the Florida Life
248 and Health Insurance Guaranty Association under part III of
249 chapter 631 or by the Health Maintenance Organization Consumer
250 Assistance Plan under part IV of chapter 631.

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

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

255 (b) Are not covered by a private insurance policy and are
256 not eligible for coverage through a public health insurance
257 program, such as Medicare, Medicaid, or Kidcare, unless
258 eligibility for coverage lapses due to no longer meeting income
259 or categorical requirements.

260 (c) Have not been covered by any health insurance program
261 at any time during the past 6 months, unless coverage under a

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262 health insurance program was terminated within the previous 6
263 months due to:

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

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

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

269 4. Death of, or divorce from, a spouse who was provided
270 employer-sponsored health benefit plan.

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

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

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

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

285 (a) Evaluate the Cover Florida program and its effect on
286 the entities that seek approval as Cover Florida plans, on the
287 number of enrollees, and on the scope of the health care coverage
288 offered under a Cover Florida plan;

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

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

293 (d) Jointly submit by March 1, 2009, and annually
294 thereafter, a report to the Governor, the President of the
295 Senate, and the Speaker of the House of Representatives providing
296 the information specified in paragraphs (a)-(c) and
297 recommendations relating to the successful implementation and
298 administration of the program.

299 (11) RULEMAKING AUTHORITY.--The agency and the Financial
300 Services Commission may adopt rules as needed to administer this
301 section.

302 Section 4. Effective upon this act becoming law and
303 applicable to policies issued or renewed on or after October 1,
304 2008, section 627.6562, Florida Statutes, is amended to read:

305 627.6562 Dependent coverage.--

306 (1) If an insurer offers coverage that insures dependent
307 children of the policyholder or certificateholder, the policy
308 must insure a dependent child of the policyholder or
309 certificateholder at least until the end of the calendar year in
310 which the child reaches the age of 25, if the child meets all of
311 the following:

312 (a) The child is dependent upon the policyholder or
313 certificateholder for support.

314 (b) The child is living in the household of the
315 policyholder or certificateholder, or the child is a full-time or
316 part-time student.

317 (2) A policy that is subject to the requirements of
318 subsection (1) must also offer the policyholder or
319 certificateholder the option to insure a child of the

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320 policyholder or certificateholder at least until the end of the
321 calendar year in which the child reaches the age of 30, if the
322 child:

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

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

327 (c) Is not provided coverage as a named subscriber,
328 insured, enrollee, or covered person under any other group,
329 blanket, or franchise health insurance policy or individual
330 health benefits plan, or entitled to benefits under Title XVIII
331 of the Social Security Act.

332 (3) If, pursuant to subsection (2), a child is provided
333 coverage under the parent's policy after the end of the calendar
334 year in which the child reaches age 25, and coverage for the
335 child is subsequently terminated, the child is not eligible to be
336 covered under the parent's policy unless the child was
337 continuously covered by other creditable coverage without a gap
338 in coverage of more than 63 days. For the purposes of this
339 subsection, the term "creditable coverage" has the same meaning
340 as defined in s. 627.6561(5).

341 (4) ~~(2)~~ Nothing in This section does not affect or preempt
342 affects or preempts an insurer's right to medically underwrite or
343 charge the appropriate premium.

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