

Amendment No.

CHAMBER ACTION

Senate

House

.
.
.
.

1 Representative Gardiner offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. This act may be cited as the "Window of
6 Opportunity Act."

7 Section 2. Subsection (18) is renumbered as subsection
8 (19) of section 391.026, Florida Statutes, and a new subsection
9 (18) is added to that section to read:

10 391.026 Powers and duties of the department.--The
11 department shall have the following powers, duties, and
12 responsibilities:

13 (18) To provide services under contract to the Florida
14 Healthy Kids Corporation for Florida Healthy Kids benefit plans.
15 Children served under this contract are not enrollees of the
16 Children's Medical Services program component of the Florida

171333

4/28/2008 9:40 PM

Amendment No.

17 Kidcare program funded under Title XIX or Title XXI of the
18 Social Security Act.

19 Section 3. Subsections (13) through (40) of section
20 393.063, Florida Statutes, are renumbered as subsections (14)
21 through (41), respectively, subsection (9) is amended, and a new
22 subsection (13) is added to that section, to read:

23 393.063 Definitions.--For the purposes of this chapter,
24 the term:

25 (9) "Developmental disability" means a disorder or
26 syndrome that is attributable to retardation, cerebral palsy,
27 autism, spina bifida, Down syndrome, or Prader-Willi syndrome;
28 that manifests before the age of 18; and that constitutes a
29 substantial handicap that can reasonably be expected to continue
30 indefinitely.

31 (13) "Down syndrome" means a genetic disorder caused by
32 the presence of extra chromosomal material on chromosome 21.
33 Causes of the syndrome may include Trisomy 21, Mosaicism,
34 Robertsonian Translocation, and other duplications of a portion
35 of chromosome 21.

36 Section 4. Subsection (7) of section 409.8132, Florida
37 Statutes, is amended to read:

38 409.8132 Medikids program component.--

39 (7) ENROLLMENT.--Enrollment in the Medikids program
40 component may occur at any time throughout the year. A child may
41 not receive services under the Medikids program until the child
42 is enrolled in a managed care plan or MediPass. Once determined
43 eligible, an applicant may receive choice counseling and select
44 a managed care plan or MediPass. The agency may initiate

171333

4/28/2008 9:40 PM

Amendment No.

45 mandatory assignment for a Medikids applicant who has not chosen
46 a managed care plan or MediPass provider after the applicant's
47 voluntary choice period ends; however, the agency shall ensure
48 that family members are assigned to the same managed care plan
49 or the same MediPass provider to the greatest extent possible,
50 including situations in which some family members are enrolled
51 in Medicaid and other family members are enrolled in a Title
52 XXI-funded component of the Florida Kidcare program. An
53 applicant may select MediPass under the Medikids program
54 component only in counties that have fewer than two managed care
55 plans available to serve Medicaid recipients and only if the
56 federal Health Care Financing Administration determines that
57 MediPass constitutes "health insurance coverage" as defined in
58 Title XXI of the Social Security Act.

59 Section 5. Subsection (2) of section 409.8134, Florida
60 Statutes, is amended, and subsection (5) is added to that
61 section, to read:

62 409.8134 Program expenditure ceiling.--

63 (2) Open enrollment periods shall consist of:

64 (a) Enrollment for premium assistance.--The Florida
65 Kidcare program may conduct enrollment at any time throughout
66 the year for the purpose of enrolling children eligible for all
67 program components listed in s. 409.813 except Medicaid. The
68 four Florida Kidcare administrators shall work together to
69 ensure that the year-round enrollment period is announced
70 statewide. Eligible children for premium assistance shall be
71 enrolled on a first-come, first-served basis using the date the
72 enrollment application is received. Enrollment shall immediately

171333

4/28/2008 9:40 PM

Amendment No.

73 cease when the expenditure ceiling is reached. Year-round
74 enrollment for premium assistance shall only be held if the
75 Social Services Estimating Conference determines that sufficient
76 federal and state funds will be available to finance the
77 increased enrollment ~~through federal fiscal year 2007~~. Any
78 individual who is not enrolled must reapply by submitting a new
79 application. The application for the Florida Kidcare program
80 shall be valid for a period of 120 days after the date it was
81 received. At the end of the 120-day period, if the applicant has
82 not been enrolled in the program, the application shall be
83 invalid and the applicant shall be notified of the action. The
84 applicant may reactivate ~~resubmit~~ the application after
85 notification of the action taken by the program. Except for the
86 Medicaid program, whenever the Social Services Estimating
87 Conference determines that there are presently, or will be by
88 the end of the current fiscal year, insufficient funds to
89 finance the current or projected enrollment in the Florida
90 Kidcare program, all additional enrollment must cease and
91 additional enrollment may not resume until sufficient funds are
92 available to finance such enrollment.

93 (b) Open enrollment without premium assistance, effective
94 July 1, 2009.--

95 1. Effective July 1, 2009, an open enrollment period for
96 the Florida Healthy Kids program for those enrollees not
97 eligible for premium assistance may be held once each fiscal
98 year and may not exceed 30 consecutive calendar days in length.
99 The timing and length of any open enrollment period shall be
100 determined by the Florida Healthy Kids Corporation. Applicants

171333

4/28/2008 9:40 PM

Amendment No.

101 shall be enrolled on a first come, first served basis, based
102 upon the date the application was received. During the 2009-2010
103 fiscal year, the effective date for new enrollees without
104 premium assistance shall be October 1, 2009. However, for a
105 child who has had his or her coverage in an employer-sponsored
106 or private health benefit plan voluntarily canceled in the last
107 90 days and who is otherwise eligible to participate without
108 premium assistance the effective date of coverage shall be the
109 end of the 90-day period or October 1, 2009, whichever is later.

110 2. The following individuals are not subject to the open
111 enrollment period:

112 a. Enrollees in any Florida Kidcare program component that
113 are determined to be no longer eligible under that component due
114 to changes in income or age. These enrollees may transfer to the
115 Healthy Kids program if such transfer is initiated within 30
116 days after the loss of such eligibility.

117 b. Applicants that have adopted a child in the state.

118 c. Applicants who have had employer-sponsored or private
119 health insurance involuntarily canceled within 30 days prior to
120 submission of the application.

121 3. Any individual who is not enrolled under this
122 subsection must reapply by submitting a new application during
123 the next open enrollment period. The application for the Florida
124 Kidcare program without premium assistance shall be valid for
125 the period of the open enrollment.

126 (5) Effective October 1, 2009, upon determination by the
127 Social Service Estimating Conference, in consultation with the
128 agency and the Florida Healthy Kids Corporation, that enrollment

171333

4/28/2008 9:40 PM

Amendment No.

129 of children whose family income exceeds 200 percent of the
130 federal poverty level is projected to raise overall premiums per
131 enrollee by greater than 5 percent of current average premiums
132 in the Florida Healthy Kids plans, the board of directors of the
133 Florida Healthy Kids Corporation may, with the concurrence of
134 the agency, take appropriate actions to reduce the projected
135 cost below the projected 5 percent increase. Actions the board
136 may take may include, but are not limited to:

137 (a) Reducing habilitative and behavior analysis benefits
138 to enrollees who are receiving these services.

139 (b) Eliminating habilitative and or behavior analysis
140 services as a benefit in Healthy Kids plans for enrollees and
141 providing enrollees the opportunity to purchase these benefits
142 separately.

143 (c) Increasing copayments for habilitative and behavior
144 analysis services provided to nonpremium assistance enrollees.

145 (d) Reducing benefit packages to all nonpremium assistance
146 enrollees.

147 Section 6. Paragraphs (c) and (f) of subsection (4) and
148 subsections (5), (7), and (8) of section 409.814, Florida
149 Statutes, are amended to read:

150 409.814 Eligibility.--A child who has not reached 19 years
151 of age whose family income is equal to or below 200 percent of
152 the federal poverty level is eligible for the Florida Kidcare
153 program as provided in this section. For enrollment in the
154 Children's Medical Services Network, a complete application
155 includes the medical or behavioral health screening. If,
156 subsequently, an individual is determined to be ineligible for
171333

4/28/2008 9:40 PM

Amendment No.

157 coverage, he or she must immediately be disenrolled from the
158 respective Florida Kidcare program component.

159 (4) The following children are not eligible to receive
160 premium assistance for health benefits coverage under the
161 Florida Kidcare program, except under Medicaid if the child
162 would have been eligible for Medicaid under s. 409.903 or s.
163 409.904 as of June 1, 1997:

164 (c) A child who is seeking premium assistance for the
165 Florida Kidcare program through employer-sponsored group
166 coverage, if the child has been covered by the same employer's
167 group coverage during the 90 days ~~6 months~~ prior to the family's
168 submitting an application for determination of eligibility under
169 the program.

170 (f) A child who has had his or her coverage in an
171 employer-sponsored or private health benefit plan voluntarily
172 canceled in the last 90 days ~~6 months~~, except those children who
173 were on the waiting list prior to March 12, 2004, or whose
174 coverage was voluntarily canceled for good cause, including, but
175 not limited to, the following circumstances:

176 1. The cost of participation in an employer-sponsored or
177 private health benefit plan is greater than 5 percent of the
178 family's income;

179 2. The parent lost a job that provided an employer-
180 sponsored health benefit plan for children;

181 3. The parent with health benefits coverage for the child
182 is deceased;

183 4. The employer of the parent canceled health benefits
184 coverage for children;

171333

4/28/2008 9:40 PM

Amendment No.

185 5. The child's health benefits coverage ended because the
186 child reached the maximum lifetime coverage amount;

187 6. The child has exhausted coverage under a COBRA
188 continuation provision; or

189 7. A situation involving domestic violence led to the loss
190 of coverage.

191 (5) A child whose family income is above 200 percent of
192 the federal poverty level or a child who is excluded under the
193 provisions of subsection (4) may participate in the Medikids
194 program as provided in s. 409.8132 or, if the child is
195 ineligible for Medikids by reason of age, in the Florida Healthy
196 Kids program as provided in s. 624.91, subject to the following
197 provisions:

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

201 (b) Effective October 1, 2009, new applicants for
202 nonpremium assistance in the Medikids program shall enroll in
203 the Florida Healthy Kids program component of the Florida
204 Kidcare program. ~~The agency is authorized to place limits on~~
205 ~~enrollment in Medikids by these children in order to avoid~~
206 ~~adverse selection. The number of children participating in~~
207 ~~Medikids whose family income exceeds 200 percent of the federal~~
208 ~~poverty level must not exceed 10 percent of total enrollees in~~
209 ~~the Medikids program.~~

210 (c) The board of directors of the Florida Healthy Kids
211 Corporation ~~is authorized to place limits on enrollment of these~~
212 ~~children in order to avoid adverse selection. In addition, the~~

171333

4/28/2008 9:40 PM

Amendment No.

213 ~~board~~ is authorized to offer a reduced benefit package to these
214 children in order to limit program costs for such families. ~~The~~
215 ~~number of children participating in the Florida Healthy Kids~~
216 ~~program whose family income exceeds 200 percent of the federal~~
217 ~~poverty level must not exceed 10 percent of total enrollees in~~
218 ~~the Florida Healthy Kids program.~~

219 (7) When determining or reviewing a child's eligibility
220 under the Florida Kidcare program, the applicant shall be
221 provided with reasonable notice of changes in eligibility which
222 may affect enrollment in one or more of the program components.
223 When a transition from one program component to another is
224 authorized, there shall be cooperation between the program
225 components, and the affected family, the child's health
226 insurance plan, and the child's health care providers to promote
227 which promotes continuity of health care coverage. If a child is
228 determined ineligible for Medicaid or Medikids, the agency, in
229 coordination with the department, shall notify that child's
230 Medicaid managed care plan or MediPass provider of such
231 determination before the child's eligibility is scheduled to be
232 terminated so that the Medicaid managed care plan or MediPass
233 provider can assist the child's family in applying for Florida
234 Kidcare program coverage. Any authorized transfers must be
235 managed within the program's overall appropriated or authorized
236 levels of funding. Each component of the program shall establish
237 a reserve to ensure that transfers between components will be
238 accomplished within current year appropriations. These reserves
239 shall be reviewed by each convening of the Social Services

171333

4/28/2008 9:40 PM

Amendment No.

240 Estimating Conference to determine the adequacy of such reserves
241 to meet actual experience.

242 (8) In determining the eligibility of a child for the
243 Florida Kidcare program, an assets test is not required. The
244 information required under this section from each applicant
245 shall be obtained electronically to the extent possible. If such
246 information cannot be obtained electronically, the ~~Each~~
247 applicant shall provide written documentation during the
248 application process and the redetermination process, including,
249 but not limited to, the following:

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

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

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

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

264

265 An individual who applies for coverage under the Florida Kidcare
266 program and who pays the full cost of the premium is exempt from
267 the requirements of this subsection.

171333

4/28/2008 9:40 PM

Amendment No.

268 Section 7. Paragraphs (r) through (v) of subsection (2) of
269 section 409.815, Florida Statutes, are redesignated as
270 paragraphs (s) through (w), respectively, present paragraphs
271 (o), (r), and (u) are amended, and a new paragraph (r) is added
272 to that subsection, to read:

273 409.815 Health benefits coverage; limitations.--

274 (2) BENCHMARK BENEFITS.--In order for health benefits
275 coverage to qualify for premium assistance payments for an
276 eligible child under ss. 409.810-409.820, the health benefits
277 coverage, except for coverage under Medicaid and Medikids, must
278 include the following minimum benefits, as medically necessary.

279 (o) Therapy services.--Covered services include
280 habilitative and rehabilitative services, including
281 occupational, physical, respiratory, and speech therapies, with
282 the following limitations:

283 1. Rehabilitative services are limited to:

284 a.1. ~~Services must be for~~ Short-term rehabilitation when
285 ~~where~~ significant improvement in the enrollee's condition will
286 result; and

287 b.2. ~~Services shall be limited to~~ Not more than 24
288 treatment sessions within a 60-day period per episode or injury,
289 with the 60-day period beginning with the first treatment.

290 2. Effective October 1, 2009, habilitative services shall
291 be offered and are limited to:

292 a. Habilitation when improvements in and maintenance of
293 human behavior, skill acquisition, and communication will
294 result; and

171333

4/28/2008 9:40 PM

Amendment No.

295 b. Enrollees that are diagnosed with a developmental
296 disability as defined in s. 393.063 or autism spectrum disorder.

297 (r) Behavior analysis services.--Effective October 1,
298 2009, behavior analysis and behavior assistant services shall be
299 covered for enrollees that are diagnosed with a developmental
300 disability as defined in s. 393.063 or autism spectrum disorder.

301 For purposes of this paragraph:

302 1. "Behavior analysis" means the design, implementation,
303 and evaluation of instructional and environmental modifications
304 to produce socially significant improvements in human behavior
305 through skill acquisition and the reduction of problematic
306 behavior. Behavior analysis shall be provided by an individual
307 certified pursuant to s. 393.17 or an individual licensed under
308 chapter 490 or chapter 491.

309 2. "Behavior assistant services" means services provided
310 by an individual with specific training to assist in carrying
311 out plans designed by a behavior analyst.

312 (s) ~~(r)~~ Lifetime maximum and limitations.--Health benefits
313 coverage obtained under ss. 409.810-409.820 shall pay an
314 enrollee's covered expenses at a lifetime maximum of \$1 million
315 per covered child. However, coverage for the combination of
316 behavior analysis services and habilitative therapy services for
317 recipients diagnosed with a developmental disability as defined
318 in s. 393.063 or autism spectrum disorder shall be limited to
319 \$36,000 annually and may not exceed \$108,000 in total lifetime
320 benefits. Without prior authorization by the Florida Healthy
321 Kids plan, not more than 12 percent of the annual maximum amount

171333

4/28/2008 9:40 PM

Amendment No.

322 for combined habilitative therapy and behavior analysis services
323 may be used on a monthly basis.

324 (v)~~(u)~~ Enhancements to minimum requirements.--

325 1. This section sets the minimum benefits that must be
326 included in any health benefits coverage, other than Medicaid or
327 Medikids coverage, offered under ss. 409.810-409.820. Health
328 benefits coverage may include additional benefits not included
329 under this subsection, but may not include benefits excluded
330 under paragraph (t) ~~(s)~~.

331 2. Health benefits coverage may extend any limitations
332 beyond the minimum benefits described in this section.

333
334 Except for the Children's Medical Services Network, the agency
335 may not increase the premium assistance payment for either
336 additional benefits provided beyond the minimum benefits
337 described in this section or the imposition of less restrictive
338 service limitations.

339 Section 8. Paragraph (b) of subsection (1) of section
340 409.818, Florida Statutes, is amended to read:

341 409.818 Administration.--In order to implement ss.
342 409.810-409.820, the following agencies shall have the following
343 duties:

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

345 (b) Establish and maintain the eligibility determination
346 process under the program except as specified in subsection (5).
347 The department shall directly, or through the services of a
348 contracted third-party administrator, establish and maintain a
349 process for determining eligibility of children for coverage

171333

4/28/2008 9:40 PM

HOUSE AMENDMENT

Bill No. CS/CS/CS/SB 2654

Amendment No.

350 under the program. The eligibility determination process must be
351 used solely for determining eligibility of applicants for health
352 benefits coverage under the program. The eligibility
353 determination process must include an initial determination of
354 eligibility for any coverage offered under the program, as well
355 as a redetermination or reverification of eligibility each
356 subsequent 12 6 months. Effective January 1, 1999, a child who
357 has not attained the age of 5 and who has been determined
358 eligible for the Medicaid program is eligible for coverage for
359 12 months without a redetermination or reverification of
360 eligibility. In conducting an eligibility determination, the
361 department shall determine if the child has special health care
362 needs. The department, in consultation with the Agency for
363 Health Care Administration and the Florida Healthy Kids
364 Corporation, shall develop procedures for redetermining
365 eligibility which enable a family to easily update any change in
366 circumstances which could affect eligibility. The department may
367 accept changes in a family's status as reported to the
368 department by the Florida Healthy Kids Corporation without
369 requiring a new application from the family. Redetermination of
370 a child's eligibility for Medicaid may not be linked to a
371 child's eligibility determination for other programs.

372 Section 9. Subsection (26) is added to section 409.906,
373 Florida Statutes, to read:

374 409.906 Optional Medicaid services.--Subject to specific
375 appropriations, the agency may make payments for services which
376 are optional to the state under Title XIX of the Social Security
377 Act and are furnished by Medicaid providers to recipients who

171333

4/28/2008 9:40 PM

Amendment No.

378 are determined to be eligible on the dates on which the services
379 were provided. Any optional service that is provided shall be
380 provided only when medically necessary and in accordance with
381 state and federal law. Optional services rendered by providers
382 in mobile units to Medicaid recipients may be restricted or
383 prohibited by the agency. Nothing in this section shall be
384 construed to prevent or limit the agency from adjusting fees,
385 reimbursement rates, lengths of stay, number of visits, or
386 number of services, or making any other adjustments necessary to
387 comply with the availability of moneys and any limitations or
388 directions provided for in the General Appropriations Act or
389 chapter 216. If necessary to safeguard the state's systems of
390 providing services to elderly and disabled persons and subject
391 to the notice and review provisions of s. 216.177, the Governor
392 may direct the Agency for Health Care Administration to amend
393 the Medicaid state plan to delete the optional Medicaid service
394 known as "Intermediate Care Facilities for the Developmentally
395 Disabled." Optional services may include:

396 (26) HOME AND COMMUNITY-BASED SERVICES FOR AUTISM SPECTRUM
397 DISORDER AND OTHER DEVELOPMENTAL DISABILITIES.--The agency is
398 authorized to seek federal approval through a Medicaid waiver or
399 a state plan amendment for the provision of occupational
400 therapy, speech therapy, physical therapy, behavior analysis,
401 and behavior assistant services to individuals who are 5 years
402 of age and under and have a diagnosed developmental disability
403 as defined in s. 393.063 or autism spectrum disorder. Coverage
404 for such services shall be limited to \$36,000 annually and may
405 not exceed \$108,000 in total lifetime benefits. The agency shall

171333

4/28/2008 9:40 PM

Amendment No.

406 submit an annual report beginning on January 1, 2009, to the
407 President of the Senate, the Speaker of the House of
408 Representatives, and the relevant committees of the Senate and
409 the House of Representatives regarding progress on obtaining
410 federal approval and recommendations for the implementation of
411 these home and community-based services. The agency may not
412 implement this subsection without prior legislative approval.

413 Section 10. Section 456.0291, Florida Statutes, is created
414 to read:

415 456.0291 Requirement for instruction on developmental
416 disabilities.--

417 (1) (a) The appropriate board shall require each person
418 licensed or certified under part I of chapter 464, chapter 490,
419 or chapter 491 to complete a 2-hour continuing education course,
420 approved by the board, on developmental disabilities, as defined
421 in s. 393.063, with the addition of autism spectrum disorder, as
422 part of every third biennial relicensure or recertification. The
423 course shall consist of information on the diagnosis and
424 treatment of developmental disabilities and information on
425 counseling and education of a parent whose child is diagnosed
426 with a developmental disability, with an emphasis on autism
427 spectrum disorder.

428 (b) The Board of Medicine and the Board of Osteopathic
429 Medicine shall require each physician with a primary care
430 specialty of pediatrics to complete a 2-hour continuing
431 education course, approved by the appropriate board, on
432 developmental disabilities, as defined in s. 393.063, with the
433 addition of autism spectrum disorder, as part of every third

171333

4/28/2008 9:40 PM

Amendment No.

434 biennial relicensure. The course shall consist of information on
435 the diagnosis and treatment of developmental disabilities and
436 information on counseling and education of a parent whose child
437 is diagnosed with a developmental disability, with an emphasis
438 on autism spectrum disorder.

439 (c) Each such licensee or certificateholder shall submit
440 confirmation of having completed the course, on a form provided
441 by the board, when submitting fees for every third biennial
442 renewal.

443 (d) The board may approve additional equivalent courses
444 that may be used to satisfy the requirements of paragraph (a).
445 Each licensing board that requires a licensee to complete an
446 educational course pursuant to this subsection may include the
447 hours required for completion of the course in the total hours
448 of continuing education required by law for such profession
449 unless the continuing education requirements for such profession
450 consist of fewer than 30 hours biennially.

451 (e) Any person holding two or more licenses subject to the
452 provisions of this subsection shall be permitted to show proof
453 of having taken one board-approved course on developmental
454 disabilities for purposes of relicensure or recertification for
455 additional licenses.

456 (f) Failure to comply with the requirements of this
457 subsection shall constitute grounds for disciplinary action
458 under each respective practice act and under s. 456.072(1)(k).
459 In addition to discipline by the board, the licensee shall be
460 required to complete such course.

171333

4/28/2008 9:40 PM

Amendment No.

461 (2) Each board may adopt rules pursuant to ss. 120.536(1)
462 and 120.54 to carry out the provisions of this section.

463 (3) The department shall implement a plan to promote
464 awareness of developmental disabilities, with a focus on autism
465 spectrum disorder, to physicians licensed under chapter 458 or
466 chapter 459 and parents. The department shall develop the plan
467 in consultation with organizations representing allopathic and
468 osteopathic physicians, the Board of Medicine, the Board of
469 Osteopathic Medicine, and nationally recognized organizations
470 that promote awareness of developmental disabilities. The
471 department's plan shall include the distribution of educational
472 materials for parents, including a developmental assessment
473 tool.

474 Section 11. Paragraph (b) of subsection (2) and paragraph
475 (b) of subsection (5) of section 624.91, Florida Statutes, are
476 amended to read:

477 624.91 The Florida Healthy Kids Corporation Act.--

478 (2) LEGISLATIVE INTENT.--

479 (b) It is the intent of the Legislature that the Florida
480 Healthy Kids Corporation serve as one of several providers of
481 services to children eligible for medical assistance under Title
482 XXI of the Social Security Act. Although the corporation may
483 serve other children, the Legislature intends the primary
484 recipients of services provided through the corporation be
485 ~~school-age~~ children with a family income below 200 percent of
486 the federal poverty level, who do not qualify for Medicaid. It
487 is also the intent of the Legislature that state and local
488 government Florida Healthy Kids funds be used to continue

171333

4/28/2008 9:40 PM

Amendment No.

489 coverage, subject to specific appropriations in the General
490 Appropriations Act, to children not eligible for federal
491 matching funds under Title XXI.

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

493 (b) The Florida Healthy Kids Corporation shall:

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

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

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

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

510 5. Establish, with consultation from appropriate
511 professional organizations, standards for preventive health
512 services and providers and comprehensive insurance benefits
513 appropriate to children, provided that such standards for rural
514 areas shall not limit primary care providers to board-certified
515 pediatricians.

171333

4/28/2008 9:40 PM

Amendment No.

516 6. Determine eligibility for children seeking to
517 participate in the Title XXI-funded components of the Florida
518 Kidcare program consistent with the requirements specified in s.
519 409.814, as well as the non-Title-XXI-eligible children as
520 provided in subsection (3).

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

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

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

533 10. Contract with authorized insurers or any provider of
534 health care services, meeting standards established by the
535 corporation, for the provision of comprehensive insurance
536 coverage to participants. Such standards shall include criteria
537 under which the corporation may contract with more than one
538 provider of health care services in program sites. Health plans
539 shall be selected through a competitive bid process. The Florida
540 Healthy Kids Corporation shall purchase goods and services in
541 the most cost-effective manner consistent with the delivery of
542 quality medical care. The maximum administrative cost for a
543 Florida Healthy Kids Corporation contract shall be 15 percent.

171333

4/28/2008 9:40 PM

Amendment No.

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

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

556 12. Develop and implement a plan to publicize the Florida
557 Kidcare program ~~Healthy Kids Corporation~~, the eligibility
558 requirements of the program, and the procedures for enrollment
559 in the program and to maintain public awareness of the
560 corporation and the program. Health care and dental health plans
561 participating in the program may develop and distribute
562 marketing and other promotional materials and participate in
563 activities, such as health fairs and public events, as approved
564 by the corporation. Health care and dental health plans may also
565 contact their current and former enrollees to encourage
566 continued participation in the program and assist the enrollee
567 in transferring from a Title XIX-funded plan to a Title XXI-
568 funded plan.

569 13. Establish an assignment process for Florida Healthy
570 Kids program enrollees to ensure that family members are
571 assigned to the same managed care plan to the greatest extent

171333

4/28/2008 9:40 PM

Amendment No.

572 possible, including situations in which some family members are
573 enrolled in a Medicaid managed care plan and other family
574 members are enrolled in a Florida Healthy Kids plan. The Agency
575 for Health Care Administration shall consult with the
576 corporation to implement this subparagraph.

577 ~~14.13.~~ Secure staff necessary to properly administer the
578 corporation. Staff costs shall be funded from state and local
579 matching funds and such other private or public funds as become
580 available. The board of directors shall determine the number of
581 staff members necessary to administer the corporation.

582 ~~15.14.~~ Provide a report annually to the Governor, Chief
583 Financial Officer, Commissioner of Education, Senate President,
584 Speaker of the House of Representatives, and Minority Leaders of
585 the Senate and the House of Representatives.

586 16. Provide a report by October 31, 2008, to the Governor,
587 the Senate, and the House of Representatives, which includes an
588 actuarial analysis of the projected impact on premiums from the
589 addition of habilitative and behavior analysis services in
590 accordance with s. 409.815.

591 17. Provide information on a quarterly basis to the
592 Governor, the Senate, and the House of Representatives that
593 assesses the cost and utilization of services for the Florida
594 Healthy Kids health benefits plans provided through the Florida
595 Healthy Kids Corporation. The information must be specific to
596 each eligibility component of the plan and, at a minimum,
597 include:

- 598 a. The monthly enrollment and expenditures for enrollees.
599 b. The cost and utilization of specific services.

171333

4/28/2008 9:40 PM

Amendment No.

600 c. An analysis of the impact on premiums prior to and
601 following implementation of the Window of Opportunity Act.

602 d. An analysis of trends regarding transfer of enrollees
603 from the Florida Healthy Kids plans to the Children's Medical
604 Services Network plan.

605 e. Any recommendations resulting from the analysis
606 conducted under this subparagraph.

607 ~~18.15.~~ Establish benefit packages which conform to the
608 provisions of the Florida Kidcare program, as created in ss.
609 409.810-409.820.

610 Section 12. Section 624.916, Florida Statutes, is created
611 to read:

612 624.916 Developmental disabilities compact.--

613 (1) The Office of Insurance Regulation shall convene a
614 workgroup by August 31, 2008, for the purpose of negotiating a
615 compact that includes a binding agreement among the participants
616 relating to insurance and access to services for persons with
617 developmental disabilities as defined in s. 393.063, with the
618 addition of autism spectrum disorder. The workgroup shall
619 consist of the following:

620 (a) Representatives of all health insurers licensed under
621 this chapter.

622 (b) Representatives of all health maintenance
623 organizations licensed under part I of chapter 641.

624 (c) Representatives of employers with self-insured health
625 benefit plans.

626 (d) Two designees of the Governor, one of whom must be a
627 consumer advocate.

171333

4/28/2008 9:40 PM

Amendment No.

628 (e) A designee of the President of the Senate.

629 (f) A designee of the Speaker of the House of
630 Representatives.

631 (2) The Office of Insurance Regulation shall convene a
632 consumer advisory workgroup for the purpose of providing a forum
633 for comment on the compact negotiated in subsection (1). The
634 office shall convene the workgroup prior to finalization of the
635 compact.

636 (3) The agreement shall include the following components:

637 (a) Procedures for clear and specific notice to
638 policyholders identifying the amount, scope, and conditions
639 under which coverage is provided for speech therapy, physical
640 therapy, occupational therapy, and behavioral interventions when
641 necessary due to the presence of a developmental disability.

642 (b) Penalties for documented cases of denial of claims for
643 medically necessary services due to the presence of a
644 developmental disability.

645 (c) Proposals for new product lines that may be offered in
646 conjunction with traditional health insurance and provide a more
647 appropriate means of spreading risk, financing costs, and
648 accessing favorable prices.

649 (4) Upon completion of the negotiations for the compact,
650 the office shall report the results to the Governor, the
651 President of the Senate, and the Speaker of the House of
652 Representatives. The office shall continue to monitor
653 participation, compliance, and effectiveness of the agreement
654 and report its findings at least annually.

171333

4/28/2008 9:40 PM

Amendment No.

655 Section 13. Section 627.6686, Florida Statutes, is created
656 to read:

657 627.6686 Coverage for individuals with developmental
658 disabilities required; exception.--

659 (1) As used in this section, the term:

660 (a) "Developmental disability" has the same meaning as
661 provided in s. 393.063, with the addition of autism spectrum
662 disorder.

663 (b) "Eligible individual" means an individual under 18
664 years of age or an individual 18 years of age or older who is in
665 high school who has been diagnosed as having a developmental
666 disability at 8 years of age or younger.

667 (c) "Health insurance plan" means a group health insurance
668 policy or group health benefit plan offered by an insurer which
669 includes the state group insurance program provided under s.
670 110.123. The term does not include any health insurance plan
671 offered in the individual market, any health insurance plan that
672 is individually underwritten, or any health insurance plan
673 provided to a small employer.

674 (d) "Insurer" means an insurer providing health insurance
675 coverage, which is licensed to engage in the business of
676 insurance in this state and is subject to insurance regulation.

677 (2) A health insurance plan issued or renewed on or after
678 July 1, 2009, shall provide coverage to an eligible individual
679 for:

680 (a) Well-baby and well-child screening for diagnosing the
681 presence of a developmental disability.

Amendment No.

682 (b) Treatment of a developmental disability through speech
683 therapy, occupational therapy, physical therapy, and behavior
684 analysis services. Behavior analysis services shall be provided
685 by an individual certified pursuant to s. 393.17 or an
686 individual licensed under chapter 490 or chapter 491.

687 (3) The coverage required pursuant to subsection (2) is
688 subject to the following requirements:

689 (a) Coverage shall be limited to treatment that is
690 prescribed by the insured's treating physician in accordance
691 with a treatment plan.

692 (b) Coverage for the services described in subsection (2)
693 shall be limited to \$36,000 annually and may not exceed \$108,000
694 in total lifetime benefits.

695 (c) Coverage may not be denied on the basis that provided
696 services are habilitative in nature.

697 (d) Coverage may be subject to other general exclusions
698 and limitations of the insurer's policy or plan, including, but
699 not limited to, coordination of benefits, participating provider
700 requirements, restrictions on services provided by family or
701 household members, and utilization review of health care
702 services, including the review of medical necessity, case
703 management, and other managed care provisions.

704 (4) The coverage required pursuant to subsection (2) may
705 not be subject to dollar limits, deductibles, or coinsurance
706 provisions that are less favorable to an insured than the dollar
707 limits, deductibles, or coinsurance provisions that apply to
708 physical illnesses that are generally covered under the health
709 insurance plan, except as otherwise provided in subsection (3).

171333

4/28/2008 9:40 PM

Amendment No.

710 (5) An insurer may not deny or refuse to issue coverage
711 for medically necessary services, refuse to contract with, or
712 refuse to renew or reissue or otherwise terminate or restrict
713 coverage for an individual because the individual is diagnosed
714 as having a developmental disability.

715 (6) The treatment plan required pursuant to subsection (3)
716 shall include all elements necessary for the health insurance
717 plan to appropriately pay claims. These elements include, but
718 are not limited to, a diagnosis, the proposed treatment by type,
719 the frequency and duration of treatment, the anticipated
720 outcomes stated as goals, the frequency with which the treatment
721 plan will be updated, and the signature of the treating
722 physician.

723 (7) Beginning January 1, 2011, the maximum benefit under
724 paragraph (3)(b) shall be adjusted annually on January 1 of each
725 calendar year to reflect any change from the previous year in
726 the medical component of the then current Consumer Price Index
727 for all urban consumers, published by the Bureau of Labor
728 Statistics of the United States Department of Labor.

729 (8) This section may not be construed as limiting benefits
730 and coverage otherwise available to an insured under a health
731 insurance plan.

732 (9) The Office of Insurance Regulation may not enforce
733 this section against an insurer that is a signatory to the
734 developmental disabilities compact established under s. 624.916.

735 Section 14. Section 641.31098, Florida Statutes, is
736 created to read:

171333

4/28/2008 9:40 PM

Amendment No.

737 641.31098 Coverage for individuals with developmental
738 disabilities.--

739 (1) As used in this section, the term:

740 (a) "Developmental disability" has the same meaning as
741 provided in s. 393.063, with the addition of autism spectrum
742 disorder.

743 (b) "Eligible individual" means an individual under 18
744 years of age or an individual 18 years of age or older who is in
745 high school who has been diagnosed as having a developmental
746 disability at 8 years of age or younger.

747 (c) "Health maintenance contract" means a group health
748 maintenance contract offered by a health maintenance
749 organization. This term does not include a health maintenance
750 contract offered in the individual market, a health maintenance
751 contract that is individually underwritten, or a health
752 maintenance contract provided to a small employer.

753 (2) A health maintenance contract issued or renewed on or
754 after July 1, 2009, shall provide coverage to an eligible
755 individual for:

756 (a) Well-baby and well-child screening for diagnosing the
757 presence of a developmental disability.

758 (b) Treatment of a developmental disability through speech
759 therapy, occupational therapy, physical therapy, and behavior
760 analysis services. Behavior analysis services shall be provided
761 by an individual certified pursuant to s. 393.17 or an
762 individual licensed under chapter 490 or chapter 491.

763 (3) The coverage required pursuant to subsection (2) is
764 subject to the following requirements:

171333

4/28/2008 9:40 PM

Amendment No.

765 (a) Coverage shall be limited to treatment that is
766 prescribed by the subscriber's treating physician in accordance
767 with a treatment plan.

768 (b) Coverage for the services described in subsection (2)
769 shall be limited to \$36,000 annually and may not exceed \$108,000
770 in total benefits.

771 (c) Coverage may not be denied on the basis that provided
772 services are habilitative in nature.

773 (d) Coverage may be subject to general exclusions and
774 limitations of the subscriber's contract, including, but not
775 limited to, coordination of benefits, participating provider
776 requirements, and utilization review of health care services,
777 including the review of medical necessity, case management, and
778 other managed care provisions.

779 (4) The coverage required pursuant to subsection (2) may
780 not be subject to dollar limits, deductibles, or coinsurance
781 provisions that are less favorable to a subscriber than the
782 dollar limits, deductibles, or coinsurance provisions that apply
783 to physical illnesses that are generally covered under the
784 subscriber's contract, except as otherwise provided in
785 subsection (3).

786 (5) A health maintenance organization may not deny or
787 refuse to issue coverage for medically necessary services,
788 refuse to contract with, or refuse to renew or reissue or
789 otherwise terminate or restrict coverage for an individual
790 solely because the individual is diagnosed as having a
791 developmental disability.

171333

4/28/2008 9:40 PM

Amendment No.

792 (6) The treatment plan required pursuant to subsection (3)
793 shall include, but is not limited to, a diagnosis, the proposed
794 treatment by type, the frequency and duration of treatment, the
795 anticipated outcomes stated as goals, the frequency with which
796 the treatment plan will be updated, and the signature of the
797 treating physician.

798 (7) Beginning January 1, 2011, the maximum benefit under
799 paragraph (3)(b) shall be adjusted annually on January 1 of each
800 calendar year to reflect any change from the previous year in
801 the medical component of the then current Consumer Price Index
802 for all urban consumers, published by the Bureau of Labor
803 Statistics of the United States Department of Labor.

804 (8) The Office of Insurance Regulation may not enforce
805 this section against a health maintenance organization that is a
806 signatory to the developmental disabilities compact established
807 under s. 624.916.

808 Section 15. This act shall take effect July 1, 2008.

809
810
811

812 -----

813 **T I T L E A M E N D M E N T**

814 Remove the entire title and insert:

815 A bill to be entitled

816 An act relating to children with disabilities; creating
817 the "Window of Opportunity Act"; amending s. 391.026,
818 F.S.; requiring the Department of Health to provide
819 certain services under contract to the Florida Healthy

171333

4/28/2008 9:40 PM

HOUSE AMENDMENT

Bill No. CS/CS/CS/SB 2654

Amendment No.

820 Kids Corporation; specifying that children served under
821 such contract are not enrollees of Children's Medical
822 Services; amending 393.063, F.S.; revising the definition
823 of the term "developmental disability"; providing a
824 definition of the term "Down syndrome"; amending s.
825 409.8132, F.S.; revising provisions relating to enrollment
826 in the Medikids program component of Florida Kidcare;
827 providing for the Agency for Health Care Administration to
828 assign family members to the same managed care plan or
829 Medicaid provider, under certain circumstances; amending
830 s. 409.8134, F.S.; providing eligibility criteria for
831 enrollment for premium assistance; providing for
832 enrollment without premium assistance in the Florida
833 Kidcare program during open enrollment periods; providing
834 limitations on year-round enrollment for premium
835 assistance; specifying a time period for enrollees not
836 eligible for premium assistance to enroll in the Florida
837 Healthy Kids program; providing exceptions; providing for
838 certain enrollees to transfer to the Healthy Kids program
839 under certain circumstances; authorizing the board of
840 directors of the Florida Healthy Kids Corporation to take
841 certain actions to reduce projected costs of the program
842 under certain circumstances; amending s. 409.814, F.S.;
843 revising conditions for eligibility for premium assistance
844 for the Florida Kidcare Program; providing limitations on
845 enrollment in the Medikids program after January 1, 2009;
846 providing for enrollment of new applicants in the Florida
847 Healthy Kids program; revising duties of the board of

171333

4/28/2008 9:40 PM

Amendment No.

848 directors of the Florida Healthy Kids Corporation
849 regarding enrollment limitations; providing for
850 notification to certain managed care plans or MediPass
851 providers prior to termination of a child's eligibility
852 for Florida Kidcare; providing for certain information
853 relating to eligibility to be obtained electronically;
854 providing an exemption from certain requirements for
855 individuals who pay the full cost of the Florida Kidcare
856 premium; amending s. 409.815, F.S.; revising provisions
857 relating to health benefits coverage for specified
858 services to include habilitative and behavior analysis
859 services; providing definitions; limiting the lifetime
860 maximum of health benefits coverage for certain services;
861 amending s. 409.818, F.S.; revising timeframe for
862 redetermination or reverification of eligibility for
863 Florida Kidcare; amending s. 409.906, F.S.; authorizing
864 the Agency for Health Care Administration to seek federal
865 approval through a state plan amendment to provide home
866 and community-based services for autism spectrum disorder
867 and other development disabilities; specifying eligibility
868 criteria; specifying limitations on provision of benefits;
869 requiring reports to the Legislature; requiring
870 legislative approval for implementation of certain
871 provisions; creating s. 456.0291, F.S.; authorizing
872 certain licensing boards to require special continuing
873 education on developmental disabilities for certain
874 licensees and certificateholders; providing penalties;
875 providing rulemaking authority; requiring the Department

171333

4/28/2008 9:40 PM

HOUSE AMENDMENT

Bill No. CS/CS/CS/SB 2654

Amendment No.

876 of Health to develop and implement a plan to promote
877 awareness of developmental disabilities, with a focus on
878 autism spectrum disorder; amending s. 624.91, F.S.;
879 revising legislative intent; requiring the Florida Healthy
880 Kids Corporation to provide information relating to costs
881 and utilization of full-pay and Title XXI subsidized
882 populations enrolled in Florida Healthy Kids health
883 benefits coverage plans; establishing an assignment
884 process; requiring the corporation to provide a report by
885 October 31, 2008, to the Governor and Legislature that
886 includes an analysis of the projected impact on premiums
887 resulting from the provision of additional services;
888 requiring the corporation to provide a quarterly
889 assessment of costs and utilization of services for
890 Florida Healthy Kids benefit plans to the Governor and
891 Legislature; creating s. 624.916, F.S.; directing the
892 Office of Insurance Regulation to establish a workgroup to
893 develop and execute a compact relating to coverage for
894 insured persons with development disabilities; providing
895 for membership of the workgroup; requiring the workgroup
896 to convene within a specified period of time; directing
897 the office to establish a consumer advisory workgroup and
898 providing purpose thereof; requiring the compact to
899 contain specified components; requiring a report to the
900 Legislature; creating s. 627.6686, F.S.; providing health
901 insurance coverage for individuals with developmental
902 disabilities; providing definitions; providing coverage
903 for certain screening to diagnose and treat developmental

171333

4/28/2008 9:40 PM

Amendment No.

904 disabilities; providing limitations on coverage; providing
905 for eligibility standards for benefits and coverage;
906 prohibiting insurers from denying coverage under certain
907 circumstances; specifying required elements of a treatment
908 plan; providing, beginning January 1, 2011, that the
909 maximum benefit shall be adjusted annually; clarifying
910 that the section may not be construed as limiting benefits
911 and coverage otherwise available to an insured under a
912 health insurance plan; prohibiting the Office of Insurance
913 Regulation from enforcing certain provisions against
914 insurers that are signatories to the developmental
915 disabilities compact; creating s. 641.31098, F.S.;
916 providing coverage under a health maintenance contract for
917 individuals with developmental disabilities; providing
918 definitions; providing coverage for certain screening to
919 diagnose and treat developmental disabilities; providing
920 limitations on coverage; providing for eligibility
921 standards for benefits and coverage; prohibiting health
922 maintenance organizations from denying coverage under
923 certain circumstances; specifying required elements of a
924 treatment plan; providing, beginning January 1, 2011, that
925 the maximum benefit shall be adjusted annually;
926 prohibiting the Office of Insurance Regulation from
927 enforcing certain provisions against health maintenance
928 organizations that are signatories to the developmental
929 disabilities compact; providing an effective date.

171333

4/28/2008 9:40 PM