

By Senator Rich

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1 A bill to be entitled
2 An act relating to the Florida Kidcare program;
3 amending s. 409.810, F.S.; correcting a cross-
4 reference; amending s. 409.811, F.S.; providing
5 definitions; conforming cross-references; amending s.
6 409.812, F.S.; clarifying the application of the
7 Florida Kidcare program to include all eligible
8 uninsured, low-income children; amending s. 409.813,
9 F.S.; specifying funding sources for health benefits
10 coverage for certain children; specifying program
11 components to be marketed as the Florida Kidcare
12 program; conforming cross-references; amending s.
13 409.8132, F.S.; conforming a cross-reference; revising
14 provisions relating to penalties for nonpayment of
15 premiums and waiting periods for reinstatement of
16 coverage; amending s. 409.8134, F.S.; revising
17 provisions relating to enrollment in the Florida
18 Kidcare program; amending s. 409.814, F.S.; removing a
19 restriction on participation in the Florida Healthy
20 Kids program; authorizing certain enrollees to opt out
21 of the Children's Medical Services network; providing
22 for continuation of eligibility for the Florida
23 Kidcare program under certain circumstances; revising
24 coverage limitations; revising restrictions on
25 enrollment of children whose coverage was voluntarily
26 canceled; providing exceptions; deleting provisions
27 that place a limit on enrollment in Medikids and the
28 Florida Healthy Kids full-pay program; revising
29 limitations on age and income for coverage under the

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30 Title XXI-funded Florida Kidcare program; requiring
31 notice to health plans and providers when a child is
32 no longer eligible for certain coverage; requiring
33 electronic verification of applicants' income;
34 providing circumstances under which written
35 documentation is required; revising the timeframe for
36 an enrollee to resolve disputes regarding the
37 withholding of benefits; amending s. 409.815, F.S.;
38 authorizing the Agency for Health Care Administration
39 to increase premium assistance payments for benefits
40 provided through Florida Kidcare Plus instead of the
41 Children's Medical Services; conforming cross-
42 references; amending ss. 409.816 and 409.817, F.S.;
43 conforming cross-references; amending s. 409.8177,
44 F.S.; revising information to be included in the
45 annual program evaluation to the Governor and
46 Legislature; amending s. 409.818, F.S.; revising the
47 redetermination process for coverage under the Florida
48 Kidcare program; clarifying that the Department of
49 Health is the chair of Florida Kidcare coordinating
50 council; conforming cross-references; amending s.
51 409.821, F.S., relating to an exemption from public-
52 records requirements provided for the Florida Kidcare
53 program; providing for disclosure of certain
54 confidential and exempt information relating to an
55 enrollee's application; amending s. 409.904, F.S.;
56 revising provisions relating to the redetermination of
57 eligibility of certain children for the Medicaid
58 program; amending s. 624.91, F.S.; revising the duties

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59 of the Florida Healthy Kids Corporation; revising the
60 date in which the corporation must provide a study to
61 the Legislature and the Governor; correcting a cross-
62 reference; providing an effective date.

63

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

65

66 Section 1. Section 409.810, Florida Statutes, is amended to
67 read:

68 409.810 Short title.—Sections 409.810-409.821 ~~409.810-~~
69 ~~409.820~~ may be cited as the "Florida Kidcare Act."

70 Section 2. Section 409.811, Florida Statutes, is amended to
71 read:

72 409.811 Definitions relating to Florida Kidcare Act.—As
73 used in ss. 409.810-409.821 ~~ss. 409.810-409.820~~, the term:

74 (1) "Actuarially equivalent" means that:

75 (a) The aggregate value of the benefits included in health
76 benefits coverage is equal to the value of the benefits in the
77 benchmark benefit plan; and

78 (b) The benefits included in health benefits coverage are
79 substantially similar to the benefits included in the benchmark
80 benefit plan, except that preventive health services must be the
81 same as in the benchmark benefit plan.

82 (2) "Agency" means the Agency for Health Care
83 Administration.

84 (3) "Applicant" means a parent or guardian of a child or a
85 child whose disability of nonage has been removed under chapter
86 743, who applies for determination of eligibility for health
87 benefits coverage under ss. 409.810-409.821 ~~ss. 409.810-409.820~~.

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

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

91 (6) "Child with special health care needs" means a child
92 whose serious or chronic physical or developmental condition
93 requires extensive preventive and maintenance care beyond that
94 required by typically healthy children. Health care utilization
95 by such a child exceeds the statistically expected usage of the
96 normal child adjusted for chronological age, and such a child
97 often needs complex care requiring multiple providers,
98 rehabilitation services, and specialized equipment in a number
99 of different settings.

100 (7) "Children's Medical Services Network" or "network"
101 means a statewide managed care service system as defined in s.
102 391.021(1).

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

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

108 (10) "Enrollee" means a child who has been determined
109 eligible for and is receiving coverage under ss. 409.810-409.821
110 ~~ss. 409.810-409.820~~.

111 (11) "Family" means the group or the individuals whose
112 income is considered in determining eligibility for the Florida
113 Kidcare program. The family includes a child with a parent or
114 caretaker relative who resides in the same house or living unit
115 or, in the case of a child whose disability of nonage has been
116 removed under chapter 743, the child. The family may also

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117 include other individuals whose income and resources are
118 considered in whole or in part in determining eligibility of the
119 child.

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

126 (13) "Florida Kidcare Plus" means health benefits coverage
127 for children with special health care needs delivered through
128 the Children's Medical Services network.

129 (14)~~(13)~~ "Florida Kidcare program," "Kidcare program," or
130 "program" means the health benefits program administered through
131 ss. 409.810-409.821 ~~ss. 409.810-409.820~~.

132 (15)~~(14)~~ "Guarantee issue" means that health benefits
133 coverage must be offered to an individual regardless of the
134 individual's health status, preexisting condition, or claims
135 history.

136 (16)~~(15)~~ "Health benefits coverage" means protection that
137 provides payment of benefits for covered health care services or
138 that otherwise provides, either directly or through arrangements
139 with other persons, covered health care services on a prepaid
140 per capita basis or on a prepaid aggregate fixed-sum basis.

141 (17)~~(16)~~ "Health insurance plan" means health benefits
142 coverage under the following:

143 (a) A health plan offered by any certified health
144 maintenance organization or authorized health insurer, except a
145 plan that is limited to the following: a limited benefit,

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146 specified disease, or specified accident; hospital indemnity;
 147 accident only; limited benefit convalescent care; Medicare
 148 supplement; credit disability; dental; vision; long-term care;
 149 disability income; coverage issued as a supplement to another
 150 health plan; workers' compensation liability or other insurance;
 151 or motor vehicle medical payment only; or

152 (b) An employee welfare benefit plan that includes health
 153 benefits established under the Employee Retirement Income
 154 Security Act of 1974, as amended.

155 (18)~~(17)~~ "Medicaid" means the medical assistance program
 156 authorized by Title XIX of the Social Security Act, and
 157 regulations thereunder, and ss. 409.901-409.920, as administered
 158 in this state by the agency.

159 (19)~~(18)~~ "Medically necessary" means the use of any medical
 160 treatment, service, equipment, or supply necessary to palliate
 161 the effects of a terminal condition, or to prevent, diagnose,
 162 correct, cure, alleviate, or preclude deterioration of a
 163 condition that threatens life, causes pain or suffering, or
 164 results in illness or infirmity and which is:

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

167 (b) Provided in accordance with generally accepted
 168 standards of medical practice;

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

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

173 (e) Approved by the appropriate medical body or health care
 174 specialty involved as effective, appropriate, and essential for

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175 the care and treatment of the enrollee's condition.

176 (20)~~(19)~~ "Medikids" means a component of the Florida
177 Kidcare program of medical assistance authorized by Title XXI of
178 the Social Security Act, and regulations thereunder, and s.
179 409.8132, as administered in the state by the agency.

180 (21)~~(20)~~ "Preexisting condition exclusion" means, with
181 respect to coverage, a limitation or exclusion of benefits
182 relating to a condition based on the fact that the condition was
183 present before the date of enrollment for such coverage, whether
184 or not any medical advice, diagnosis, care, or treatment was
185 recommended or received before such date.

186 (22)~~(21)~~ "Premium" means the entire cost of a health
187 insurance plan, including the administration fee or the risk
188 assumption charge.

189 (23)~~(22)~~ "Premium assistance payment" means the monthly
190 consideration paid by the agency per enrollee in the Florida
191 Kidcare program towards health insurance premiums.

192 (24)~~(23)~~ "Qualified alien" means an alien as defined in s.
193 431 of the Personal Responsibility and Work Opportunity
194 Reconciliation Act of 1996, as amended, Pub. L. No. 104-193.

195 (25)~~(24)~~ "Resident" means a United States citizen, or
196 qualified alien, who is domiciled in this state.

197 (26)~~(25)~~ "Rural county" means a county having a population
198 density of less than 100 persons per square mile, or a county
199 defined by the most recent United States Census as rural, in
200 which there is no prepaid health plan participating in the
201 Medicaid program as of July 1, 1998.

202 (27)~~(26)~~ "Substantially similar" means that, with respect
203 to additional services as defined in s. 2103(c)(2) of Title XXI

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204 of the Social Security Act, these services must have an
205 actuarial value equal to at least 75 percent of the actuarial
206 value of the coverage for that service in the benchmark benefit
207 plan and, with respect to the basic services as defined in s.
208 2103(c)(1) of Title XXI of the Social Security Act, these
209 services must be the same as the services in the benchmark
210 benefit plan.

211 Section 3. Section 409.812, Florida Statutes, is amended to
212 read:

213 409.812 Program created; purpose.—The Florida Kidcare
214 program is created to provide a defined set of health benefits
215 to ~~previously~~ uninsured, low-income children through the
216 establishment of a variety of affordable health benefits
217 coverage options from which families may select coverage and
218 through which families may contribute financially to the health
219 care of their children.

220 Section 4. Section 409.813, Florida Statutes, is amended to
221 read:

222 409.813 Health benefits coverage; program components;
223 entitlement and nonentitlement.—

224 (1) The Florida Kidcare program includes health benefits
225 coverage provided to children through the following program
226 components, which shall be marketed as the Florida Kidcare
227 program:

228 (a)~~(1)~~ Medicaid;

229 (b)~~(2)~~ Medikids as created in s. 409.8132;

230 (c)~~(3)~~ The Florida Healthy Kids Corporation as created in
231 s. 624.91;

232 (d)~~(4)~~ Employer-sponsored group health insurance plans

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233 approved under ss. 409.810-409.821 ~~ss. 409.810-409.820~~; and

234 (e) ~~(5)~~ The Children's Medical Services network established
235 in chapter 391.

236 (2) Except for Title XIX-funded Florida Kidcare program
237 coverage under the Medicaid program, coverage under the Florida
238 Kidcare program is not an entitlement. No cause of action shall
239 arise against the state, the department, the Department of
240 Children and Family Services, or the agency for failure to make
241 health services available to any person under ss. 409.810-
242 409.821 ~~ss. 409.810-409.820~~.

243 Section 5. Paragraph (b) of subsection (6) and subsection
244 (8) of section 409.8132, Florida Statutes, are amended to read:
245 409.8132 Medikids program component.-

246 (6) ELIGIBILITY.-

247 (b) The provisions of s. 409.814(3), (4), ~~and~~ (5), (6), and
248 (7) shall be applicable to the Medikids program.

249 (8) PENALTIES FOR VOLUNTARY CANCELLATION.-The agency shall
250 establish enrollment criteria that ~~must~~ include penalties or
251 waiting periods of 30 ~~not fewer than 60~~ days for reinstatement
252 of coverage upon voluntary cancellation for nonpayment of
253 premiums.

254 Section 6. Section 409.8134, Florida Statutes, is amended
255 to read:

256 409.8134 Program expenditure ceiling; enrollment.-

257 (1) Except for the Medicaid program, a ceiling shall be
258 placed on annual federal and state expenditures for the Florida
259 Kidcare program as provided each year in the General
260 Appropriations Act.

261 (2) The Florida Kidcare program may conduct enrollment

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262 continuously ~~at any time~~ throughout the year for the purpose of
263 ~~enrolling children eligible for all program components listed in~~
264 ~~s. 409.813 except Medicaid. The four Florida Kidcare~~
265 ~~administrators shall work together to ensure that the year-round~~
266 ~~enrollment period is announced statewide. Eligible Children~~
267 eligible for coverage under Title XXI-funded Florida Kidcare
268 program shall be enrolled on a first-come, first-served basis
269 using the date the enrollment application is received.
270 Enrollment shall immediately cease when the expenditure ceiling
271 is reached. Year-round enrollment shall only be held if the
272 Social Services Estimating Conference determines that sufficient
273 federal and state funds will be available to finance the
274 increased enrollment ~~through federal fiscal year 2007. Any~~
275 ~~individual who is not enrolled must reapply by submitting a new~~
276 ~~application.~~ The application for the Florida Kidcare program is
277 ~~shall be~~ valid for a period of 120 days after the date it was
278 received. At the end of the 120-day period, if the applicant has
279 not been enrolled in the program, the application is ~~shall be~~
280 invalid and the applicant shall be notified of the action. The
281 applicant may reactivate ~~resubmit~~ the application after
282 notification of the action taken by the program. Except for the
283 Medicaid program, whenever the Social Services Estimating
284 Conference determines that there are presently, or will be by
285 the end of the current fiscal year, insufficient funds to
286 finance the current or projected enrollment in the Florida
287 Kidcare program, all additional enrollment must cease and
288 additional enrollment may not resume until sufficient funds are
289 available to finance such enrollment.

290 (3) Upon determination by the Social Services Estimating

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291 Conference that there are insufficient funds to finance the
292 current enrollment in the Florida Kidcare program within current
293 appropriations, the program shall initiate disenrollment
294 procedures to remove enrollees, except those children enrolled
295 in Florida Kidcare Plus ~~the Children's Medical Services Network~~,
296 on a last-in, first-out basis until the expenditure and
297 appropriation levels are balanced.

298 (4) The agencies that administer the Florida Kidcare
299 program components shall collect and analyze the data needed to
300 project program enrollment costs, including price level
301 adjustments, participation and attrition rates, current and
302 projected caseloads, utilization, and current and projected
303 expenditures for the next 3 years. The agencies shall report
304 caseload and expenditure trends to the Social Services
305 Estimating Conference in accordance with chapter 216.

306 Section 7. Section 409.814, Florida Statutes, is amended to
307 read:

308 409.814 Eligibility.—A child who has not reached 19 years
309 of age whose family income is equal to or below 200 percent of
310 the federal poverty level is eligible for the Florida Kidcare
311 program as provided in this section. For enrollment in Florida
312 Kidcare Plus ~~the Children's Medical Services Network~~, a complete
313 application includes the medical or behavioral health screening.
314 If, subsequently, an individual is determined to be ineligible
315 for coverage, he or she must immediately be disenrolled from the
316 respective Florida Kidcare program component.

317 (1) A child who is eligible for Medicaid coverage under s.
318 409.903 or s. 409.904 must be enrolled in Medicaid and is not
319 eligible to receive health benefits under any other health

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320 benefits coverage authorized under the Florida Kidcare program.

321 (2) A child who is not eligible for Medicaid, but who is
322 eligible for the Florida Kidcare program, may obtain health
323 benefits coverage under any of the other components listed in s.
324 409.813 if such coverage is approved and available in the county
325 in which the child resides. ~~However, a child who is eligible for~~
326 ~~Medikids may participate in the Florida Healthy Kids program~~
327 ~~only if the child has a sibling participating in the Florida~~
328 ~~Healthy Kids program and the child's county of residence permits~~
329 ~~such enrollment.~~

330 (3) A child who is eligible for the Florida Kidcare program
331 who is a child with special health care needs, as determined
332 through a medical or behavioral screening instrument, shall
333 receive Florida Kidcare Plus ~~is eligible for health benefits~~
334 ~~coverage from~~ and shall be assigned to and may opt out of
335 ~~referred to~~ the Children's Medical Services Network or Florida
336 Kidcare Plus.

337 (4) A child who becomes ineligible for coverage under the
338 Title XIX-funded Florida Kidcare program due to exceeding income
339 or age limits shall have 60 days of continued eligibility
340 following redetermination before premium payments are required
341 in order to allow for a transition to the Title XXI-funded
342 Florida Kidcare program without a lapse in coverage. The state
343 shall use a Title XXI financing option for the 60 days of
344 presumptive eligibility. Potential enrollees in Florida Kidcare
345 Plus, Medikids, and Florida Healthy Kids shall retain coverage
346 under the Children's Medical Services Network or their Medicaid
347 or managed care providers during the transition period.

348 (5) ~~(4)~~ The following children are not eligible to receive

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349 Title XXI-funded premium assistance for health benefits coverage
350 under the Florida Kidcare program, except under Medicaid if the
351 child would have been eligible for Medicaid under s. 409.903 or
352 s. 409.904 as of June 1, 1997:

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

356 (b) A child who is currently eligible for or covered under
357 a family member's group health benefit plan or under other
358 private or employer health insurance coverage, if excluding
359 ~~coverage provided under the Florida Healthy Kids Corporation as~~
360 ~~established under s. 624.91, provided that the cost of the~~
361 ~~child's participation is not greater than 5 percent of the~~
362 ~~family's income. If a child is otherwise eligible for a subsidy~~
363 ~~under the Florida Kidcare program and the cost of the child's~~
364 ~~participation in the family member's health insurance benefit~~
365 ~~plan is greater than 5 percent of the family's income, the child~~
366 ~~may enroll in the appropriate subsidized Kidcare program. This~~
367 ~~provision shall be applied during redetermination for children~~
368 ~~who were enrolled prior to July 1, 2004. These enrollees shall~~
369 ~~have 6 months of eligibility following redetermination to allow~~
370 ~~for a transition to the other health benefit plan.~~

371 (c) A child who is seeking premium assistance for the
372 Florida Kidcare program through employer-sponsored group
373 coverage, if the child has been covered by the same employer's
374 group coverage during the 60 days ~~6 months~~ prior to the family's
375 submitting an application for determination of eligibility under
376 the program.

377 (d) A child who is an alien, but who does not meet the

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378 definition of qualified alien, in the United States.

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

381 (f) A child who is otherwise eligible for premium
382 assistance for the Florida Kidcare program and has had his or
383 her coverage in an employer-sponsored or private health benefit
384 plan voluntarily canceled in the last 60 days ~~6 months~~, except
385 those children whose coverage was voluntarily canceled for good
386 cause, including, but not limited to, the following
387 circumstances:

388 1. The cost of participation in an employer-sponsored
389 health benefit plan is greater than 5 percent of the family's
390 income;

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

393 3. The parent who had health benefits coverage for the
394 child is deceased;

395 4. The child has a medical condition that, without medical
396 care, would cause serious disability, loss of function, or
397 death;

398 5. The employer of the parent canceled health benefits
399 coverage for children;

400 6. The child's health benefits coverage ended because the
401 child reached the maximum lifetime coverage amount;

402 7. The child has exhausted coverage under a COBRA
403 continuation provision;

404 8. The health benefits coverage does not cover the child's
405 health care needs; or

406 9. Domestic violence led to loss of coverage ~~who were on~~

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407 the waiting list prior to March 12, 2004.

408 (6)~~(g)~~ A child who is otherwise eligible for the Florida
409 Kidcare program and who has a preexisting condition that
410 prevents coverage under another insurance plan as described in
411 paragraph (5) (b) which would have disqualified the child for the
412 Florida Kidcare program if the child were able to enroll in the
413 plan shall be eligible for Florida Kidcare coverage when
414 enrollment is possible.

415 (7)~~(5)~~ A child whose family income is above 200 percent of
416 the federal poverty level or a child who is excluded under the
417 provisions of subsection (5) ~~(4)~~ may participate in the Florida
418 Kidcare program ~~Medikids program~~ as provided in s. 409.8132 or,
419 if the child is ineligible for Medikids by reason of age, in the
420 Florida Healthy Kids program, subject to the following
421 provisions:

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

425 (b) The board of directors of the Florida Healthy Kids
426 Corporation may offer a reduced benefit package to these
427 children in order to limit program costs for such families.

428 (8)~~(6)~~ Once a child is enrolled in the Florida Kidcare
429 program, the child is eligible for coverage under the program
430 for 12 months without a redetermination or reverification of
431 eligibility, if the family continues to pay the applicable
432 premium. Eligibility for program components funded through Title
433 XXI of the Social Security Act shall terminate when a child
434 attains the age of 19. ~~Effective January 1, 1999,~~ A child who
435 has not attained the age of 19 ~~5~~ and who has been determined

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436 eligible for the Medicaid program is eligible for coverage for
437 12 months without a redetermination or reverification of
438 eligibility.

439 (9)~~(7)~~ When determining or reviewing a child's eligibility
440 under the Florida Kidcare program, the applicant shall be
441 provided with reasonable notice of changes in eligibility which
442 may affect enrollment in one or more of the program components.
443 When a transition from one program component to another is
444 authorized, there shall be cooperation between the program
445 components and the affected family which promotes continuity of
446 health care coverage. Any authorized transfers must be managed
447 within the program's overall appropriated or authorized levels
448 of funding. Each component of the program shall establish a
449 reserve to ensure that transfers between components will be
450 accomplished within current year appropriations. These reserves
451 shall be reviewed by each convening of the Social Services
452 Estimating Conference to determine the adequacy of such reserves
453 to meet actual experience.

454 (10)~~(8)~~ In determining the eligibility of a child, an
455 assets test is not required. Each applicant shall provide
456 ~~written~~ documentation during the application process and the
457 redetermination process, including, but not limited to, the
458 following:

459 (a) Each applicant's proof of family income shall be
460 verified electronically to determine financial eligibility for
461 the Florida Kidcare program. Written documentation, which may
462 must include wages and earnings statements or pay stubs, W-2
463 forms, or a copy of the applicant's most recent federal income
464 tax return, shall be required only if the electronic

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465 verification is not available or does not substantiate the
 466 applicant's income. ~~In the absence of a federal income tax~~
 467 ~~return, an applicant may submit wages and earnings statements~~
 468 ~~(pay stubs), W-2 forms, or other appropriate documents.~~

469 (b) Each applicant shall provide a statement from all
 470 applicable, employed family members that:

471 1. Their employers do ~~employer does~~ not sponsor a health
 472 benefit plans ~~plan~~ for employees; or

473 2. The potential enrollee is not covered by an ~~the~~
 474 employer-sponsored health benefit plan because the potential
 475 enrollee is not eligible for coverage, or, if the potential
 476 enrollee is eligible but not covered, a statement of the cost to
 477 enroll the potential enrollee in the employer-sponsored health
 478 benefit plan. If the cost of the employer-sponsored health
 479 benefit plan is greater than 5 percent of the family's income
 480 and the potential enrollee is otherwise eligible for premium
 481 assistance, he or she may be enrolled in the appropriate,
 482 subsidized component of the Florida Kidcare program.

483 ~~(11)-(9)~~ Subject to paragraph (5) (b) ~~(4) (b)~~ and ~~s.~~
 484 ~~624.91(4)~~, the Florida Kidcare program shall withhold benefits
 485 from an enrollee if the program obtains evidence that the
 486 enrollee is no longer eligible, submitted incorrect or
 487 fraudulent information in order to establish eligibility, or
 488 failed to provide verification of eligibility. The applicant or
 489 enrollee shall be notified that because of such evidence program
 490 benefits will be withheld unless the applicant or enrollee
 491 contacts a designated representative of the program by a
 492 specified date, which must be within 10 working days after the
 493 date of notice, to discuss and resolve the matter. The program

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

497 (12)~~(10)~~ The following individuals may be subject to
498 prosecution in accordance with s. 414.39:

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

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

508 Section 8. Paragraphs (u) and (v) of subsection (2) of
509 section 409.815, Florida Statutes, are amended to read:

510 409.815 Health benefits coverage; limitations.—

511 (2) BENCHMARK BENEFITS.—In order for health benefits
512 coverage to qualify for premium assistance payments for an
513 eligible child under ss. 409.810-409.821 ~~ss. 409.810-409.820~~,
514 the health benefits coverage, except for coverage under Medicaid
515 and Medikids, must include the following minimum benefits, as
516 medically necessary.

517 (u) *Enhancements to minimum requirements.*—

518 1. This section sets the minimum benefits that must be
519 included in any health benefits coverage, other than Medicaid or
520 Medikids coverage, offered under ss. 409.810-409.821 ~~ss.~~
521 ~~409.810-409.820~~. Health benefits coverage may include additional
522 benefits not included under this subsection, but may not include

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523 benefits excluded under paragraph (s).

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

526

527 Except for benefits provided under Florida Kidcare Plus ~~the~~
528 ~~Children's Medical Services Network~~, the agency may not increase
529 the premium assistance payment for either additional benefits
530 provided beyond the minimum benefits described in this section
531 or the imposition of less restrictive service limitations.

532 (v) *Applicability of other state laws.*—Health insurers,
533 health maintenance organizations, and their agents are subject
534 to the provisions of the Florida Insurance Code, except for any
535 such provisions waived in this section.

536 1. Except as expressly provided in this section, a law
537 requiring coverage for a specific health care service or
538 benefit, or a law requiring reimbursement, utilization, or
539 consideration of a specific category of licensed health care
540 practitioner, does not apply to a health insurance plan policy
541 or contract offered or delivered under ss. 409.810-409.821 ~~ss.~~
542 ~~409.810-409.820~~ unless that law is made expressly applicable to
543 such policies or contracts.

544 2. Notwithstanding chapter 641, a health maintenance
545 organization may issue contracts providing benefits equal to,
546 exceeding, or actuarially equivalent to the benchmark benefit
547 plan authorized by this section and may pay providers located in
548 a rural county negotiated fees or Medicaid reimbursement rates
549 for services provided to enrollees who are residents of the
550 rural county.

551 Section 9. Subsection (3) of section 409.816, Florida

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552 Statutes, is amended to read:

553 409.816 Limitations on premiums and cost-sharing.—The
554 following limitations on premiums and cost-sharing are
555 established for the program.

556 (3) Enrollees in families with a family income above 150
557 percent of the federal poverty level, who are not receiving
558 coverage under the Medicaid program or who are not eligible
559 under s. 409.814(7) ~~s. 409.814(5)~~, may be required to pay
560 enrollment fees, premiums, copayments, deductibles, coinsurance,
561 or similar charges on a sliding scale related to income, except
562 that the total annual aggregate cost-sharing with respect to all
563 children in a family may not exceed 5 percent of the family's
564 income. However, copayments, deductibles, coinsurance, or
565 similar charges may not be imposed for preventive services,
566 including well-baby and well-child care, age-appropriate
567 immunizations, and routine hearing and vision screenings.

568 Section 10. Section 409.817, Florida Statutes, is amended
569 to read:

570 409.817 Approval of health benefits coverage; financial
571 assistance.—In order for health insurance coverage to qualify
572 for premium assistance payments for an eligible child under ss.
573 409.810-409.821 ~~ss. 409.810-409.820~~, the health benefits
574 coverage must:

575 (1) Be certified by the Office of Insurance Regulation of
576 the Financial Services Commission under s. 409.818 as meeting,
577 exceeding, or being actuarially equivalent to the benchmark
578 benefit plan;

579 (2) Be guarantee issued;

580 (3) Be community rated;

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581 (4) Not impose any preexisting condition exclusion for
582 covered benefits; however, group health insurance plans may
583 permit the imposition of a preexisting condition exclusion, but
584 only insofar as it is permitted under s. 627.6561;

585 (5) Comply with the applicable limitations on premiums and
586 cost-sharing in s. 409.816;

587 (6) Comply with the quality assurance and access standards
588 developed under s. 409.820; and

589 (7) Establish periodic open enrollment periods, which may
590 not occur more frequently than quarterly.

591 Section 11. Paragraph (i) of subsection (1) of section
592 409.8177, Florida Statutes, is amended to read:

593 409.8177 Program evaluation.—

594 (1) The agency, in consultation with the Department of
595 Health, the Department of Children and Family Services, and the
596 Florida Healthy Kids Corporation, shall contract for an
597 evaluation of the Florida Kidcare program and shall by January 1
598 of each year submit to the Governor, the President of the
599 Senate, and the Speaker of the House of Representatives a report
600 of the program. In addition to the items specified under s. 2108
601 of Title XXI of the Social Security Act, the report shall
602 include an assessment of crowd-out and access to health care, as
603 well as the following:

604 (i) An assessment of the effectiveness of the Florida
605 Kidcare program, including Medicaid, the Florida Healthy Kids
606 program, Medikids, and the Children's Medical Services network,
607 and other public and private programs in the state in increasing
608 the availability of affordable quality health insurance and
609 health care for children.

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610 Section 12. Section 409.818, Florida Statutes, is amended
611 to read:

612 409.818 Administration.—In order to implement ss. 409.810-
613 409.821 ~~ss. 409.810-409.820~~, the following agencies shall have
614 the following duties:

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

616 (a) Develop a simplified eligibility application mail-in
617 form to be used for determining the eligibility of children for
618 coverage under the Florida Kidcare program, in consultation with
619 the agency, the Department of Health, and the Florida Healthy
620 Kids Corporation. The simplified eligibility application form
621 must include an item that provides an opportunity for the
622 applicant to indicate whether coverage is being sought for a
623 child with special health care needs. Families applying for
624 children's Medicaid coverage must also be able to use the
625 simplified application form without having to pay a premium.

626 (b) Establish and maintain the eligibility determination
627 process under the program except as specified in subsection (5).
628 The department shall directly, or through the services of a
629 contracted third-party administrator, establish and maintain a
630 process for determining eligibility of children for coverage
631 under the program. The eligibility determination process must be
632 used solely for determining eligibility of applicants for health
633 benefits coverage under the program. The eligibility
634 determination process must include an initial determination of
635 eligibility for any coverage offered under the program, as well
636 as a redetermination or reverification of eligibility each
637 subsequent 12 ~~6~~ months. Effective July 1, 2009 ~~January 1, 1999~~,
638 a child who has not attained the age of 19 ~~5~~ and who has been

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639 determined eligible for the Medicaid program is eligible for
640 coverage for 12 months without a redetermination or
641 reverification of eligibility. In conducting an eligibility
642 determination, the department shall determine if the child has
643 special health care needs. The department, in consultation with
644 the Agency for Health Care Administration and the Florida
645 Healthy Kids Corporation, shall develop procedures for
646 redetermining eligibility which enable a family to easily update
647 any change in circumstances which could affect eligibility. The
648 department may accept changes in a family's status as reported
649 to the department by the Florida Healthy Kids Corporation
650 without requiring a new application from the family.
651 Redetermination of a child's eligibility for Medicaid may not be
652 linked to a child's eligibility determination for other
653 programs.

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

660 (d) Adopt rules necessary for conducting program
661 eligibility functions.

662 (2) The Department of Health shall:

663 (a) Design an eligibility intake process for the program,
664 in coordination with the Department of Children and Family
665 Services, the agency, and the Florida Healthy Kids Corporation.
666 The eligibility intake process may include local intake points
667 that are determined by the Department of Health in coordination

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668 with the Department of Children and Family Services.

669 (b) Chair a state-level Florida Kidcare coordinating
670 council to review and make recommendations concerning the
671 implementation and operation of the program. The coordinating
672 council shall include representatives from the department, the
673 Department of Children and Family Services, the agency, the
674 Florida Healthy Kids Corporation, the Office of Insurance
675 Regulation of the Financial Services Commission, local
676 government, health insurers, health maintenance organizations,
677 health care providers, families participating in the program,
678 and organizations representing low-income families.

679 (c) In consultation with the Florida Healthy Kids
680 Corporation and the Department of Children and Family Services,
681 establish a toll-free telephone line to assist families with
682 questions about the program.

683 (d) Adopt rules necessary to implement outreach activities.

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

686 (a) Calculate the premium assistance payment necessary to
687 comply with the premium and cost-sharing limitations specified
688 in s. 409.816. The premium assistance payment for each enrollee
689 in a health insurance plan participating in the Florida Healthy
690 Kids Corporation shall equal the premium approved by the Florida
691 Healthy Kids Corporation and the Office of Insurance Regulation
692 of the Financial Services Commission pursuant to ss. 627.410 and
693 641.31, less any enrollee's share of the premium established
694 within the limitations specified in s. 409.816. The premium
695 assistance payment for each enrollee in an employer-sponsored
696 health insurance plan approved under ss. 409.810-409.821 ~~ss.~~

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697 ~~409.810-409.820~~ shall equal the premium for the plan adjusted
698 for any benchmark benefit plan actuarial equivalent benefit
699 rider approved by the Office of Insurance Regulation pursuant to
700 ss. 627.410 and 641.31, less any enrollee's share of the premium
701 established within the limitations specified in s. 409.816. In
702 calculating the premium assistance payment levels for children
703 with family coverage, the agency shall set the premium
704 assistance payment levels for each child proportionately to the
705 total cost of family coverage.

706 (b) Make premium assistance payments to health insurance
707 plans on a periodic basis. The agency may use its Medicaid
708 fiscal agent or a contracted third-party administrator in making
709 these payments. The agency may require health insurance plans
710 that participate in the Medikids program or employer-sponsored
711 group health insurance to collect premium payments from an
712 enrollee's family. Participating health insurance plans shall
713 report premium payments collected on behalf of enrollees in the
714 program to the agency in accordance with a schedule established
715 by the agency.

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

718 (d) Establish a mechanism for investigating and resolving
719 complaints and grievances from program applicants, enrollees,
720 and health benefits coverage providers, and maintain a record of
721 complaints and confirmed problems. In the case of a child who is
722 enrolled in a health maintenance organization, the agency must
723 use the provisions of s. 641.511 to address grievance reporting
724 and resolution requirements.

725 (e) Approve health benefits coverage for participation in

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726 the program, following certification by the Office of Insurance
727 Regulation under subsection (4).

728 (f) Adopt rules necessary for calculating premium
729 assistance payment levels, making premium assistance payments,
730 monitoring access and quality assurance standards, investigating
731 and resolving complaints and grievances, administering the
732 Medikids program, and approving health benefits coverage.

733

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

738 (4) The Office of Insurance Regulation shall certify that
739 health benefits coverage plans that seek to provide services
740 under the Florida Kidcare program, except those offered through
741 the Florida Healthy Kids Corporation or the Children's Medical
742 Services Network, meet, exceed, or are actuarially equivalent to
743 the benchmark benefit plan and that health insurance plans will
744 be offered at an approved rate. In determining actuarial
745 equivalence of benefits coverage, the Office of Insurance
746 Regulation and health insurance plans must comply with the
747 requirements of s. 2103 of Title XXI of the Social Security Act.
748 The department shall adopt rules necessary for certifying health
749 benefits coverage plans.

750 (5) The Florida Healthy Kids Corporation shall retain its
751 functions as authorized in s. 624.91, including eligibility
752 determination for participation in the Healthy Kids program.

753 (6) The agency, the Department of Health, the Department of
754 Children and Family Services, the Florida Healthy Kids

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755 Corporation, and the Office of Insurance Regulation, after
 756 consultation with and approval of the Speaker of the House of
 757 Representatives and the President of the Senate, are authorized
 758 to make program modifications that are necessary to overcome any
 759 objections of the United States Department of Health and Human
 760 Services to obtain approval of the state's child health
 761 insurance plan under Title XXI of the Social Security Act.

762 Section 13. Section 409.821, Florida Statutes, is amended
 763 to read:

764 409.821 Florida Kidcare program public records exemption.-

765 ~~(1)~~ Notwithstanding any other law to the contrary, any
 766 ~~Personal identifying~~ information identifying of a Florida
 767 Kidcare program applicant or enrollee, as defined in s. 409.811,
 768 held by the Agency for Health Care Administration, the
 769 Department of Children and Family Services, the Department of
 770 Health, or the Florida Healthy Kids Corporation is confidential
 771 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 772 Constitution.

773 ~~(2)(a) Upon request,~~ Such information shall be disclosed
 774 to:

775 ~~1.~~ another governmental entity only if disclosure is
 776 necessary for the entity to perform its in the performance of
 777 ~~its official~~ duties and responsibilities under the Florida
 778 Kidcare program and shall be disclosed to:

779 ~~2.~~ the Department of Revenue for purposes of administering
 780 the state Title IV-D program. The receiving governmental entity
 781 must maintain the confidential and exempt status of such
 782 information. Furthermore, such information may not be released
 783 to; or

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784 ~~3.~~ any person without ~~who has~~ the written consent of the
785 program applicant.

786 ~~(b) This section does not prohibit an enrollee's legal~~
787 ~~guardian from obtaining confirmation of coverage, dates of~~
788 ~~coverage, the name of the enrollee's health plan, and the amount~~
789 ~~of premium being paid.~~

790 ~~(3)~~ This exemption applies to any information identifying a
791 Florida Kidcare program applicant or enrollee held by the Agency
792 for Health Care Administration, the Department of Children and
793 Family Services, the Department of Health, or the Florida
794 Healthy Kids Corporation before, on, or after the effective date
795 of this exemption.

796 ~~(4)~~ A knowing and willful violation of this section is a
797 misdemeanor of the second degree, punishable as provided in s.
798 775.082 or s. 775.083. This section does not prohibit an
799 enrollee's parent or legal guardian from obtaining any record
800 relating to the enrollee's application or coverage under the
801 Florida Kidcare program, including, but not limited to,
802 confirmation of coverage, the dates of coverage, the name of the
803 enrollee's health plan, and the amount of premium.

804 Section 14. Subsection (6) of section 409.904, Florida
805 Statutes, is amended to read:

806 409.904 Optional payments for eligible persons.—The agency
807 may make payments for medical assistance and related services on
808 behalf of the following persons who are determined to be
809 eligible subject to the income, assets, and categorical
810 eligibility tests set forth in federal and state law. Payment on
811 behalf of these Medicaid eligible persons is subject to the
812 availability of moneys and any limitations established by the

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813 General Appropriations Act or chapter 216.

814 (6) A child who has not attained the age of 19 who has been
815 determined eligible for the Medicaid program is deemed to be
816 eligible for a total of 12 ~~6~~ months, regardless of changes in
817 circumstances other than attainment of the maximum age.

818 ~~Effective January 1, 1999, a child who has not attained the age~~
819 ~~of 5 and who has been determined eligible for the Medicaid~~
820 ~~program is deemed to be eligible for a total of 12 months~~
821 ~~regardless of changes in circumstances other than attainment of~~
822 ~~the maximum age.~~

823 Section 15. Subsection (5) of section 624.91, Florida
824 Statutes, is amended to read:

825 624.91 The Florida Healthy Kids Corporation Act.—

826 (5) CORPORATION AUTHORIZATION, DUTIES, POWERS.—

827 (a) There is created the Florida Healthy Kids Corporation,
828 a not-for-profit corporation.

829 (b) The Florida Healthy Kids Corporation shall:

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

835 2. Arrange for the collection of any voluntary
836 contributions to provide for payment of Florida Kidcare program
837 premiums for children who are not eligible for medical
838 assistance under Title XIX or Title XXI of the Social Security
839 Act.

840 3. Subject to the provisions of s. 409.8134, accept
841 voluntary supplemental local match contributions that comply

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842 with the requirements of Title XXI of the Social Security Act
843 for the purpose of providing additional Florida Kidcare coverage
844 in contributing counties under Title XXI.

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

847 5. Establish, with consultation from appropriate
848 professional organizations, standards for preventive health
849 services and providers and comprehensive insurance benefits
850 appropriate to children, provided that such standards for rural
851 areas shall not limit primary care providers to board-certified
852 pediatricians.

853 6. Determine eligibility for children seeking to
854 participate in the Title XXI-funded components of the Florida
855 Kidcare program consistent with the requirements specified in s.
856 409.814, as well as the non-Title-XXI-eligible children as
857 provided in subsection (3).

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

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

866 9. Establish enrollment criteria that ~~which shall~~ include
867 penalties or waiting periods of 30 ~~not fewer than 60~~ days for
868 reinstatement of coverage upon voluntary cancellation for
869 nonpayment of family premiums.

870 10. Contract with authorized insurers or any provider of

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871 health care services, meeting standards established by the
872 corporation, for the provision of comprehensive insurance
873 coverage to participants. Such standards shall include criteria
874 under which the corporation may contract with more than one
875 provider of health care services in program sites. Health plans
876 shall be selected through a competitive bid process. The Florida
877 Healthy Kids Corporation shall purchase goods and services in
878 the most cost-effective manner consistent with the delivery of
879 quality medical care. The maximum administrative cost for a
880 Florida Healthy Kids Corporation contract shall be 15 percent.
881 For health care contracts, the minimum medical loss ratio for a
882 Florida Healthy Kids Corporation contract shall be 85 percent.
883 For dental contracts, the remaining compensation to be paid to
884 the authorized insurer or provider under a Florida Healthy Kids
885 Corporation contract shall be no less than an amount which is 85
886 percent of premium; to the extent any contract provision does
887 not provide for this minimum compensation, this section shall
888 prevail. The health plan selection criteria and scoring system,
889 and the scoring results, shall be available upon request for
890 inspection after the bids have been awarded.

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

893 12. Develop and implement a plan to publicize the Florida
894 Kidcare program ~~Healthy Kids Corporation~~, the eligibility
895 requirements of the program, and the procedures for enrollment
896 in the program and to maintain public awareness of the
897 corporation and the program.

898 13. Secure staff necessary to properly administer the
899 corporation. Staff costs shall be funded from state and local

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900 matching funds and such other private or public funds as become
901 available. The board of directors shall determine the number of
902 staff members necessary to administer the corporation.

903 14. In consultation with the partner agencies, provide a
904 report on the Florida Kidcare program annually to the Governor,
905 Chief Financial Officer, Commissioner of Education, ~~Senate~~
906 President of the Senate, the Speaker of the House of
907 Representatives, and Minority Leaders of the Senate and the
908 House of Representatives.

909 15. Provide information on a quarterly basis to the
910 Legislature and the Governor which compares the costs and
911 utilization of the full-pay enrolled population and the Title
912 XXI-subsidized enrolled population in the Florida Kidcare
913 program. The information, at a minimum, must include:

914 a. The monthly enrollment and expenditure for full-pay
915 enrollees in the Medikids and Florida Healthy Kids programs
916 compared to the Title XXI-subsidized enrolled population; and

917 b. The costs and utilization by service of the full-pay
918 enrollees in the Medikids and Florida Healthy Kids programs and
919 the Title XXI-subsidized enrolled population.

920
921 By February 1, 2010 ~~2009~~, the Florida Healthy Kids Corporation
922 shall provide a study to the Legislature and the Governor on
923 premium impacts to the subsidized portion of the program from
924 the inclusion of the full-pay program, which shall include
925 recommendations on how to eliminate or mitigate possible impacts
926 to the subsidized premiums.

927 16. Establish benefit packages that ~~which~~ conform to the
928 provisions of the Florida Kidcare program, as created in ss.

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929 409.810-409.821 ~~ss. 409.810-409.820.~~

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

936 (d) The Florida Healthy Kids Corporation shall be a private
937 corporation not for profit, organized pursuant to chapter 617,
938 and shall have all powers necessary to carry out the purposes of
939 this act, including, but not limited to, the power to receive
940 and accept grants, loans, or advances of funds from any public
941 or private agency and to receive and accept from any source
942 contributions of money, property, labor, or any other thing of
943 value, to be held, used, and applied for the purposes of this
944 act.

945 Section 16. This act shall take effect July 1, 2009.