

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. 409.8132, F.S.; providing that certain
4 children under the age of 1 may participate in the
5 Medikids program; conforming cross-references;
6 amending s. 409.814, F.S.; requiring that children who
7 are eligible for Kidcare be offered the opportunity to
8 be made presumptively eligible; providing that
9 children who are eligible for a state-sponsored health
10 benefit plan and the subsidized Kidcare program may
11 enroll in the program; providing that an eligible
12 child who is a lawful immigrant may enroll in the
13 Florida Kidcare program regardless of the child's date
14 of entry; conforming provisions to changes made by the
15 act; amending s. 409.815, F.S.; authorizing Kidcare
16 coverage for temporomandibular joint disease; amending
17 s. 409.816, F.S.; conforming a cross-reference;
18 amending s. 409.818, F.S.; conforming provisions to
19 changes made by the act; allowing a redetermination of
20 a child's eligibility for Medicaid to be linked to a
21 child's eligibility for other programs; amending s.
22 409.904, F.S.; providing that Medicaid-eligible
23 children are deemed eligible for 12 months of coverage
24 regardless of any change in circumstances; requiring
25 that such children be offered the opportunity to be
26 made presumptively eligible; providing that a pregnant
27 woman in a family of certain income level is eligible
28 for Medicaid for the duration of her pregnancy and for
29 the postpartum period; amending s. 624.91, F.S.,

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30 relating to the Florida Healthy Kids Corporation;
31 conforming provisions to changes made by the act;
32 deleting an obsolete provision; expanding the
33 membership of the board of directors of the Florida
34 Healthy Kids Corporation; directing the Agency for
35 Health Care Administration to implement the federal
36 Family Opportunity Act; providing an effective date.
37

38 Be It Enacted by the Legislature of the State of Florida:
39

40 Section 1. Subsection (6) of section 409.8132, Florida
41 Statutes, is amended to read:

42 409.8132 Medikids program component.—

43 (6) ELIGIBILITY.—

44 (a) A child who has attained the age of 1 year but who is
45 under the age of 5 years is eligible to enroll in the Medikids
46 program component of the Florida Kidcare program, if the child
47 is a member of a family that has a family income that ~~which~~
48 exceeds the Medicaid applicable income level as specified in s.
49 409.903, but that ~~which~~ is equal to or below 200 percent of the
50 current federal poverty level. In determining ~~the~~ eligibility ~~of~~
51 ~~such a child~~, an assets test is not required. A child who is
52 eligible for Medikids may elect to enroll in Florida Healthy
53 Kids coverage or employer-sponsored group coverage. However, a
54 child who is eligible for Medikids may participate in the
55 Florida Healthy Kids program only if the child has a sibling
56 participating in the Florida Healthy Kids program and the
57 child's county of residence permits such enrollment.

58 (b) A child who is under the age of 1 year who has a family

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59 income above 200 percent of the current federal poverty level
60 may participate in the Medikids program as provided in s.
61 409.814(8).

62 (c)~~(b)~~ The provisions of s. 409.814(3)-(8) apply
63 ~~409.814(3), (4), (5), and (6)~~ shall be applicable to the
64 Medikids program.

65 Section 2. Section 409.814, Florida Statutes, is amended to
66 read:

67 409.814 Eligibility.—A child who has not reached 19 years
68 of age whose family income is equal to or below 200 percent of
69 the federal poverty level is eligible for the Florida Kidcare
70 program as provided in this section. A child who is eligible
71 under this section must be offered the opportunity to be made
72 presumptively eligible. ~~For enrollment in the Children's Medical~~
73 ~~Services Network, a complete application includes the medical or~~
74 ~~behavioral health screening. If, subsequently, an enrolled~~
75 individual is determined to be ineligible for coverage, he or
76 she must be immediately ~~be~~ disenrolled from the respective
77 Florida Kidcare program component.

78 (1) A child who is eligible for Medicaid coverage under s.
79 409.903 or s. 409.904 must be enrolled in Medicaid and is not
80 eligible to receive health benefits under any other health
81 benefits coverage authorized under the Florida Kidcare program.

82 (2) A child who is not eligible for Medicaid, but who is
83 eligible for the Florida Kidcare program, may obtain health
84 benefits coverage under any of the other components listed in s.
85 409.813 if such coverage is approved and available in the county
86 in which the child resides.

87 (3) A Title XXI-funded child who is eligible for the

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88 Florida Kidcare program and who is a child with special health
89 care needs, as determined through a medical or behavioral
90 screening instrument, is eligible for health benefits coverage
91 from and shall be assigned to and may opt out of the Children's
92 Medical Services Network.

93 (4) A child who is eligible for a state-sponsored health
94 benefit plan through a family member or guardian employed by the
95 state and who meets the eligibility requirements for the
96 subsidized Florida Kidcare program may enroll in the subsidized
97 Florida Kidcare program.

98 (5) A child who is an immigrant lawfully residing in the
99 United States and who meets the eligibility requirements for the
100 Florida Kidcare program may enroll in the program regardless of
101 the child's date of entry.

102 (6)~~(4)~~ The following children are not eligible to receive
103 Title XXI-funded premium assistance for health benefits coverage
104 under the Florida Kidcare program, except under Medicaid if the
105 child would have been eligible for Medicaid under s. 409.903 or
106 s. 409.904 as of June 1, 1997:

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

110 (a)~~(b)~~ A child who is covered under a family member's group
111 health benefit plan or under other private or employer health
112 insurance coverage, if the cost of the child's participation is
113 not greater than 5 percent of the family's income. If a child is
114 otherwise eligible for a subsidy under the Florida Kidcare
115 program and the cost of the child's participation in the family
116 member's health insurance benefit plan is greater than 5 percent

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117 of the family's income, the child may enroll in the appropriate
118 subsidized Kidcare program.

119 (b)~~(e)~~ A child who is seeking premium assistance for the
120 Florida Kidcare program through employer-sponsored group
121 coverage, if the child has been covered by the same employer's
122 group coverage during the 60 days before the family submitted
123 ~~prior to the family's submitting~~ an application for
124 determination of eligibility under the program.

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

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

129 (d)~~(f)~~ A child who is otherwise eligible for premium
130 assistance for the Florida Kidcare program and has had his or
131 her coverage in an employer-sponsored or private health benefit
132 plan voluntarily canceled in the last 60 days, except those
133 children whose coverage was voluntarily canceled for good cause,
134 including, but not limited to, the following circumstances:

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

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

140 3. The parent who had health benefits coverage for the
141 child is deceased;

142 4. The child has a medical condition that, without medical
143 care, would cause serious disability, loss of function, or
144 death;

145 5. The employer of the parent canceled health benefits

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146 coverage for children;

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

149 7. The child has exhausted coverage under a COBRA
150 continuation provision;

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

153 9. Domestic violence led to loss of coverage.

154 (7)~~(5)~~ A child who is otherwise eligible for the Florida
155 Kidcare program and who has a preexisting condition that
156 prevents coverage under another insurance plan as described in
157 paragraph (6) (a) ~~(4) (b)~~ which would have disqualified the child
158 for the Florida Kidcare program if the child were able to enroll
159 in the plan is ~~shall be~~ eligible for Florida Kidcare coverage
160 when enrollment is possible.

161 (8)~~(6)~~ A child whose family income is above 200 percent of
162 the federal poverty level or a child who is excluded under the
163 provisions of subsection (6) ~~(4)~~ may participate in the Florida
164 Kidcare program ~~as provided in s. 409.8132 or~~, if the child is
165 ineligible for Medikids by reason of age, in the Florida Healthy
166 Kids program, subject to the following ~~provisions~~:

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

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

173 (9)~~(7)~~ Once a child is enrolled in the Florida Kidcare
174 program, the child is eligible for coverage ~~under the program~~

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175 for 12 months without a redetermination or reverification of
176 eligibility, if the family continues to pay the applicable
177 premium. Eligibility for program components funded through Title
178 XXI of the Social Security Act terminates ~~shall terminate~~ when a
179 child attains the age of 19. ~~A child who has not attained the~~
180 ~~age of 5 and who has been determined eligible for the Medicaid~~
181 ~~program is eligible for coverage for 12 months without a~~
182 ~~redetermination or reverification of eligibility.~~

183 (10) ~~(8)~~ When determining or reviewing a child's eligibility
184 under the Florida Kidcare program, the applicant shall be
185 provided with reasonable notice of changes in eligibility which
186 may affect enrollment in one or more of the program components.
187 If ~~When~~ a transition from one program component to another is
188 authorized, there shall be cooperation between the program
189 components and the affected family which promotes continuity of
190 health care coverage. Any authorized transfers must be managed
191 within the program's overall appropriated or authorized levels
192 of funding. Each component of the program shall establish a
193 reserve to ensure that transfers between components will be
194 accomplished within current year appropriations. These reserves
195 shall be reviewed by each convening of the Social Services
196 Estimating Conference to determine the adequacy of such reserves
197 to meet actual experience.

198 (11) ~~(9)~~ In determining the eligibility of a child, an
199 assets test is not required. Each applicant shall provide
200 documentation during the application process and the
201 redetermination process, including, but not limited to, the
202 following:

203 (a) ~~Each applicant's~~ Proof of family income, which must

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204 shall be verified electronically to determine financial
205 eligibility for the Florida Kidcare program. Written
206 documentation, which may include wages and earnings statements
207 or pay stubs, W-2 forms, or a copy of the applicant's most
208 recent federal income tax return, is ~~shall be~~ required only if
209 ~~the~~ electronic verification is not available or does not
210 substantiate the applicant's income.

211 (b) ~~Each applicant shall provide~~ A statement from all
212 applicable, employed family members that:

213 ~~1. Their employers do not sponsor health benefit plans for~~
214 ~~employees;~~

215 ~~2. the potential enrollee is not covered by an employer-~~
216 ~~sponsored health benefit plan; or~~

217 ~~3. The potential enrollee is covered by an employer-~~
218 ~~sponsored health benefit plan and the cost of the employer-~~
219 ~~sponsored health benefit plan is more than 5 percent of the~~
220 ~~family's income.~~

221 (12) ~~(10)~~ Subject to paragraph (6) (a) ~~(4) (b)~~, the Florida
222 Kidcare program shall withhold benefits from an enrollee if the
223 program obtains evidence that the enrollee is no longer
224 eligible, submitted incorrect or fraudulent information in order
225 to establish eligibility, or failed to provide verification of
226 eligibility. The applicant or enrollee shall be notified that
227 because of such evidence program benefits will be withheld
228 unless the applicant or enrollee contacts a designated
229 representative of the program by a specified date, which must be
230 within 10 working days after the date of notice, to discuss and
231 resolve the matter. The program shall make every effort to
232 resolve the matter within a timeframe that will not cause

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233 benefits to be withheld from an eligible enrollee.

234 (13)~~(11)~~ The following individuals may be subject to
235 prosecution in accordance with s. 414.39:

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

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

245 Section 3. Paragraph (f) of subsection (2) of section
246 409.815, Florida Statutes, is amended to read:

247 409.815 Health benefits coverage; limitations.—

248 (2) BENCHMARK BENEFITS.—In order for health benefits
249 coverage to qualify for premium assistance payments for an
250 eligible child under ss. 409.810-409.821, the health benefits
251 coverage, except for coverage under Medicaid and Medikids, must
252 include the following minimum benefits, as medically necessary.

253 (f) *Outpatient services*.—Covered services include
254 preventive, diagnostic, therapeutic, palliative care, and other
255 services authorized by the enrollee's health benefits coverage
256 provider and provided to an enrollee in the outpatient portion
257 of a health facility licensed under chapter 395, ~~except for the~~
258 ~~following limitations:~~

259 ~~1. Services must be authorized by the enrollee's health~~
260 ~~benefits coverage provider; and~~

261 ~~2. Treatment for temporomandibular joint disease (TMJ) is~~

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262 ~~specifically excluded.~~

263 Section 4. Subsection (3) of section 409.816, Florida
264 Statutes, is amended to read:

265 409.816 Limitations on premiums and cost-sharing.—The
266 following limitations on premiums and cost-sharing are
267 established for the program.

268 (3) Enrollees in families with a family income above 150
269 percent of the federal poverty level who are not receiving
270 coverage under the Medicaid program or who are not eligible
271 under s. 409.814(8) ~~409.814(6)~~ may be required to pay enrollment
272 fees, premiums, copayments, deductibles, coinsurance, or similar
273 charges on a sliding scale related to income, except that the
274 total annual aggregate cost-sharing with respect to all children
275 in a family may not exceed 5 percent of the family's income.
276 However, copayments, deductibles, coinsurance, or similar
277 charges may not be imposed for preventive services, including
278 well-baby and well-child care, age-appropriate immunizations,
279 and routine hearing and vision screenings.

280 Section 5. Paragraph (b) of subsection (1) of section
281 409.818, Florida Statutes, is amended to read:

282 409.818 Administration.—In order to implement ss. 409.810-
283 409.821, the following agencies shall have the following duties:

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

285 (b) Establish and maintain the eligibility determination
286 process under the program except as specified in subsection (5).
287 The department shall directly, or through the services of a
288 contracted third-party administrator, establish and maintain a
289 process for determining eligibility of children for coverage
290 under the program. The eligibility determination process must be

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291 used solely for determining eligibility of applicants for health
292 benefits coverage under the program. The eligibility
293 determination process must include an initial determination of
294 eligibility for any coverage offered under the program, as well
295 as a redetermination or reverification of eligibility ~~each~~
296 ~~subsequent 6 months. Effective January 1, 1999, a child who has~~
297 ~~not attained the age of 5 and who has been determined eligible~~
298 ~~for the Medicaid program is eligible for coverage for 12 months~~
299 ~~without a redetermination or reverification of eligibility.~~ In
300 conducting an eligibility determination, the department shall
301 determine if the child has special health care needs. The
302 department, in consultation with the Agency for Health Care
303 Administration and the Florida Healthy Kids Corporation, shall
304 develop procedures for redetermining eligibility which enable a
305 family to easily update any change in circumstances which could
306 affect eligibility. The department may accept changes in a
307 family's status as reported to the department by the Florida
308 Healthy Kids Corporation without requiring a new application
309 from the family. Redetermination of a child's eligibility for
310 Medicaid may ~~not~~ be linked to a child's eligibility
311 determination for other programs.

312 Section 6. Subsections (6) and (7) of section 409.904,
313 Florida Statutes, are amended to read:

314 409.904 Optional payments for eligible persons.—The agency
315 may make payments for medical assistance and related services on
316 behalf of the following persons who are determined to be
317 eligible subject to the income, assets, and categorical
318 eligibility tests set forth in federal and state law. Payment on
319 behalf of these Medicaid eligible persons is subject to the

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320 availability of moneys and any limitations established by the
321 General Appropriations Act or chapter 216.

322 (6) A child who has not attained the age of 19 ~~who has been~~
323 ~~determined eligible for the Medicaid program is deemed to be~~
324 ~~eligible for a total of 6 months, regardless of changes in~~
325 ~~circumstances other than attainment of the maximum age.~~
326 ~~Effective January 1, 1999, a child who has not attained the age~~
327 ~~of 5 and who has been determined eligible for the Medicaid~~
328 program is deemed to be eligible for a total of 12 months
329 regardless of changes in circumstances other than attainment of
330 the maximum age. Subject to federal regulations, a child who is
331 eligible under this subsection must be offered the opportunity
332 to be made presumptively eligible.

333 (7) A pregnant woman for the duration of her pregnancy and
334 for the postpartum period as defined in federal law and rule or
335 a child under 1 year of age who lives in a family that has an
336 income above 185 percent of the most recently published federal
337 poverty level, but that ~~which~~ is at or below 200 percent of such
338 poverty level. In determining ~~the~~ eligibility ~~of such child~~, an
339 assets test is not required. An individual ~~A child~~ who is
340 eligible for Medicaid under this subsection must be offered the
341 opportunity, subject to federal rules, to be made presumptively
342 eligible.

343 Section 7. Paragraph (b) of subsection (5) and paragraph
344 (a) of subsection (6) of section 624.91, Florida Statutes, are
345 amended to read:

346 624.91 The Florida Healthy Kids Corporation Act.—

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

348 (b) The Florida Healthy Kids Corporation shall:

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

354 2. Arrange for the collection of any voluntary
355 contributions to provide for payment of Florida Kidcare program
356 premiums for children who are not eligible for medical
357 assistance under Title XIX or Title XXI of the Social Security
358 Act.

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

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

366 5. Establish, with consultation from appropriate
367 professional organizations, standards for preventive health
368 services and providers and comprehensive insurance benefits
369 appropriate to children if, ~~provided that~~ such standards for
370 rural areas do ~~shall~~ not limit primary care providers to board-
371 certified pediatricians.

372 6. Determine eligibility for children seeking to
373 participate in the Title XXI-funded components of the Florida
374 Kidcare program consistent with the requirements specified in s.
375 409.814, ~~as well as the non-Title XXI-eligible children as~~
376 ~~provided in subsection (3).~~

377 7. Establish procedures under which providers of local

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378 match to, applicants to, and participants in the program may
379 have grievances reviewed by an impartial body and reported to
380 the board of directors of the corporation.

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

385 9. Establish enrollment criteria that include penalties or
386 30-day waiting periods ~~of 30 days~~ for reinstatement of coverage
387 upon voluntary cancellation for nonpayment of family premiums.

388 10. Contract with authorized insurers or providers ~~any~~
389 ~~provider~~ of health care services, who meet ~~meeting~~ standards
390 established by the corporation, for the provision of
391 comprehensive insurance coverage to participants. Such standards
392 must ~~shall~~ include criteria under which the corporation may
393 contract with more than one provider of health care services in
394 program sites. Health plans shall be selected through a
395 competitive bid process. The Florida Healthy Kids Corporation
396 shall purchase goods and services in the most cost-effective
397 manner consistent with the delivery of quality medical care. The
398 maximum administrative cost for a Florida Healthy Kids
399 Corporation contract is ~~shall be~~ 15 percent. For health care
400 contracts, the minimum medical loss ratio for a Florida Healthy
401 Kids Corporation contract is ~~shall be~~ 85 percent. For dental
402 contracts, the remaining compensation to be paid to the
403 authorized insurer or provider must be at least ~~under a Florida~~
404 ~~Healthy Kids Corporation contract shall be no less than an~~
405 ~~amount which is~~ 85 percent of the premium; to the extent any
406 contract provision does not provide for this minimum

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407 compensation, this section prevails ~~shall prevail~~. The health
408 plan selection criteria and scoring system, and the scoring
409 results, must ~~shall~~ be available upon request for inspection
410 after the bids have been awarded.

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

413 12. Develop and implement a plan to publicize the Florida
414 Kidcare program, the eligibility requirements of the program,
415 and the procedures for enrollment in the program and to maintain
416 public awareness of the corporation and the program.

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

422 14. In consultation with the partner agencies, provide a
423 report on the Florida Kidcare program annually to the Governor,
424 the Chief Financial Officer, the Commissioner of Education, the
425 President of the Senate, the Speaker of the House of
426 Representatives, and the Minority Leaders of the Senate and the
427 House of Representatives.

428 15. Provide information on a quarterly basis to the
429 Legislature and the Governor which compares the costs and
430 utilization of the full-pay enrolled population and the Title
431 XXI-subsidized enrolled population in the Florida Kidcare
432 program. ~~The information,~~ At a minimum, the information must
433 include:

434 a. The monthly enrollment and expenditure for full-pay
435 enrollees in the Medikids and Florida Healthy Kids programs

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436 compared to the Title XXI-subsidized enrolled population; and

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

440

441 ~~By February 1, 2010, the Florida Healthy Kids Corporation shall~~
442 ~~provide a study to the Legislature and the Governor on premium~~
443 ~~impacts to the subsidized portion of the program from the~~
444 ~~inclusion of the full-pay program, which shall include~~
445 ~~recommendations on how to eliminate or mitigate possible impacts~~
446 ~~to the subsidized premiums.~~

447 16. Establish benefit packages that conform to the
448 ~~provisions of~~ the Florida Kidcare program, as created in ss.
449 409.810-409.821.

450 (6) BOARD OF DIRECTORS.—

451 (a) The Florida Healthy Kids Corporation is ~~shall operate~~
452 subject to the supervision and approval of a board of directors
453 chaired by the Chief Financial Officer or her or his designee,
454 and composed of 12 ~~11~~ other members selected for 3-year terms of
455 office as follows:

456 1. The Secretary of Health Care Administration, or his or
457 her designee.

458 2. One member, appointed by the Commissioner of Education,
459 from the Office of School Health Programs of the Florida
460 Department of Education.

461 3. One member, appointed by the Chief Financial Officer,
462 from among three members nominated by the Florida Pediatric
463 Society.

464 4. One member, appointed by the Governor, who represents

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465 the Children's Medical Services Program.

466 5. One member, appointed by the Chief Financial Officer
467 from among three members nominated by the Florida Hospital
468 Association.

469 6. One member, appointed by the Governor, who is an expert
470 on child health policy.

471 7. One member, appointed by the Chief Financial Officer,
472 from among three members nominated by the Florida Academy of
473 Family Physicians.

474 8. One member, appointed by the Governor, who represents
475 the state Medicaid program.

476 9. One member, appointed by the Chief Financial Officer,
477 from among three members nominated by the Florida Association of
478 Counties.

479 10. The State Health Officer, or her or his designee.

480 11. The Secretary of Children and Family Services, or his
481 or her designee.

482 12. One member, appointed by the Governor, from among three
483 members nominated by the Florida Dental Association.

484 Section 8. Subject to appropriation, the Agency for Health
485 Care Administration shall implement the federal Family
486 Opportunity Act, ss. 6062-6071 of the Deficit Reduction Act of
487 2005, to allow families whose income is up to 300 percent of the
488 federal poverty level to buy Medicaid coverage for their
489 disabled children.

490 Section 9. This act shall take effect October 1, 2011.