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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2013	.	
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Appropriations Subcommittee on Health and Human Services (Bean)  
recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (a), (b), (e), and (f) of subsection  
(4) and paragraph (b) of subsection (7) of section 408.910,  
Florida Statutes, are amended, and paragraph (c) is added to  
subsection (10) of that section, to read

408.910 Florida Health Choices Program.—

(4) ELIGIBILITY AND PARTICIPATION.—Participation in the  
program is voluntary and shall be available to employers,  
individuals, vendors, and health insurance agents as specified



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13 in this subsection.

14 (a) Employers eligible to enroll in the program include  
15 those employers:

16 ~~1. Employers that meet criteria established by the~~  
17 ~~corporation and elect to make their employees eligible through~~  
18 ~~the program.~~

19 ~~2. Fiscally constrained counties described in s. 218.67.~~

20 ~~3. Municipalities having populations of fewer than 50,000~~  
21 ~~residents.~~

22 ~~4. School districts in fiscally constrained counties.~~

23 ~~5. Statutory rural hospitals.~~

24 (b) Individuals eligible to participate in the program  
25 include:

26 1. Individual employees of enrolled employers.

27 2. Other individuals that meet criteria established by the  
28 corporation ~~State employees not eligible for state employee~~  
29 ~~health benefits.~~

30 ~~3. State retirees.~~

31 ~~4. Medicaid participants who opt out.~~

32 (e) Eligible individuals may participate in the program  
33 ~~voluntarily continue participation in the program regardless of~~  
34 ~~subsequent changes in job status or Medicaid eligibility.~~

35 Individuals who join the program may participate by complying  
36 with the procedures established by the corporation. These  
37 procedures must include, but are not limited to:

38 1. Submission of required information.

39 2. Authorization for payroll deduction.

40 3. Compliance with federal tax requirements.

41 4. Arrangements for payment ~~in the event of job changes.~~



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42 5. Selection of products and services.

43 (f) Vendors who choose to participate in the program may  
44 enroll by complying with the procedures established by the  
45 corporation. These procedures may include, but are not limited  
46 to:

47 1. Submission of required information, including a complete  
48 description of the coverage, services, provider network, payment  
49 restrictions, and other requirements of each product offered  
50 through the program.

51 2. Execution of an agreement to comply with requirements  
52 established by the corporation.

53 3. Execution of an agreement that prohibits refusal to sell  
54 any offered ~~non-risk-bearing~~ product or service to a participant  
55 who elects to buy it.

56 4. Establishment of product prices based on applicable  
57 criteria ~~age, gender, and location of the individual~~  
58 ~~participant, which may include medical underwriting.~~

59 5. Arrangements for receiving payment for enrolled  
60 participants.

61 6. Participation in ongoing reporting processes established  
62 by the corporation.

63 7. Compliance with grievance procedures established by the  
64 corporation.

65 (7) THE MARKETPLACE PROCESS.—The program shall provide a  
66 single, centralized market for purchase of health insurance,  
67 health maintenance contracts, and other health products and  
68 services. Purchases may be made by participating individuals  
69 over the Internet or through the services of a participating  
70 health insurance agent. Information about each product and



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71 service available through the program shall be made available  
72 through printed material and an interactive Internet website. A  
73 participant needing personal assistance to select products and  
74 services shall be referred to a participating agent in his or  
75 her area.

76 (b) Initial selection of products and services must be made  
77 by an individual participant within the applicable open  
78 enrollment period ~~60 days after the date the individual's~~  
79 ~~employer qualified for participation. An individual who fails to~~  
80 ~~enroll in products and services by the end of this period is~~  
81 ~~limited to participation in flexible spending account services~~  
82 ~~until the next annual enrollment period.~~

83 (10) EXEMPTIONS.-

84 (c) Any standard forms, website design, or marketing  
85 communication developed by the corporation and used by the  
86 corporation, or any vendor that meets the requirements of s.  
87 408.910(4)(f) is not subject to the Florida Insurance Code, as  
88 established in s. 624.01.

89 Section 2. Section 408.9105, Florida Statutes, is created  
90 to read:

91 408.9105 Health Choice Plus Program.-

92 (1) LEGISLATIVE INTENT.-The Legislature recognizes that  
93 there are more than 600,000 uninsured residents in this state  
94 who have incomes at or below 100 percent of the federal poverty  
95 level. Many insurance options are not affordable, and the  
96 Legislature intends to provide a benefit program to those  
97 individuals who seek assistance with coverage and who assume  
98 individual responsibility for their own health care needs. It is  
99 therefore the intent of the Legislature to expand the services



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100 provided by the Florida Health Choices Program and begin the  
101 phase-in of the Health Choice Plus Program starting July 1,  
102 2013. The Health Choice Plus Program shall:

103 (a) Use the existing infrastructure and governance of  
104 Florida Health Choices, Inc., to manage the program described in  
105 this section.

106 (b) Offer goods and services to individuals who are between  
107 19 to 64 years of age, inclusive.

108 (c) Establish guidelines for financial participation in the  
109 program which allow for enrollees and others to contribute  
110 toward a health benefits account.

111 1. An enrollee shall contribute at least \$20 per month  
112 toward the health benefits account. This contribution amount may  
113 be adjusted annually in the General Appropriations Act.

114 2. The level of benefit paid into an enrollee's account  
115 using state funds is determined by the corporation based upon  
116 the availability of state, local, and federal funds. The amount  
117 may not exceed \$10 per individual per month. This amount may be  
118 adjusted annually in the General Appropriations Act.

119 (d) Implement an employer-based contribution option.

120 (e) Develop and maintain an education and public outreach  
121 campaign for the Health Choice Plus Program.

122 (f) Provide a secure website to facilitate the purchase of  
123 goods and services and to provide public information about the  
124 program. The website must also provide information about the  
125 availability of insurance affordability programs targeted at  
126 this population.

127 (g) Establish an incentive program that rewards enrollees  
128 for achievements in reaching healthy living goals.



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129 (2) DEFINITIONS.—As used in this section, the term:

130 (a) "CHIP" means Children's Health Insurance Program as  
131 authorized under Title XXI of the Social Security Act.

132 (b) "Corporation" means Florida Health Choices, Inc., as  
133 established under s. 408.910.

134 (c) "Corporation's marketplace" means the single,  
135 centralized market established by the corporation which  
136 facilitates the purchase of products made available in the  
137 marketplace.

138 (d) "Enrollee" means an individual who participates in or  
139 receives benefits under the Health Choice Plus Program.

140 (e) "Goods and services" means the individual products  
141 offered for sale to an enrollee on the corporation's marketplace  
142 or other health care-related items that may be purchased by an  
143 enrollee in the private market. An enrollee may purchase these  
144 products using funds accumulated in his or her health benefits  
145 account.

146 (f) "Health benefits account" means the account established  
147 for an enrollee at the corporation into which funds may be  
148 deposited by the state, the enrollee, other individuals, or  
149 organizations for the purchase of health care goods and services  
150 on the enrollee's behalf.

151 (g) "Lawful permanent resident" means a non-United States  
152 citizen who resides in the United States under legally  
153 recognized and lawfully recorded permanent residence as an  
154 immigrant. This individual may also be known as a permanent  
155 resident alien.

156 (h) "Parent" or "caretaker relative" means an individual  
157 who is a relative that has primary custody or legal guardianship



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158 of a dependent child and provides the primary care and  
159 supervision of that dependent child in the same household. A  
160 caretaker relative must be related to the dependent child by  
161 blood, marriage, or adoption within the fifth degree of kinship.

162 (i) "Patient Protection and Affordable Care Act" or "PPACA"  
163 means the federal law enacted as Pub. L. No. 111-148, as further  
164 amended by the federal Health Care and Education Reconciliation  
165 Act of 2010, Pub. L. No. 111-152, and any amendments.

166 (j) "Program" means the Health Choice Plus Program  
167 established under this section.

168 (k) "Vendor" means an entity that meets the requirements  
169 under s. 408.910(4) (d) and is accepted by the corporation.

170 (3) ELIGIBILITY.—

171 (a) To be eligible for the Health Choice Plus Program, an  
172 individual must be a resident of this state and meet all of the  
173 following criteria:

174 1. Be between 19 and 64 years of age, inclusive.

175 2. Have a modified adjusted gross income that does not  
176 exceed 100 percent of the federal poverty level based on the  
177 individual's most recent federal tax return, or if the  
178 individual did not file a tax return, the individual's most  
179 recent monthly income.

180 3. Be a United States citizen or a lawful permanent  
181 resident.

182 4. Be ineligible for Medicaid.

183 5. Be ineligible for employer-sponsored insurance coverage.

184 If the enrollee is eligible for employer-sponsored coverage but  
185 the cost of that coverage for the enrollee's share for  
186 individual coverage would exceed 5 percent of the enrollee's



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187 total modified adjusted gross household income or the enrollee's  
188 share of family coverage would exceed 5 percent of enrollee's  
189 total modified adjusted gross household income, the enrollee is  
190 not considered eligible for employer-sponsored coverage for  
191 purposes of this section.

192 6. Not be enrolled in other coverage that meets the  
193 definition of essential benefits coverage under PPACA.

194 (b) In addition to the requirements in paragraph (a), an  
195 enrollee must meet the following categorical requirements in  
196 order to maintain enrollment in the program:

197 1. For an enrollee who is also a parent or a caretaker  
198 relative, the enrollee must do all of the following:

199 a. Maintain enrollment in Medicaid or CHIP for any  
200 dependent child in the household who is eligible for Medicaid or  
201 CHIP and who must be enrolled in Medicaid or CHIP throughout the  
202 enrollee's participation in the Health Choice Plus Program.

203 b. Complete a health assessment within the first 3 months  
204 after enrollment at a county health department, federally  
205 qualified health center, or other approved health care provider.

206 c. Schedule and keep at least one preventive visit with a  
207 primary care provider within 6 months after enrollment and  
208 repeat the preventive visit at least once every 18 months  
209 thereafter.

210 d. Provide proof of employment for at least 20 hours a week  
211 or proof of efforts made to seek employment. In lieu of  
212 employment, the enrollee may provide proof of volunteering for  
213 at least 10 hours a month at a school or at a nonprofit  
214 organization or enrollment as a full-time student at an  
215 accredited educational institution. Exceptions to this





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216 requirement may be made on a case-by-case basis for medical  
217 conditions for an enrollee or if the enrollee is the primary  
218 caretaker for a family member who has a chronic and severe  
219 medical condition that requires a minimum of 40 hours a week of  
220 care.

221 2. For an enrollee who is also a childless adult, the  
222 enrollee must do all of the following:

223 a. Provide proof of employment for at least 20 hours a week  
224 or proof of efforts made to seek employment. In lieu of  
225 employment, the enrollee may provide proof of volunteering for  
226 at least 20 hours a month at a school or at a nonprofit  
227 organization or enrollment as a full-time student at an  
228 accredited educational institution. Exceptions to this  
229 requirement may be made on a case-by-case basis for medical  
230 conditions for the enrollee or if the enrollee is the primary  
231 caretaker for a family member who has a chronic and severe  
232 medical condition that requires a minimum of 40 hours a week of  
233 care.

234 b. Complete a health assessment within the first 3 months  
235 after enrollment at a county health department, federally  
236 qualified health center, or other approved health care provider.

237 c. Schedule and keep at least one preventive visit with a  
238 primary care provider within the first 6 months after enrollment  
239 and repeat the preventive visit at least once every 18 months  
240 thereafter.

241  
242 If the enrollee fails to meet the requirements specified in this  
243 subsection, the enrollee is disenrolled from the program at the  
244 end of the month in which the enrollee fails to meet the



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245 requirements. The enrollee may receive one 30-day extension to  
246 comply before cancellation of coverage. If an enrollee's  
247 coverage is canceled, the enrollee may not reapply for coverage  
248 until the next open enrollment period or 90 days after  
249 cancellation of coverage occurs, whichever occurs later. The  
250 individual's reenrollment is subject to available funding.

251 (4) ENROLLMENT.—

252 (a) Enrollment in the Health Choice Plus Program may occur  
253 through the portal of the Florida Health Choices Program, a  
254 referral process from the Department of Children and Families,  
255 the Florida Healthy Kids Corporation, or the exchange as defined  
256 by the federal Patient Protection and Affordable Care Act.

257 (b) Subject to available funding, the corporation shall  
258 establish at least one open enrollment period each year. When  
259 the program is full based on available funding, enrollment must  
260 cease.

261 (c) Eligibility is determined by using electronic means to  
262 the fullest extent practicable before requesting any written  
263 documentation from an applicant.

264 (5) HEALTH BENEFITS ACCOUNT.—

265 (a) A health benefits account is established for each  
266 enrollee upon confirmation of eligibility in the program. The  
267 corporation shall determine the deposit amount and frequency of  
268 deposits based on the availability of funds, the number of  
269 enrollees, and other factors.

270 (b) An enrollee shall make a financial contribution toward  
271 his or her own health benefits account in order to maintain  
272 enrollment in accordance with paragraph (1)(c).

273 1. The corporation shall establish disenrollment criteria



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274 for failure to pay the required minimum contribution.

275 2. The disenrollment criteria must include waiting periods  
276 of not more than 1 month before reinstatement to the program if  
277 the enrollee is still eligible and has paid all required  
278 financial obligations.

279 3. The enrollee's employer may contribute toward an  
280 employee's health benefits account under the program, including  
281 making the enrollee's required contribution, in whole or in  
282 part, to the enrollee's health benefits account at any time.

283 (c) Subject to appropriations available for this specific  
284 purpose, the corporation shall establish a procedure for the  
285 deposit of supplemental or bonus funds into an enrollee's health  
286 benefits account if certain healthy living performance goals are  
287 achieved. These goals must be established no later than July 1  
288 in each fiscal year and distributed to all enrollees, published  
289 on the corporation's website, and distributed to new enrollees  
290 within 30 calendar days after enrollment. For the 2014 calendar  
291 year, the goals must be established no later than October 1,  
292 2013.

293 1. An enrollee may use funds deposited in a health benefits  
294 account to offset other health care costs or to purchase other  
295 products and services offered by the marketplace, subject to  
296 guidelines established by the corporation and in accordance with  
297 federal law.

298 2. Bonus funds may accumulate in the enrollee's health  
299 benefits account for the duration of the program and must  
300 automatically expire and return to the corporation upon the  
301 termination of the program.

302 (d) The marketplace is encouraged to use existing community



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303 programs and partnerships to deliver services and to include  
304 traditional safety net providers for the delivery of services to  
305 enrollees, including, but not limited to, rural health clinics,  
306 federally qualified health centers, county health departments,  
307 emergency room diversion programs, and community mental health  
308 centers. A health care entity that receives state funding must  
309 participate in the Health Choice Plus Program and offer services  
310 or products through the marketplace or to enrollees, as  
311 appropriate. An enrollee may be required to make nominal  
312 copayments to providers for nonpreventive services. The  
313 corporation may establish the amount of the copayments when  
314 applicable.

315 (e) Except for supplemental funds described under paragraph  
316 (c), funds deposited in a health benefits account belong to the  
317 enrollee when deposited and are available for health-care-  
318 related expenditures, including, but not limited to, physician's  
319 fees, hospital costs, prescriptions, insurance premium payments,  
320 copayments, and coinsurance. The corporation shall establish a  
321 process or contract with another entity for the management of  
322 the funds. The process must ensure the timely distribution and  
323 the appropriate expenditure of the state's contributions.

324 (f) The corporation shall establish a refund process for an  
325 enrollee who requests the closure of a health benefits account  
326 and the return of any unspent individual contributions. The  
327 enrollee may be refunded only those funds that the enrollee or  
328 employer has contributed to his or her health benefits account.  
329 All other state funds in the enrollee's health benefits account  
330 revert to the corporation.

331 (6) FUNDING.-



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332           (a) The corporation may accept funds from an employer to  
333 deposit into an enrollee's health benefits account to supplement  
334 funds if such a deposit is not in conflict with other provisions  
335 of this section.

336           (b) The corporation may accept state and federal funds to  
337 further subsidize the costs of coverage and to administer the  
338 program.

339           (c) The corporation shall seek other grants and donations  
340 to support the program.

341           (d) An assessment on vendors that participate in the  
342 marketplace may be used to fund the administration of the  
343 program.

344           (7) SERVICES.—The corporation shall manage the health  
345 benefits accounts and provide a marketplace of options from  
346 which an enrollee may also use his or her health benefits  
347 account to purchase individual services and products, including,  
348 but not limited to, discount medical plans, limited benefit  
349 plans, health flex plans, individual health insurance plans,  
350 prepaid health clinic plans, bundled services, or other prepaid  
351 health care coverage.

352           (8) HEALTHY LIVING PERFORMANCE GOALS AND PAYMENT.—

353           (a) To the extent that funds are made available for this  
354 purpose, an enrollee is rewarded for achieving a healthy  
355 lifestyle and using preventive health care services  
356 appropriately.

357           (b) The program shall post on its website, by July 1 of  
358 each fiscal year, a list of optional healthy living performance  
359 goals and the proposed incentives for achievement of each goal.  
360 The corporation shall establish a procedure for the



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361 documentation of such goals, timeframes for achievement of the  
362 optional goals, and the payment of supplemental amounts into an  
363 enrollee's health benefits account, subject to available  
364 funding.

365 (c) Bonus payments for achieving a healthy living  
366 performance goal shall be paid into an enrollee's health  
367 benefits account at the end of the quarter in which the goal is  
368 achieved. The amount of the payment is based upon the schedule  
369 posted by the program on July 1 of that fiscal year.

370 (9) LIABILITY.—Coverage under the Health Choice Plus  
371 Program is not an entitlement, and a cause of action does not  
372 arise against the state, a local governmental entity, any other  
373 political subdivision of the state, or the corporation or its  
374 board of directors for failure to make coverage under this  
375 section available to an eligible person or for discontinuation  
376 of any coverage.

377 (10) PROGRAM EVALUATION.—The corporation shall include  
378 information about the Health Choice Plus Program in its annual  
379 report under s. 408.910. The corporation shall complete and  
380 submit by January 1, 2016, a separate independent evaluation of  
381 the effectiveness of the Health Choice Plus Program to the  
382 Governor, the President of the Senate, and the Speaker of the  
383 House of Representatives.

384 (11) PROGRAM REVIEW.—The Health Choice Plus Program is  
385 subject to repeal on July 1, 2016, unless reviewed and saved  
386 from repeal through reenactment by the Legislature.

387 Section 3. The sum of \$15,275,000 from the General Revenue  
388 Fund is appropriated to the Agency for Health Care  
389 Administration beginning in the 2013-2014 fiscal year to provide



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390 funding for the Health Choice Plus Program within Florida Health  
391 Choices, Inc., and to fund the corporation's administrative  
392 costs necessary for implementing and operating the program.

393 Section 4. This act shall take effect July 1, 2013.

394

395 ===== T I T L E A M E N D M E N T =====

396 And the title is amended as follows:

397 Delete everything before the enacting clause  
398 and insert:

399 A bill to be entitled  
400 An act relating to the Health Choice Plus Program;  
401 amending s. 408.910, F.S.; conforming provisions to  
402 changes made by the act; providing that the Florida  
403 Insurance Code is not applicable in certain  
404 circumstances; creating s. 408.9105, F.S.; creating  
405 the Health Choice Plus Program; providing legislative  
406 intent; providing requirements of the program;  
407 providing definitions; providing eligibility  
408 requirements; providing for enrollment in the program;  
409 providing requirements and procedures for the deposit  
410 and use of funds in a health benefits account;  
411 providing that the marketplace is encouraged to use  
412 existing community programs and partnerships to  
413 deliver services and to include traditional safety net  
414 providers for the delivery of services to enrollees;  
415 requiring Florida Health Choices, Inc., to establish a  
416 refund process; authorizing the corporation to accept  
417 funds from various sources to deposit into health  
418 benefits accounts, subsidize the costs of coverage,



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419 and administer and support the program; requiring the  
420 corporation to manage the health benefits accounts and  
421 provide the marketplace of options which an enrollee  
422 in the program may use; providing for payment for  
423 achieving healthy living performance goals; requiring  
424 the program to post on its website a list of optional  
425 healthy living performance goals and to establish a  
426 procedure for documentation, achievement, and payment  
427 regarding the healthy living performance goals;  
428 providing that coverage under the program is not an  
429 entitlement; prohibiting a cause of action against  
430 certain entities under certain circumstances;  
431 requiring the corporation to submit to the Governor  
432 and the Legislature information about the program in  
433 its annual report and an evaluation of the  
434 effectiveness of the program; providing for a program  
435 review and repeal date; providing an appropriation;  
436 providing an effective date.