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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Health and Human Services)

A bill to be entitled

An act relating to the Health Choice Plus Program;
amending s. 408.910, F.S.; conforming provisions to
changes made by the act; providing that the Florida
Insurance Code is not applicable in certain
circumstances; creating s. 408.9105, F.S.; creating
the Health Choice Plus Program; providing legislative
intent; providing requirements of the program;
providing definitions; providing eligibility
requirements; providing for enrollment in the program;
providing requirements and procedures for the deposit
and use of funds in a health benefits account;
providing that the marketplace is encouraged to use
existing community programs and partnerships to
deliver services and to include traditional safety net
providers for the delivery of services to enrollees;
requiring Florida Health Choices, Inc., to establish a
refund process; authorizing the corporation to accept
funds from various sources to deposit into health
benefits accounts, subsidize the costs of coverage,
and administer and support the program; requiring the
corporation to manage the health benefits accounts and
provide the marketplace of options which an enrollee
in the program may use; providing for payment for
achieving healthy living performance goals; requiring
the program to post on its website a list of optional
healthy living performance goals and to establish a



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28 procedure for documentation, achievement, and payment
29 regarding the healthy living performance goals;
30 providing that coverage under the program is not an
31 entitlement; prohibiting a cause of action against
32 certain entities under certain circumstances;
33 requiring the corporation to submit to the Governor
34 and the Legislature information about the program in
35 its annual report and an evaluation of the
36 effectiveness of the program; providing for a program
37 review and repeal date; providing an appropriation;
38 providing an effective date.

39

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

41

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

46 408.910 Florida Health Choices Program.—

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

51 (a) Employers eligible to enroll in the program include
52 those employers:

53 ~~1. Employers~~ that meet criteria established by the
54 corporation and elect to make their employees eligible through
55 the program.

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



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57 ~~3. Municipalities having populations of fewer than 50,000~~
58 ~~residents.~~

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

60 ~~5. Statutory rural hospitals.~~

61 (b) Individuals eligible to participate in the program
62 include:

63 1. Individual employees of enrolled employers.

64 2. Other individuals that meet criteria established by the
65 corporation ~~State employees not eligible for state employee~~
66 ~~health benefits.~~

67 ~~3. State retirees.~~

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

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

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

75 1. Submission of required information.

76 2. Authorization for payroll deduction.

77 3. Compliance with federal tax requirements.

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

79 5. Selection of products and services.

80 (f) Vendors who choose to participate in the program may
81 enroll by complying with the procedures established by the
82 corporation. These procedures may include, but are not limited
83 to:

84 1. Submission of required information, including a complete
85 description of the coverage, services, provider network, payment



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86 restrictions, and other requirements of each product offered
87 through the program.

88 2. Execution of an agreement to comply with requirements
89 established by the corporation.

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

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

96 5. Arrangements for receiving payment for enrolled
97 participants.

98 6. Participation in ongoing reporting processes established
99 by the corporation.

100 7. Compliance with grievance procedures established by the
101 corporation.

102 (7) THE MARKETPLACE PROCESS.—The program shall provide a
103 single, centralized market for purchase of health insurance,
104 health maintenance contracts, and other health products and
105 services. Purchases may be made by participating individuals
106 over the Internet or through the services of a participating
107 health insurance agent. Information about each product and
108 service available through the program shall be made available
109 through printed material and an interactive Internet website. A
110 participant needing personal assistance to select products and
111 services shall be referred to a participating agent in his or
112 her area.

113 (b) Initial selection of products and services must be made
114 by an individual participant within the applicable open



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115 ~~enrollment period 60 days after the date the individual's~~
116 ~~employer qualified for participation. An individual who fails to~~
117 ~~enroll in products and services by the end of this period is~~
118 ~~limited to participation in flexible spending account services~~
119 ~~until the next annual enrollment period.~~

120 (10) EXEMPTIONS.—

121 (c) Any standard forms, website design, or marketing
122 communication developed by the corporation and used by the
123 corporation, or any vendor that meets the requirements of s.
124 408.910(4)(f) is not subject to the Florida Insurance Code, as
125 established in s. 624.01.

126 Section 2. Section 408.9105, Florida Statutes, is created
127 to read:

128 408.9105 Health Choice Plus Program.—

129 (1) LEGISLATIVE INTENT.—The Legislature recognizes that
130 there are more than 600,000 uninsured residents in this state
131 who have incomes at or below 100 percent of the federal poverty
132 level. Many insurance options are not affordable, and the
133 Legislature intends to provide a benefit program to those
134 individuals who seek assistance with coverage and who assume
135 individual responsibility for their own health care needs. It is
136 therefore the intent of the Legislature to expand the services
137 provided by the Florida Health Choices Program and begin the
138 phase-in of the Health Choice Plus Program starting July 1,
139 2013. The Health Choice Plus Program shall:

140 (a) Use the existing infrastructure and governance of
141 Florida Health Choices, Inc., to manage the program described in
142 this section.

143 (b) Offer goods and services to individuals who are between



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144 19 to 64 years of age, inclusive.

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

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

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

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

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

159 (f) Provide a secure website to facilitate the purchase of
160 goods and services and to provide public information about the
161 program. The website must also provide information about the
162 availability of insurance affordability programs targeted at
163 this population.

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

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

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

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

171 (c) "Corporation's marketplace" means the single,
172 centralized market established by the corporation which



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173 facilitates the purchase of products made available in the
174 marketplace.

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

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

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

188 (g) "Lawful permanent resident" means a non-United States
189 citizen who resides in the United States under legally
190 recognized and lawfully recorded permanent residence as an
191 immigrant. This individual may also be known as a permanent
192 resident alien.

193 (h) "Parent" or "caretaker relative" means an individual
194 who is a relative that has primary custody or legal guardianship
195 of a dependent child and provides the primary care and
196 supervision of that dependent child in the same household. A
197 caretaker relative must be related to the dependent child by
198 blood, marriage, or adoption within the fifth degree of kinship.

199 (i) "Patient Protection and Affordable Care Act" or "PPACA"
200 means the federal law enacted as Pub. L. No. 111-148, as further
201 amended by the federal Health Care and Education Reconciliation



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202 Act of 2010, Pub. L. No. 111-152, and any amendments.

203 (j) "Program" means the Health Choice Plus Program
204 established under this section.

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

207 (3) ELIGIBILITY.—

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

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

212 2. Have a modified adjusted gross income that does not
213 exceed 100 percent of the federal poverty level based on the
214 individual's most recent federal tax return, or if the
215 individual did not file a tax return, the individual's most
216 recent monthly income.

217 3. Be a United States citizen or a lawful permanent
218 resident.

219 4. Be ineligible for Medicaid.

220 5. Be ineligible for employer-sponsored insurance coverage.
221 If the enrollee is eligible for employer-sponsored coverage but
222 the cost of that coverage for the enrollee's share for
223 individual coverage would exceed 5 percent of the enrollee's
224 total modified adjusted gross household income or the enrollee's
225 share of family coverage would exceed 5 percent of enrollee's
226 total modified adjusted gross household income, the enrollee is
227 not considered eligible for employer-sponsored coverage for
228 purposes of this section.

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



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231 (b) In addition to the requirements in paragraph (a), an
232 enrollee must meet the following categorical requirements in
233 order to maintain enrollment in the program:

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

236 a. Maintain enrollment in Medicaid or CHIP for any
237 dependent child in the household who is eligible for Medicaid or
238 CHIP and who must be enrolled in Medicaid or CHIP throughout the
239 enrollee's participation in the Health Choice Plus Program.

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

243 c. Schedule and keep at least one preventive visit with a
244 primary care provider within 6 months after enrollment and
245 repeat the preventive visit at least once every 18 months
246 thereafter.

247 d. Provide proof of employment for at least 20 hours a week
248 or proof of efforts made to seek employment. In lieu of
249 employment, the enrollee may provide proof of volunteering for
250 at least 10 hours a month at a school or at a nonprofit
251 organization or enrollment as a full-time student at an
252 accredited educational institution. Exceptions to this
253 requirement may be made on a case-by-case basis for medical
254 conditions for an enrollee or if the enrollee is the primary
255 caretaker for a family member who has a chronic and severe
256 medical condition that requires a minimum of 40 hours a week of
257 care.

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



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260 a. Provide proof of employment for at least 20 hours a week
261 or proof of efforts made to seek employment. In lieu of
262 employment, the enrollee may provide proof of volunteering for
263 at least 20 hours a month at a school or at a nonprofit
264 organization or enrollment as a full-time student at an
265 accredited educational institution. Exceptions to this
266 requirement may be made on a case-by-case basis for medical
267 conditions for the enrollee or if the enrollee is the primary
268 caretaker for a family member who has a chronic and severe
269 medical condition that requires a minimum of 40 hours a week of
270 care.

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

274 c. Schedule and keep at least one preventive visit with a
275 primary care provider within the first 6 months after enrollment
276 and repeat the preventive visit at least once every 18 months
277 thereafter.

278
279 If the enrollee fails to meet the requirements specified in this
280 subsection, the enrollee is disenrolled from the program at the
281 end of the month in which the enrollee fails to meet the
282 requirements. The enrollee may receive one 30-day extension to
283 comply before cancellation of coverage. If an enrollee's
284 coverage is canceled, the enrollee may not reapply for coverage
285 until the next open enrollment period or 90 days after
286 cancellation of coverage occurs, whichever occurs later. The
287 individual's reenrollment is subject to available funding.

288 (4) ENROLLMENT.-



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

294 (b) Subject to available funding, the corporation shall
295 establish at least one open enrollment period each year. When
296 the program is full based on available funding, enrollment must
297 cease.

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

301 (5) HEALTH BENEFITS ACCOUNT.—

302 (a) A health benefits account is established for each
303 enrollee upon confirmation of eligibility in the program. The
304 corporation shall determine the deposit amount and frequency of
305 deposits based on the availability of funds, the number of
306 enrollees, and other factors.

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

310 1. The corporation shall establish disenrollment criteria
311 for failure to pay the required minimum contribution.

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

316 3. The enrollee's employer may contribute toward an
317 employee's health benefits account under the program, including



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318 making the enrollee's required contribution, in whole or in
319 part, to the enrollee's health benefits account at any time.

320 (c) Subject to appropriations available for this specific
321 purpose, the corporation shall establish a procedure for the
322 deposit of supplemental or bonus funds into an enrollee's health
323 benefits account if certain healthy living performance goals are
324 achieved. These goals must be established no later than July 1
325 in each fiscal year and distributed to all enrollees, published
326 on the corporation's website, and distributed to new enrollees
327 within 30 calendar days after enrollment. For the 2014 calendar
328 year, the goals must be established no later than October 1,
329 2013.

330 1. An enrollee may use funds deposited in a health benefits
331 account to offset other health care costs or to purchase other
332 products and services offered by the marketplace, subject to
333 guidelines established by the corporation and in accordance with
334 federal law.

335 2. Bonus funds may accumulate in the enrollee's health
336 benefits account for the duration of the program and must
337 automatically expire and return to the corporation upon the
338 termination of the program.

339 (d) The marketplace is encouraged to use existing community
340 programs and partnerships to deliver services and to include
341 traditional safety net providers for the delivery of services to
342 enrollees, including, but not limited to, rural health clinics,
343 federally qualified health centers, county health departments,
344 emergency room diversion programs, and community mental health
345 centers. A health care entity that receives state funding must
346 participate in the Health Choice Plus Program and offer services



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347 or products through the marketplace or to enrollees, as
348 appropriate. An enrollee may be required to make nominal
349 copayments to providers for nonpreventive services. The
350 corporation may establish the amount of the copayments when
351 applicable.

352 (e) Except for supplemental funds described under paragraph
353 (c), funds deposited in a health benefits account belong to the
354 enrollee when deposited and are available for health-care-
355 related expenditures, including, but not limited to, physician's
356 fees, hospital costs, prescriptions, insurance premium payments,
357 copayments, and coinsurance. The corporation shall establish a
358 process or contract with another entity for the management of
359 the funds. The process must ensure the timely distribution and
360 the appropriate expenditure of the state's contributions.

361 (f) The corporation shall establish a refund process for an
362 enrollee who requests the closure of a health benefits account
363 and the return of any unspent individual contributions. The
364 enrollee may be refunded only those funds that the enrollee or
365 employer has contributed to his or her health benefits account.
366 All other state funds in the enrollee's health benefits account
367 revert to the corporation.

368 (6) FUNDING.—

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

373 (b) The corporation may accept state and federal funds to
374 further subsidize the costs of coverage and to administer the
375 program.



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

378 (d) An assessment on vendors that participate in the
379 marketplace may be used to fund the administration of the
380 program.

381 (7) SERVICES.—The corporation shall manage the health
382 benefits accounts and provide a marketplace of options from
383 which an enrollee may also use his or her health benefits
384 account to purchase individual services and products, including,
385 but not limited to, discount medical plans, limited benefit
386 plans, health flex plans, individual health insurance plans,
387 prepaid health clinic plans, bundled services, or other prepaid
388 health care coverage.

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

390 (a) To the extent that funds are made available for this
391 purpose, an enrollee is rewarded for achieving a healthy
392 lifestyle and using preventive health care services
393 appropriately.

394 (b) The program shall post on its website, by July 1 of
395 each fiscal year, a list of optional healthy living performance
396 goals and the proposed incentives for achievement of each goal.
397 The corporation shall establish a procedure for the
398 documentation of such goals, timeframes for achievement of the
399 optional goals, and the payment of supplemental amounts into an
400 enrollee's health benefits account, subject to available
401 funding.

402 (c) Bonus payments for achieving a healthy living
403 performance goal shall be paid into an enrollee's health
404 benefits account at the end of the quarter in which the goal is



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405 achieved. The amount of the payment is based upon the schedule
406 posted by the program on July 1 of that fiscal year.

407 (9) LIABILITY.—Coverage under the Health Choice Plus
408 Program is not an entitlement, and a cause of action does not
409 arise against the state, a local governmental entity, any other
410 political subdivision of the state, or the corporation or its
411 board of directors for failure to make coverage under this
412 section available to an eligible person or for discontinuation
413 of any coverage.

414 (10) PROGRAM EVALUATION.—The corporation shall include
415 information about the Health Choice Plus Program in its annual
416 report under s. 408.910. The corporation shall complete and
417 submit by January 1, 2016, a separate independent evaluation of
418 the effectiveness of the Health Choice Plus Program to the
419 Governor, the President of the Senate, and the Speaker of the
420 House of Representatives.

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

424 Section 3. The sum of \$15,275,000 from the General Revenue
425 Fund is appropriated to the Agency for Health Care
426 Administration beginning in the 2013-2014 fiscal year to provide
427 funding for the Health Choice Plus Program within Florida Health
428 Choices, Inc., and to fund the corporation's administrative
429 costs necessary for implementing and operating the program.

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