

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1476

SPONSOR: Health, Aging and Long-Term Care Committee and Senator Dawson

SUBJECT: The Florida Kidcare Act

DATE: April 11, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Liem	Wilson	HC	Favorable/CS
2.	_____	_____	BI	_____
3.	_____	_____	AHS	_____
4.	_____	_____	AP	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The Committee Substitute for Senate Bill 1476 makes changes to Florida’s Kidcare program. The bill removes a restriction on enrollment in MediPass to counties with fewer than two managed care plans. The bill eliminates restrictions on participation in Kidcare by children not eligible for federal matching funds, permitting these children to be enrolled using state funds. The bill expands the types of entities permitted to perform presumptive eligibility, establishes 12-month continuous eligibility for children enrolled in Kidcare, requires all children in Kidcare to be provided a “medical home” and requires the implementation of uniform Kidcare provider standards.

The bill requires the agencies involved in Kidcare to plan for and implement a single eligibility determination process for all program components by October 1, 2001, requires a uniform Kidcare card, and requires automatic transfer of children between components if they lose eligibility for one component and are eligible for another. The transition between program components must be without any gaps if required premiums are paid. The bill expands Medicaid for children up to 19 years of age to 133 percent of the Federal Poverty Level (FPL), transferring children from coverage under the Healthy Kids Corporation to Medicaid, and expands Medicaid eligibility from 185 percent to 200 percent of FPL for pregnant women, allowing presumptive eligibility for these applicants.

The bill removes the ability of the Healthy Kids Corporation to establish eligibility criteria for participation in the Healthy Kids program, establish penalties or waiting periods for reinstatement in the instance of nonpayment of premiums, plan and implement its own publicity (requiring the Healthy Kids Corporation to participate in Kidcare marketing), establish a maximum number of participants who may enroll without local matching funds, and require

local matching funds for supplemental enrollment. The bill requires the Healthy Kids Corporation to establish year-round enrollment.

The bill amends ss. 409.811, 409.8132, 409.814, 409.818, 409.904, and 624.91, F.S.; creates s. 409.81753, F.S.

## **II. Present Situation:**

Florida's Kidcare program was created by the 1998 Legislature to make affordable health insurance available to low and moderate-income Florida children. Kidcare is an umbrella program that currently includes the following four components: Medicaid for children; Medikids; Florida Healthy Kids; and the CMS network, which includes a behavioral health component.

Federal law identifies children who are not eligible for participation in the Title XXI program. Specifically excluded are children who: are eligible for the Medicaid program under the categorical eligibility criteria in effect on April 15, 1997; are dependants of a public agency employee who is eligible for coverage under a state health benefit plan; have other health insurance coverage; do not meet the definition of a qualified alien; or are inmates of public institutions or institutions for mental diseases.

### ***The Medicaid Program***

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The program is jointly funded by the federal government, the state, and the counties. The federal government, through law and regulations, has established extensive requirements for the Medicaid program. Under the Florida Medicaid program the match rate is 56 percent federal and 44 percent state funding. The Title XXI program established an enhanced federal match of 69 percent federal and 31 percent state funding. The Agency for Health Care Administration (AHCA or agency) is the single state agency responsible for the Florida Medicaid program. The statutory provisions for the Medicaid program appear in ss. 409.901 through 409.9205, F.S.

For children, Medicaid covers a comprehensive range of services, subject to a determination of medical necessity. As of March 2001, 969,529 children were enrolled in Florida's Medicaid program; approximately 14,000 of these children were covered by Title XXI funding at the enhanced federal match rate.

The federal Title XXI law allows states to implement presumptive eligibility for Medicaid for children up to age 19. Presumptive eligibility for Medicaid allows a child to start receiving covered services during the period while the full eligibility determination process is taking place. By federal law, states have up to 45 days to determine whether a person qualifies for Medicaid.

Title XXI allows states to implement up to 12 months of continuous Medicaid coverage without eligibility redetermination for children up to age 19. The 1998 Legislature authorized 6 months of continuous eligibility for children ages 5 to 19, effective July 1, 1998. Effective January 1, 1999, children from birth to age 5 who become eligible for Medicaid have 12 months of continuous eligibility. By granting children eligibility for up to one year without regard to

changes in circumstances, states can minimize the burden on families seeking to maintain coverage for their children. In addition, continuous eligibility can minimize coverage losses among children that occur because families are in financial transition and because recertification requirements impose barriers to continued participation.

### ***Medikids***

Medikids is a Medicaid Alook-alike@program. Unlike Medicaid, Medikids is not an entitlement program. Medikids provides the Medicaid benefit package (except for waivers), uses the Medicaid administrative infrastructure, pays Medicaid reimbursement rates, and uses Medicaid providers, with one exception. Medicaid enrollees may choose MediPass (a primary care case management program) or a Medicaid HMO in any Florida county. Medikids enrollees, however, may only select a MediPass provider in counties with fewer than two Medicaid-participating HMOs.

Families make their HMO or MediPass selection through the agency's abbreviated choice counseling process. Families receive a letter notifying them of their health care provider choices and requesting that a choice be made within 14 days. Agency staff follow up a total of three times with families to encourage them to make a choice. Unlike Medicaid beneficiaries, children applying for Medikids cannot receive any health benefits until they have made a provider choice and are officially enrolled in the Medikids program. Also unlike Medicaid, there is no provision for making a mandatory assignment of a child whose family does not make a voluntary choice.

During its first year of operation, the Medikids program was limited to three open enrollment periods, for a total of 150 days. Special enrollments are available at any time (provided enrollment spaces are available) to newborns, children who lose eligibility for Medicaid, and Medikids-enrolled children who move to another county outside their provider service area. Current law allows AHCA to designate open enrollment periods after the first year of the program; the agency currently is offering year-round open Medikids enrollment. As of January 1, 2000, the enrollment in Medikids was 15,341 children.

A child who is eligible for Medikids may participate in Healthy Kids if the child has a sibling in Healthy Kids and the child's county of residence permits such participation.

### ***Healthy Kids***

The Florida Healthy Kids program is administered by the non-profit Florida Healthy Kids Corporation (FHKC), established in s. 624.91, F.S. The Florida Healthy Kids program existed prior to the implementation of the federal Title XXI child health insurance program. Florida was one of three states to have the benefit package of an existing child health insurance program (Healthy Kids) grandfathered in as part of the Balanced Budget Act of 1997. Since its inception, the FHKC has administered the Healthy Kids program with open and closed enrollment periods. The Florida Healthy Kids program is the largest non-entitlement program under the Florida Kidcare Act. As of January 1, 2000, Healthy Kids had contracts for providers in all Florida counties. In addition to its Title XXI-subsidized population, Healthy Kids also covers children who do not qualify for Title XXI subsidies. Of the total Healthy Kids caseload on January 1, 2000, of approximately 106,000 children, about eight percent were children who were income

eligible for Title XXI, but who were non-qualified aliens, children of state employees, or 19 year olds. Healthy Kids receives no federal Title XXI funding for these children. The 1998 Legislature authorized the FHKC board to establish enrollment slots to ensure the program did not exceed enrollment ceilings.

The Florida Healthy Kids program operates with a combination of local, state, and federal dollars, and family contributions. Section 624.91(2)(b), F.S., states that it is the intent of the Legislature that state and local government Florida Healthy Kids funds, to the extent permissible under federal law, be used to obtain matching federal dollars. Healthy Kids has required counties to contribute funds to support the health insurance subsidy for families since 1993; in fact, the original concept of the program was that state monies were to be considered seed funds, which would eventually be supplanted entirely by local funds. Early Healthy Kids Corporation contracts for local programs required counties in which the program operated to develop a plan to gradually increase county matching contributions from a base amount of 5 percent of total program costs, with a goal of eventually funding local program operations 100 percent from local funds.

Under early Healthy Kids program requirements, local matching funds could be obtained from any source: local tax dollars, providers who had traditionally provided charity care to indigent individuals, charitable contributions and other sources. In the original implementation of the program in the early 1990s, traditional providers of indigent care, particularly hospitals, often contributed local match using funds which had traditionally supported the provision of care to indigent children, since providing these children with health care coverage and the ability to secure regular preventive care was both a more economical and a more humane way to meet these children's health care needs.

At the time of implementation of Florida's Title XXI expansion of Healthy Kids, approximately \$7,000,000 in local matching funds were committed to the program. Restrictions on provider donations for Title XXI required the Healthy Kids program to review the sources of local matching funds. Between April and July, 1998, the corporation began asking counties to certify that local match contained no provider funds. In October, 1999, the corporation received a confirmation from the federal Health Care Financing Administration (HCFA), which clarified that funds received from providers of health care or related entities could not be used as match for Title XXI purposes. Beginning in January, 2000, the corporation began auditing local contributions to document that local matching commitments were not provider-related donations. This change has meant that local governments, which have previously relied on provider funds to meet local match commitments, have had to find other sources to fund these commitments.

Section 624.91(4)(b)15, F.S., requires the Healthy Kids board of directors to establish a maximum number of children who may enroll in the program in each county without benefit of local match. The corporation refers to these as free slots. In 1998, the Healthy Kids board established a policy that in each county where the program operated, the county would receive an allocation of free slots equal to 10% of that county's enrollment, or 200 slots, whichever was greater. In May, 1999, the corporation increased the base number of free slots to 500. Currently, local governments contribute over \$11,000,000 to the Healthy Kids program. These funds leverage up to \$59,000,000 in federal matching funds, allowing coverage for an additional 50,000 children.

The 2000 Legislature included funding for a dental benefit package in counties that continue their commitment to provide local match in excess of \$4,000. The General Appropriations Act for FY 2000-2001 contained proviso language that stated:

“In the event current local match levels are not met by counties the Healthy Kids program shall freeze admissions in those counties which do not meet their local match commitments and requirements and begin reducing enrollment through attrition to reach the equivalent value of lost local, state, and associated federal matching funds.”

***Legislatively Mandated Review of Local Match Requirements***

The 2000-01 General Appropriations Act specific appropriation 192A contained proviso directing the Florida Healthy Kids Corporation to conduct a review of current local match requirements and develop a recommendation for a multi-year proposal related to the reduction of local match. The final report was submitted November 30, 2000, and contained the following recommendations:

- The number of children covered under the program should be maintained.
- Current healthcare and dental benefits levels should be maintained.
- Counties should continue to have the ability to enhance benefits and coverage.
- “Base slots” should be reinstated based on population estimates.
- For those counties that expand coverage above base slots, the local match contribution should be structured in a three-tier fashion that recognizes a county’s economic base.
- A three-year schedule for implementing the voluntary local match contribution is recommended.

By year three the recommended percentage of local match contributions is 2 percent for counties with the lowest economic base, six percent for counties with a moderate economic base, and 10 percent for counties with the highest economic base.

***Federal Poverty Level***

The federal poverty guidelines (often referred to as the Federal Poverty Level or FPL) are issued each year in the Federal Register by the Department of Health and Human Services. The guidelines are a simplification of the poverty thresholds used for administrative purposes, such as determining financial eligibility for certain federal programs. The 2001 poverty guidelines were published in the February 16, 2001, Federal Register. The chart below contains the guidelines for family sizes of one to four persons and displays the income levels at 200 percent and 250 percent of the poverty guidelines.

Family Size	FPL	200% FPL	250% FPL
1	\$ 8,590	\$17,180	\$21,475
2	\$11,610	\$23,220	\$29,025
3	\$14,630	\$29,260	\$36,575
4	\$17,650	\$35,300	\$44,125

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 409.811, F.S., to define the Kidcare program to clarify that any child enrolled in Medicaid is a participant in the Florida Kidcare program, regardless of whether the child was enrolled using the simplified application process or as a result of receiving other public benefits.

**Section 2.** Amends s. 409.8132, F.S., to remove a restriction that limits MediPass as a choice under Kidcare to participants in counties with fewer than two managed care plans.

**Section 3.** Amends s. 409.814, F.S., to: allow other entities in addition to the Florida Healthy Kids Corporation to be designated as entities to conduct presumptive eligibility determinations; remove the prohibition on children of state employees participation in Kidcare; remove the prohibition on premium assistance in employer-sponsored coverage for children who have had less than a 6 month gap in such coverage; remove the prohibition on participation in Kidcare by unqualified aliens; allow participation, using state or other funds, by children who are ineligible for federal matching funding under Title XIX or XXI; provide 12-month continuous eligibility; and require a seamless transition between Kidcare program components.

**Section 4.** Creates s. 409.81753, F.S., to require that all children in the Kidcare program have a medical home, and that the Department of Health develop and implement uniform provider standards to be applied to all Kidcare components, in consultation with the Florida Healthy Kids Corporation.

**Section 5.** Amends s. 409.818, F.S., to require: all agencies implementing the Kidcare program to administer the program to provide a seamless system and continuity of care; a uniform Kidcare identification card; children becoming ineligible for one Kidcare program component to be assessed for possible eligibility in other components and transferred automatically if eligible; and departments involved in administering the program to jointly develop a plan for a single process and a single contractor to perform Kidcare eligibility determination. The single eligibility determination process is required to facilitate the timely enrollment of eligible children, transitions between program components, and allow for pre-enrollment of unborn children into Medicaid. The Department of Health is to coordinate development of the single eligibility process, and the procurement of a third party administrator with whom the program components are to contract to perform eligibility functions. An interim progress report is required by February 1, 2002, and implementation is required by June 30, 2002. The section expands eligibility spans to allow 12-month continuous eligibility for all Kidcare participants. The section requires that rules adopted by the Agency for Health Care Administration comply with Title XXI of the Social Security Act.

**Section 6** Amends s. 409.904, F.S., to expand Medicaid eligibility for children up to the age of 19 from 100 percent to 133 percent of the Federal Poverty Level; require that these children be offered the opportunity to be made presumptively eligible in accordance with federal law by any entity authorized under federal law; expand continuous eligibility under Medicaid from 6 to 12 months; expand Medicaid eligibility for pregnant women for the duration of pregnancy and the postpartum period from 185 percent to 200 percent FPL; and require these women to be offered the opportunity to be made presumptively eligible in accordance with federal law by any entity

authorized under federal law. This section deletes provisions exempting children under 1 year of age from an assets test and a requirement that these children be offered the opportunity to be made presumptively eligible.

**Section 7.** Amends s. 624.91, F.S., to remove legislative intent that the Healthy Kids Corporation use local government funds to draw down matching federal funds; allow the Healthy Kids Corporation to arrange for the collection of voluntary local contributions; remove authorization for the Healthy Kids Corporation to establish eligibility criteria which children must meet to participate in the program; remove the requirement for the Healthy Kids Corporation to establish penalties or waiting periods on reinstatement of enrollment for non-payment of premiums; remove authorization for establishment of special enrollment periods for children who have lost coverage in another Kidcare component; remove authorization for the Healthy Kids program to develop and implement its own marketing plan, replacing this with authorization to participate in the development and implementation of the overall Kidcare marketing program; and add authorization for the Healthy Kids Corporation to enter into contracts with federally approved entities to provide services necessary for the operation of the corporation.

**Section 8.** Provides an effective date of October 1, 2001.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The provisions of this bill have no impact on municipalities and the counties under the requirements of Art. VII, s. 18 of the Florida Constitution.

##### **B. Public Records/Open Meetings Issues:**

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Art. I, s. 24(a) and (b) of the Florida Constitution.

##### **C. Trust Funds Restrictions:**

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Art. III, s. 19(f) of the Florida Constitution.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The elimination of the local match requirement will make it easier to enroll children statewide in the Florida Healthy Kids program. County matching requirements impose a limit on enrollment, depending on the ability and/or willingness of counties to provide the matching funds.

**C. Government Sector Impact:**

The fiscal impact of the bill has not been completed at this time, however, the impact of some of the provisions of the bill are estimated (based on prior year Legislative analyses and studies, and information provided by the Healthy Kids Corporation) as follows:

Loss of family contributions due to conversion of Healthy Kids enrollees to Medicaid	\$7 million
Enrollment of state employee dependants	\$1.6 million
Enrollment of non-qualified aliens	\$12.9 million
12-month eligibility	\$36.9 million
Medicaid expansion for pregnant women to 200% FPL	\$10.3 million
<u>Elimination of local matching funds</u>	<u>\$11.7 million</u>
<b>Total</b>	<b>\$80.4 million</b>

**VI. Technical Deficiencies:**

Section 4 of the bill requires the Department of Health to develop uniform provider standards for all Kidcare program components, including Medicaid for children. The Department of Health has indicated that the requirement is problematic, since this definition may encompass provider types regulated elsewhere in statutes or rules, and is beyond the scope and current expertise of the Department. The Department believes that the bill does not give the Department authority to implement such standards in rule. In addition, section 624.91, F.S., requires the Healthy Kids Corporation to develop, with consultation from appropriate professional organizations, standards for providers appropriate for children. Section 4 requires, but does not define a “medical home”.

Section 5 of the bill requires but does not define a “seamless system”. Section 5 requires the departments involved in administering the Kidcare program to jointly develop a plan for a single eligibility process to perform Kidcare eligibility determination and implement the plan by June 30, 2002. The Department of Health is to coordinate the development of this process and its procurement. Subsequent paragraphs of existing statutes delegate the responsibility for establishing and maintaining the eligibility determination process to the Department of Children and Family Services and to the Healthy Kids Corporation. The bill should be revised to eliminate this conflict. Section 5 requires that rules adopted by the Agency for Health Care Administration be in compliance with Title XXI of the Social Security Act. The bill should be amended to clarify that rules adopted should be in compliance with federal rules promulgated pursuant to Title XXI of the Social Security Act.

Section 6 eliminates presumptive Medicaid Eligibility for children under 1 year of age, and subjects these children to an asset test.

Section 7 of the bill removes the authority of the Healthy Kids Corporation to establish eligibility criteria for its program and set enrollment periods. These provisions were authorized by the 1998 Legislature to authorize the FHKC board to establish enrollment slots to ensure the program did not exceed enrollment ceilings. By eliminating these provisions the corporation is left with no ability to limit enrollment, which may cause it to expend funds beyond its appropriation.

**VII. Related Issues:**

The requirement in Section 5 for a single Kidcare card to document eligibility does not recognize the fact that Medicaid recipients receive a separate Medicaid card that is used to access services through that program. Healthy Kids participants receive identification cards through the health plan serving their county. Additional cards would have little practical value and may be confusing to providers.

Section 7 of the bill removes authorization for the Healthy Kids Corporation to establish penalties or waiting periods on reinstatement of enrollment for non-payment of premiums. The provisions in current statutes allowing enrollment penalties or waiting periods after non-payment of premiums in the Healthy Kids program were enacted to prevent participants from dropping out of the program when their children were healthy and re-enrolling when their children required medical care. The Healthy Kids Corporation reports that this provision has been effective in reducing the percentage of accounts that are cancelled each month due to non-payment of premiums.

**VIII. Amendments:**

None.