

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1365 CS Florida Healthy Kids Corporation Act
SPONSOR(S): Davis, M. and others
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 2050

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Future of Florida's Families Committee	6 Y, 0 N, w/CS	Davis	Collins
2) Health Care Appropriations Committee			
3) Health & Families Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1365 changes eligibility requirements in the Florida KidCare Program to allow a child who is an alien, but does not meet the definition of qualified alien, and a child who is eligible for coverage under a state health benefit plan to receive non-federal premium assistance through the program's components. The bill repeals the requirement of local match for non-federal premium assistance.

The bill directs the Agency for Health Care Administration (AHCA) to pursue a federal waiver to increase the financial eligibility threshold for Title XXI premium assistance to up to 300 percent of the federal poverty level (FPL). The bill defines the maximum income threshold for federal premium assistance at a minimum of 200 percent of the FPL until an approved federal waiver authorizes a higher threshold.

The bill allows health and dental plans participating in the Healthy Kids Program to market the program in certain situations and clarifies that the Florida Healthy Kids Corporation may release certain information concerning a child's application to parents or legal guardians of the child.

See Fiscal Comments section of bill analysis for fiscal impact information.

The bill shall take effect on July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower Families: This bill strengthens families as eligibility criteria are expanded for the Florida KidCare program.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

State Children's Health Insurance Program

The State Children's Health Insurance Program (SCHIP), enacted as part of the Balanced Budget Act of 1997, created Title XXI of the Social Security Act, which provides insurance to uninsured children in low-income families either through a Medicaid expansion, a separate children's health program, or a combination of both. SCHIP was designed as a federal/state partnership, similar to Medicaid, with the goal of expanding health insurance to children whose families earn too much money to be eligible for Medicaid, but not enough money to purchase private insurance. SCHIP is the single largest expansion of health insurance coverage for children since the initiation of Medicaid in the mid-1960s.

Congress set aside approximately \$40 billion over 10 years (1998 through 2007) for states to expand health insurance coverage for millions of children. Under SCHIP, the federal government provides a capped amount of funds to states on a matching basis. For the 2005-06 fiscal year, the federal allocation is \$249,329,871 and the federal matching rate is 71.22 percent.

To be eligible for coverage under Title XXI, a child must meet certain eligibility guidelines. The guidelines require the child to be:

- In a household with an income at or below 200 percent of the FLP (\$40,000 for a family of four in 2006);
- Between the ages of birth through age 18;
- Not the dependant of a state employee eligible for state benefits;
- A U.S. citizen or qualified alien;
- Not an inmate of a public institution or patient in an institution for mental diseases; and,
- Not eligible for Medicaid.

The Florida KidCare Program

The State Children's Health Insurance Program (SCHIP) under Title XXI of the Social Security Act is a federal/state partnership, which provides insurance to uninsured children under age 19 whose family income is above Medicaid limits, but at or below 200 percent of the Federal Poverty Level (FPL). Under SCHIP, the federal government provides a capped amount of funds to states on a matching basis.¹ SCHIP expands insurance coverage for low-income children who do not qualify for Medicaid. Florida's SCHIP eligible children are served in the Florida KidCare Program.

Florida KidCare was created in 1998 to provide health benefits to uninsured children through either SCHIP or Medicaid. The statutory framework for KidCare is delineated in sections 409.810 through 409.821, Florida Statutes. KidCare has four components each with its own eligibility standards:

¹ The federal allocation for FY 05/06 is \$249,329,871 and the federal matching rate is 71.22%.

- Medicaid:
 - Birth to age 1, with family incomes up to 200 percent of the FPL.
 - Ages 1 through 5, with family incomes up to 133 percent of the FPL.
 - Ages 6 through 18, with family incomes up to 100 percent of the FPL.
 - Ages 19 through 20, with family incomes up to 24 percent of the FPL.
 - Total enrollment 1,244,304.
- Medikids:
 - Children ages 1 through 4 with family incomes above 133 percent up to 200 percent of the FPL.
 - Total enrollment: 15,980.
- Healthy Kids:
 - Children age 5, with family incomes above 133 percent up to 200 percent of the FPL.
 - Children age 6 through 18, with family incomes above 100 percent up to 200 percent of the FPL.
 - A limited number of children who have family incomes above 200 percent of the FPL are enrolled in the unsubsidized full-pay option in which the family pays the entire cost of the premium, including administrative costs.
 - Total enrollment: 187,212.
- Children's Medical Services (CMS) Network:
 - Children ages birth through age 18 who have serious health care problems. For Title XXI-funded eligible children with special health care needs, the CMS Network receives a capitation payment from the Agency for Health Care Administration to provide services for them. For children who do not qualify for Title XIX- or Title XXI- funded coverage, services are limited and subject to the availability of funds.
 - Total enrollment 8,118.

2006 Federal Poverty Level

Persons in Family or Household	100%	200%
1	\$ 9,800	19,600
2	13,200	26,400
3	16,600	33,200
4	20,000	40,000
5	23,400	46,800

The Agency for Health Care Administration (AHCA) administers Medicaid and Medikids. AHCA is also the lead state agency for the federally funded portion of the KidCare Program. The Florida Healthy Kids Corporation (FHKC), pursuant to a contract with AHCA, administers the Healthy Kids component. FHKC's responsibilities include eligibility determination, collection of premiums, contracting with authorized insurers, and the development of benefit packages. CMS is under the Department of Health and administers the CMS Network. For Title XXI-funded children with special health care needs, the CMS Network receives a capitated payment from the Agency for Health Care Administration of approximately \$518.00 per child, per month. Children's Medical Services also administers a state-funded "Safety Net" program for children who do not qualify for Title XIX- or Title XXI-funded coverage, but services are limited and subject to the availability of funds.

Section 409.814(5), Florida Statutes, allows a child whose family income is above 200 percent of the FPL or a child that is not eligible for premium assistance as delineated in statute² to participate in

²Section 409.814(4), F.S., also excludes from premium assistance under KidCare the following children unless they are eligible for Medicaid:
 (a) A child who is eligible for coverage under a state health benefit plan on the basis of a family member's employment with a public agency in the state.
 (b) A child who is currently eligible for or covered under a family member's group health benefit plan or under other employer health insurance coverage, excluding coverage provided under the Florida Healthy Kids Corporation as established under s. 624.91, provided that the cost of the child's participation is not greater than 5 percent of the family's income. This provision shall be applied during redetermination for children who were enrolled prior to July 1, 2004. These enrollees shall have 6 months of eligibility following redetermination to allow for a transition to the other health benefit plan.

Medikids and Healthy Kids if the family pays the full premium without any premium assistance. In practice, only Healthy Kids has enrolled children from these families. The Healthy Kids full-pay premium is \$110 per child per month. Medikids has not enrolled children from these. Current law limits the participation of families with income above 200 percent of the FPL to no more than 10 percent of total enrollees in the Medikids or Healthy Kids program to avoid adverse selection.³ Section 409.814(5), Florida Statutes, excludes the Medicaid component of KidCare from the full-pay provision.

There are 15,980 children currently enrolled in Medikids according to the KidCare enrollment report for March 2006. Therefore, the 10 percent cap on full-pay enrollees would limit the number of full-pays in Medikids to 1,598 children.

The differences in the eligibility criteria and ability to offer a full-pay premium option for families with incomes above 200 percent of FPL, has created the potential for confusion. Families may find that they can insure one child but not the other.

Section 624.91(3), F.S., establishes eligibility criteria for state-funded premium assistance in the Healthy Kids program. The following categories are eligible for state-funded premium assistance:

- Residents of Florida who are eligible for the Florida KidCare program pursuant to s. 409.814, F.S.
- Legal aliens, who were enrolled in the Healthy Kids program as of January 31, 2004, and who, because of their alien status, i.e., are not "qualified aliens," do not qualify for Title XXI federal funds.
- Individuals who turned 19 as of March 31, 2004, who were receiving Healthy Kids coverage prior to the enactment of the Florida KidCare program. This provision is repealed March 31, 2005.
- Dependents of state employees who were enrolled in the Healthy Kids program as of January 31, 2004. Such dependents remain eligible until January 1, 2005.

Legislative Commission on Migrant and Seasonal Labor

Originally established in 1970, the Legislative Commission on Migrant and Seasonal Labor (the commission) is responsible for identifying issues, improving conditions and reducing problems affecting migrant and seasonal workers and their families pursuant to s. 450.201, F.S. The commission was somewhat inactive until 2004, when the Legislature renamed the commission and required it to produce a report to the Legislature by February 1 of each year, beginning in 2006.

The commission began meeting in October 2005, to create a forum for discussions of issues of concern to migrant and seasonal laborers and their dependents. The commission heard from various stakeholders with an interest in migrant and seasonal labor issues, including advocacy groups, agriculture industry representatives, state agency personnel, and the farm workers themselves.

Housing, employment, safety and sanitation, education, transportation, disaster relief, and health care surfaced as the topics of major concern. Concerning health care issues, the commission determined that the ability of migrant and seasonal laborers to receive adequate health care for themselves and their families, especially the children, is an issue of concern. Furthermore, the role of KidCare in

(c) A child who is seeking premium assistance for the Florida KidCare program through employer-sponsored group coverage, if the child has been covered by the same employer's group coverage during the 6 months prior to the family's submitting an application for determination of eligibility under the program.

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

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

(f) A child who has had his or her coverage in an employer-sponsored health benefit plan voluntarily canceled in the last 6 months, except those children who were on the waiting list prior to March 12, 2004.

(g) A child who is otherwise eligible for KidCare and who has a preexisting condition that prevents coverage under another insurance plan as described in paragraph (b) which would have disqualified the child for KidCare if the child were able to enroll in the plan shall be eligible for KidCare coverage when enrollment is possible.

³ Adverse selection occurs when too many children who are likely to incur high medical costs join the same health insurance plan. Adverse selection can cause what insurers refer to as a "death spiral." As more sick children join, the health insurance plan must raise premiums to cover cost. As premiums increase, families with healthier children leave to join less costly plans. The plan is left with only sick children and has difficulty spreading risk to cover their cost and ultimately may fail.

addressing the needs of these workers and their families was discussed as a possible way to address these concerns. As a result, the commission included as one of its final recommendations that they endorse funding of KidCare benefits for all children of migrant and seasonal laborers.

Federal State Children's Health Insurance Program (SCHIP) Waivers

Federal law sets Title XXI income eligibility at 200 percent of the FPL. As SCHIP evolved and grew, a new option became available to the states to expand coverage under the program. Since 2000, the federal government allows states to apply for waivers of the income eligibility threshold so they can increase eligibility over 200 percent of the FPL. The specific authority is a research and demonstration project waiver, authorized by Section 1115 of the Social Security Act, also known as a "Section 1115 waiver." This authority allows the secretary of Health and Human Services to waive certain provisions in the legislation of some "grant-in-aid" programs such as Medicaid - and now SCHIP - to authorize a pilot or demonstration project aimed at promoting the objectives of the program. It also allows the secretary to provide matching funds where such funds normally are not available.

The Centers for Medicare and Medicaid Services (CMS, previously known as the Health Care Financing Administration), released the Section 1115 waiver guidance for SCHIP to states on July 31, 2000. The guidance describes factors to be considered in granting states permission to implement state-devised approaches that ordinarily are not permitted under the SCHIP law in order to meet programmatic goals and objectives and still receive an enhanced match rate. CMS examines the overall state approach instead of basing its decision solely on the criteria provided in the guidance. These demonstration projects can be used to research an issue of interest to CMS, to test a program, or to otherwise fulfill a research purpose. Section 1115 demonstration projects are given five years in which to prove their research and public policy value. The demonstration projects must contain specific objectives and an evaluation component.

Most importantly from a fiscal perspective, all state activities under SCHIP 1115 waivers must be "budget neutral." In the case of SCHIP, this means "allotment neutrality," that is, a state cannot exceed its individual SCHIP funds allotment. Reallocated funds from previously unspent SCHIP allotments do not count toward the available amount. Rules on budget neutrality and funding differ somewhat between SCHIP Medicaid expansions and SCHIP state-designed programs. In the case of Medicaid expansion 1115 waivers, a state could receive funds from a Medicaid amendment or waiver should its SCHIP allotment run out. If an SCHIP demonstration waiver is operated under an SCHIP state-designed program, no more federal funds are available once SCHIP funds are exhausted. Three possible options are generally possible for an SCHIP demonstration waiver. It can: 1) expand benefits and services; 2) expand coverage to new populations; or 3) both.

Expanded services and benefits can be provided to discrete populations as long as these services do not substitute for existing services funded by state or federal money. The two types of additional services are: supplemental services and public health initiatives.

New populations-such as parents of eligible children, pregnant women and children age 18 to 21 otherwise eligible for SCHIP- could be covered under a SCHIP 1115 demonstration waiver. Adults with no children and who are not pregnant will not be considered an eligible population for demonstration projects. Other demonstration waivers that CMS has said it would consider are:

- Extending coverage for children who become ineligible for SCHIP because of their age while in treatment for a specific condition; and
- Proposals to promote enrollment of children eligible for other programs such as the free and reduced school lunch program and the Healthy Start program.

Effect

The bill amends s. 409.811, F.S., adding a definition of "Healthy Kids" as a component of the Florida KidCare program of medical assistance for children 5 through 18 years of age as authorized under s. 624.91, F.S., and administered by the Florida Healthy Kids Corporation. The bill adds a

a definition of the “maximum income threshold” as a percentage of the current FPL used to determine eligibility for certain program components, as approved by federal waiver or an amendment to the state plan.

The bill amends s. 409.8132, F.S., changing the set income eligibility from 200 percent of the FPL to the maximum income threshold and changing a reference to the Health Care Financing Administration to the Centers for Medicare and Medicaid Services.

The bill amends s. 409.8134, F.S., removing references to federal and state funding and removing a reference to funding through 2007.

The bill amends s. 409.814, F.S., changing the set income eligibility from 200 percent of the FPL to the maximum income threshold. The bill specifies groups that are not eligible for federal premium assistance; and specifies the children that are eligible for nonfederal premium assistance, subject to appropriations, including a child that is an alien, but does not meet the definition of qualified alien.

The bill amends s. 409.818, F.S., requiring AHCA to seek approval from CMS for the highest maximum income threshold of up to 300 percent of the FPL. Until the waiver is approved, the maximum income threshold used for the Florida KidCare program shall be 200 percent of the FPL or the highest income threshold allowed under current federal law. Any such expansion under this subsection is subject to a specified appropriation.

The bill amends s. 409.821, F.S., clarifying that the Healthy Kids Corporation may release certain information concerning a child’s application to parents or legal guardians of the child.

The bill amends s. 624.91, F.S., revising eligibility for nonfederal premium assistance in the Florida Healthy Kids program. The bill repeals the requirement for local match for nonfederal premium assistance. The bill also allows participating health and dental plans to develop marketing and other promotional materials and participate in activities, such as health fairs and public events, as approved by the corporation.

C. SECTION DIRECTORY:

Section 1. Amends s. 409.811, F.S., adding a definition of “Healthy Kids” as a component of the Florida KidCare program of medical assistance for children 5 through 18 years of age as authorized under s. 624.91, F.S., and administered by the Florida Healthy Kids Corporation; and a definition of the “maximum income threshold” as a percentage of the current FPL used to determine eligibility for certain program components, as approved by federal waiver or an amendment to the state plan.

Section 2. Amends s. 409.8132, F.S., changing the set income eligibility from 200 percent of the FPL to the maximum income threshold; inserting a cross reference; and changing a reference to the Health Care Financing Administration to the Centers for Medicare and Medicaid Services.

Section 3. Amends s. 409.8134, F.S., removing references to federal and state funding and removing a reference to funding through 2007.

Section 4. Amends s. 409.814, F.S., changing the set income eligibility from 200 percent of the FPL to the maximum income threshold; specifying groups that are not eligible for federal premium assistance; and specifying children that are eligible for nonfederal premium assistance, subject to appropriations, including a child that is an alien, but does not meet the definition of qualified alien, and a child who is eligible for coverage under a state health benefit plan.

Section 5. Amends s. 409.816, F.S., correcting a cross reference.

Section 6. Amends s. 409.818, F.S., requiring AHCA to seek approval from CMS for the highest maximum income threshold of up to 300 percent of the FPL. Until the waiver is approved, the maximum income threshold used for the Florida KidCare program shall be 200 percent of the FPL or the highest income threshold allowed under current federal law. Any such expansion under this subsection is subject to a specified appropriation.

Section 7. Amends s. 409.821, F.S., clarifying that the Healthy Kids Corporation may release certain information concerning a child's application to parents or legal guardians of the child.

Section 8. Amends s. 624.91, F.S., revising eligibility for nonfederal premium assistance in the Florida Healthy Kids program; repealing the requirement for local match for nonfederal premium assistance; allowing participating health and dental plans to develop marketing and other promotional materials and participate in activities, such as health fairs and public events, as approved by the corporation; and allowing plans to contact their enrollees and former enrollees to encourage participation in the Florida Healthy Kids program.

Section 9. The bill takes effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Non-Title XXI children not currently in the Healthy Kids program would benefit under the provisions of this bill because such children could receive benefits under the program.

D. FISCAL COMMENTS:

Representatives with the staff of the FHKC estimate that the fiscal impact of this bill is as set forth below, assuming that new enrollment of non-Title XXI children reaches the same level of enrollment as of March 1, 2004.

ENROLLMENT RETURNED TO MARCH 1, 2004 LEVEL

Projected Expenditures if Enrollment at March 1, 2004 levels (Annualized)

March 1, 2004 Non-Title XXI Enrollment:	13, 703	
Member Months:	164,436	
Estimated Medical Per Member Per Month:		\$105.20
Estimated Dental Per Member Per Month:		\$11.59
Estimated Admin. Per Member Per Month:		\$5.82
TOTAL AMOUNT Per Member Per Month:		\$122.61
TOTAL COSTS:		\$20,161,497.96
LESS FAMILY PREMIUMS:		\$1,442,104.00
NET COSTS TO COVER:		\$18,719,394.24
Local Match -- 30%		\$5,615,818.27
State Match -- 70%		\$13,103,575.97

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority to FHKC.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to representatives with the Florida Healthy Kids program and AHCA, removing the non-Title XXI eligibility criteria under the Healthy Kids program could be interpreted as expanding the opportunity for non-Title XXI children to receive Healthy Kids coverage. Under s. 624.91(2)(b), F.S., it is the intent of the FHKC to provide coverage to children not eligible for federal matching Title XXI funds. The largest category affected under the bill would be legal aliens who do not qualify for Title XXI federal funds because of their alien status, according to AHCA representatives. By removing the current qualification that these children had to have been enrolled in Healthy Kids prior to January 31, 2004, the bill would allow children who have moved to Florida since February 1, 2004, or have become uninsured, the opportunity to receive Healthy Kids coverage. Also, children from families with incomes within 200 percent of the FPL, but who do not meet all of the other technical eligibility factors, would be able to apply for subsidized state coverage.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 5, 2006, the Future of Florida's Families committee adopted a Committee Substitute to HB 1365. The substantive changes made in the Committee Substitute include changing provisions related to the maximum income threshold in the Florida KidCare program and revising provisions relating to the Healthy Kid Corporation. The bill analysis reflects these changes.