

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		Speir	Massengale
3) Health & Families Council			
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

House Bill 1365 does the following:

- Allows illegal and legal aliens to participate in the Florida KidCare Program.
- Allows the children of state employees to participate in the Florida KidCare Program.
- Repeals the local match requirement for non-Title XXI children.
- 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) guidelines.
- Allows health and dental plans participating in the Florida Healthy Kids Program to market the program.
- Allows the Florida Healthy Kids Corporation to release certain information concerning a child's application to parents or legal guardians of the child.

The fiscal impact of this bill is \$55.6 million (\$28 million General Revenue) in Fiscal Year 2006-2007 and \$59.8 million (\$30.4 million General Revenue) in Fiscal Year 2007-2008.

The bill shall take effect on July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government and Promote Personal Responsibility—The bill expands eligibility for state-subsidized health care coverage.

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.

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 2005-2006 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 meet the following criteria:

- In a household with an income at or below 200 percent of the FLP guidelines (\$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.
- Not eligible for Medicaid.

The Florida KidCare Program

The statutory framework for KidCare is delineated in s. 409.810 through 409.821, F.S. KidCare has four components each with its own eligibility standards:

- Medicaid:
 - Birth to age 1, with family incomes up to 200 percent of the FPL guidelines.
 - Ages 1 through 5, with family incomes up to 133 percent of the FPL guidelines.
 - Ages 6 through 18, with family incomes up to 100 percent of the FPL guidelines.
 - Ages 19 through 20, with family incomes up to 24 percent of the FPL guidelines.
- Medikids:
 - Children ages 1 through 4 with family incomes above 133 percent up to 200 percent of the FPL guidelines.

- Healthy Kids:
 - Children age 5, with family incomes above 133 percent up to 200 percent of the FPL guidelines.
 - Children age 6 through 18, with family incomes above 100 percent up to 200 percent of the FPL guidelines.
 - A limited number of children who have family incomes above 200 percent of the FPL guidelines are enrolled in the unsubsidized full-pay option in which the family pays the entire cost of the premium, including administrative costs.

- 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.

2006 Federal Poverty Level Guidelines

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.

Section 409.814(5), F.S., allows a child whose family income is above 200 percent of the FPL guidelines or a child that is not eligible for premium assistance as delineated in statute¹ to participate in KidCare, except Medicaid, if the family pays the full premium without any premium assistance. These children are known as "full-pays." Only Healthy Kids has enrolled full-pays. The Healthy Kids full-pay premium is \$110 per child per month. Current law limits the participation of full-pays to no more than 10 percent of total enrollees in the Florida Healthy Kids program to avoid adverse selection.²

¹Section 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.
- (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.

² 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

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, that is, 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 remained 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.

Health care for the children of migrant and seasonal laborers surfaced as a topic of major concern. The commission recommended the funding of KidCare benefits for all children of migrant and seasonal laborers. This bill attempts to implement that recommendation by making alien children eligible to participate in KidCare.

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

Federal law sets Title XXI income eligibility at 200 percent of the FPL guidelines. 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 guidelines. 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), 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 expand benefits and services; expand coverage to new populations; or 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 the following:

- Extending coverage for children who become ineligible for SCHIP because of their age while in treatment for a specific condition.
- 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 definition of the “maximum income threshold” as a percentage of the current FPL guidelines 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 guidelines to the maximum income threshold and changing a reference to the Health Care Financing Administration to the Centers for Medicare and Medicaid Services.

Year-round open enrollment is conditioned on the Social Service Estimating Conference determining that state and federal funds are sufficient to fund the increased enrollment through federal fiscal year 2007 when SCHIP is scheduled to sunset under federal law. This 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., to change the income eligibility ceiling from 200 percent of the FPL to the maximum income threshold. Section 409.814, F.S., is also amended to allow alien children, both illegal and legal, and children of state employees to participate in KidCare.

The bill requires AHCA to seek approval from CMS for a waiver to increase the income eligibility ceiling to 300 percent of the FPL guidelines. 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 FHKC 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 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 guidelines, but who do not meet all of the other technical eligibility factors, would be able to apply for subsidized state coverage.

FHKC is currently required to establish a local match policy for the enrollment of non-Title XXI children in the Florida Healthy Kids program. At minimum the local match must equal what is required in the General Appropriations Act. The bill repeals the requirement for local match for non-Title XXI children.

The bill 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 FHKC.

C. SECTION DIRECTORY:

Section 1. Amends s. 409.811, F.S., adding a definition of "Healthy Kids"; and a definition of the "maximum income threshold."

Section 2. Amends s. 409.8132, F.S., changing the set income eligibility from 200 percent of the FPL guidelines 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 guidelines 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.

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

Section 6. Amends s. 409.818, F.S., requiring AHCA to seek a federal waiver to increase the income eligibility ceiling.

Section 7. Amends s. 409.821, F.S., clarifying that FHKC 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 market and promote.

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:

<u>Recurring Expenditures</u>	<u>2006-2007</u>	<u>2007-2008</u>
General Revenue Fund	\$28,084,800	\$30,422,980
Grants and Donations Trust Fund	\$ 4,517,440	\$ 4,517,440
Medical Care Trust Fund	<u>\$22,957,864</u>	<u>\$24,884,658</u>
Total Funds	\$55,560,104	\$59,825,078

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments section.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

Health and dental plan providers would receive economic benefit from increased enrollment in their plans.

D. FISCAL COMMENTS:

The expenditures estimate above presumes that the caseload for non-Title XXI children will increase by 13,703 children and that the Legislature will provide an appropriation for these children. Since these children do not receive federal match, the state will have to appropriate general revenue to pay for their health benefits. It is estimated that the cost of the health and dental benefits and administrative costs for these children will be \$18.8 million in Fiscal Year 2006-2007 and \$20.3 million in Fiscal Year 2007-2008.

The expenditure estimate above presumes the federal waiver will be approved. Currently, there are 25,347 full-pay children whose family income is below 300 percent of the FPL guidelines participating in the Florida Healthy Kids program. It is presumed that all these children will be covered by the waiver and the cost of their benefits will be picked up by the state and federal government. The cost to the state is presumed to be \$9.3 million for Fiscal Year 2006-2007 and \$10 million for Fiscal Year 2007-2008. This estimate is probably low because there are more children with family incomes between 200 percent and 300 percent of the FPL guidelines than just those currently participating as full-pays.

Local governments currently contribute to the premium cost to purchase benefits for non-Title XXI children. The proviso in the General Appropriations Act for the current year requires a local match of \$7 million. This bill removes the requirement that local governments contribute to the premium cost to purchase benefits for non-Title XXI children.

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:

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 5, 2006, the Future of Florida's Families committee adopted a Committee Substitute to House Bill 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.