By Senator Rich

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A bill to be entitled An act relating to the Florida Kidcare program; amending s. 409.8132, F.S.; providing that children under the age of 1 may participate in the Medikids program; conforming cross-references; amending s. 409.814, F.S.; requiring that children who are eligible for Kidcare be offered the opportunity to be made presumptively eligible; providing that children who are eligible for a state-sponsored health benefit plan and the subsidized Kidcare program may enroll in the program; providing that an eligible child who is a lawful immigrant may enroll in the Florida Kidcare program regardless of the child's date of entry; conforming provisions to changes made by the act; amending s. 409.815, F.S.; authorizing Kidcare coverage for temporomandibular joint disease; amending s. 409.816, F.S.; conforming cross-references; amending s. 409.818, F.S.; conforming provisions to changes made by the act; amending s. 409.904, F.S.; providing that Medicaid-eligible children are deemed eligible for 12 months of coverage regardless of any change in circumstances; requiring that such children be offered the opportunity to be made presumptively eligible; providing that a pregnant woman is eligible for Medicaid for the duration of her pregnancy and for the postpartum period; amending s. 624.91, F.S., relating to the Florida Healthy Kids Corporation; conforming provisions to changes made by the act; expanding the membership of the board of directors of

the Florida Healthy Kids Corporation; directing the Agency for Health Care Administration to implement the federal Family Opportunity Act; providing an effective date.

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

Section 1. Subsection (6) of section 409.8132, Florida Statutes, is amended to read:

409.8132 Medikids program component.

- (6) ELIGIBILITY.-
- (a) A child who has attained the age of 1 year but who is under the age of 5 years is eligible to enroll in the Medikids program component of the Florida Kidcare program, if the child is a member of a family that has a family income that which exceeds the Medicaid applicable income level as specified in s. 409.903, but which is equal to or below 200 percent of the current federal poverty level. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medikids may elect to enroll in Florida Healthy Kids coverage or employer-sponsored group coverage. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.
- (b) The provisions of s. 409.814(3)-(8) are 409.814(3), (4), (5), and (6) shall be applicable to the Medikids program.

Section 2. Section 409.814, Florida Statutes, is amended to read:

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409.814 Eligibility.—A child who has not reached 19 years of age whose family income is equal to or below 200 percent of the federal poverty level is eligible for the Florida Kidcare program as provided in this section. A child who is eligible under this section must be offered the opportunity to be made presumptively eligible. For enrollment in the Children's Medical Services Network, a complete application includes the medical or behavioral health screening. If, subsequently, an enrolled individual is determined to be ineligible for coverage, he or she must be immediately be disenrolled from the respective Florida Kidcare program component.

- (1) A child who is eligible for Medicaid coverage under s. 409.903 or s. 409.904 must be enrolled in Medicaid and is not eligible to receive health benefits under any other health benefits coverage authorized under the Florida Kidcare program.
- (2) A child who is not eligible for Medicaid, but who is eligible for the Florida Kidcare program, may obtain health benefits coverage under any of the other components listed in s. 409.813 if such coverage is approved and available in the county in which the child resides.
- (3) A Title XXI-funded child who is eligible for the Florida Kidcare program and who is a child with special health care needs, as determined through a medical or behavioral screening instrument, is eligible for health benefits coverage from and shall be assigned to and may opt out of the Children's Medical Services Network.
- (4) A child who is eligible for a state-sponsored health benefit plan through a family member or guardian employed by the state and who meets the eligibility requirements for the

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subsidized Florida Kidcare program may enroll in the subsidized Florida Kidcare program, subject to an appropriation or the availability of local contributions collected pursuant to s. 624.91.

- (5) A child who is an immigrant lawfully residing in the United States and who meets the eligibility requirements for the Florida Kidcare program may enroll in the program regardless of the child's date of entry.
- (6) (4) The following children are not eligible to receive Title XXI-funded premium assistance for health benefits coverage under the Florida Kidcare program, except under Medicaid if the child would have been eligible for Medicaid under s. 409.903 or s. 409.904 as of June 1, 1997:
- (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.
- (a) (b) A child who is covered under a family member's group health benefit plan or under other private or employer health insurance coverage, if the cost of the child's participation is not greater than 5 percent of the family's income. If a child is otherwise eligible for a subsidy under the Florida Kidcare program and the cost of the child's participation in the family member's health insurance benefit plan is greater than 5 percent of the family's income, the child may enroll in the appropriate subsidized Kidcare program.
- (b) (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 60 days before the family submitted

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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.
- $\underline{\text{(c)}}$  (e) A child who is an inmate of a public institution or a patient in an institution for mental diseases.
- (d) (f) A child who is otherwise eligible for premium assistance for the Florida Kidcare program and has had his or her coverage in an employer-sponsored or private health benefit plan voluntarily canceled in the last 60 days, except those children whose coverage was voluntarily canceled for good cause, including, but not limited to, the following circumstances:
- 1. The cost of participation in an employer-sponsored health benefit plan is greater than 5 percent of the family's income;
- 2. The parent lost a job that provided an employer-sponsored health benefit plan for children;
- 3. The parent who had health benefits coverage for the child is deceased;
- 4. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death:
- 5. The employer of the parent canceled health benefits coverage for children;
- 6. The child's health benefits coverage ended because the child reached the maximum lifetime coverage amount;
- 7. The child has exhausted coverage under a COBRA continuation provision;
  - 8. The health benefits coverage does not cover the child's

146 health care needs; or

- 9. Domestic violence led to loss of coverage.
- (7) (5) A child who is otherwise eligible for the Florida Kidcare program and who has a preexisting condition that prevents coverage under another insurance plan as described in paragraph (6) (a) (4) (b) which would have disqualified the child for the Florida Kidcare program if the child were able to enroll in the plan is shall be eligible for Florida Kidcare coverage when enrollment is possible.
- (8) (6) A child whose family income is above 200 percent of the federal poverty level or a child who is excluded under the provisions of subsection (6) (4) may participate in the Florida Kidcare program as provided in s. 409.8132 or, if the child is ineligible for Medikids by reason of age, in the Florida Healthy Kids program, subject to the following provisions:
- (a) The family is not eligible for premium assistance payments and must pay the full cost of the premium, including any administrative costs.
- (b) The board of directors of the Florida Healthy Kids Corporation may offer a reduced benefit package to these children in order to limit program costs for such families.
- (9)(7) Once a child is enrolled in the Florida Kidcare program, the child is eligible for coverage under the program for 12 months without a redetermination or reverification of eligibility, if the family continues to pay the applicable premium. Eligibility for program components funded through Title XXI of the Social Security Act shall terminate when a child attains the age of 19. A child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is

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eligible for coverage for 12 months without a redetermination or reverification of eligibility.

(10) (8) When determining or reviewing a child's eligibility under the Florida Kidcare program, the applicant shall be provided with reasonable notice of changes in eligibility which may affect enrollment in one or more of the program components. If When a transition from one program component to another is authorized, there shall be cooperation between the program components and the affected family which promotes continuity of health care coverage. Any authorized transfers must be managed within the program's overall appropriated or authorized levels of funding. Each component of the program shall establish a reserve to ensure that transfers between components will be accomplished within current year appropriations. These reserves shall be reviewed by each convening of the Social Services Estimating Conference to determine the adequacy of such reserves to meet actual experience.

(11) (9) In determining the eligibility of a child, an assets test is not required. Each applicant shall provide documentation during the application process and the redetermination process, including, but not limited to, the following:

(a) Each applicant's Proof of family income, which must shall be verified electronically to determine financial eligibility for the Florida Kidcare program. Written documentation, which may include wages and earnings statements or pay stubs, W-2 forms, or a copy of the applicant's most recent federal income tax return, are shall be required only if the electronic verification is not available or does not

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substantiate the applicant's income.

- (b) Each applicant shall provide A statement from all applicable, employed family members that:
- 1. Their employers do not sponsor health benefit plans for employees;
- $\frac{2.}{1.0}$  the potential enrollee is not covered by an employer-sponsored health benefit plan; or
- 3. The potential enrollee is covered by an employersponsored health benefit plan and the cost of the employersponsored health benefit plan is more than 5 percent of the
  family's income.
- (12) (10) Subject to paragraph (6) (a) (4) (b), the Florida Kidcare program shall withhold benefits from an enrollee if the program obtains evidence that the enrollee is no longer eligible, submitted incorrect or fraudulent information in order to establish eligibility, or failed to provide verification of eligibility. The applicant or enrollee shall be notified that because of such evidence program benefits will be withheld unless the applicant or enrollee contacts a designated representative of the program by a specified date, which must be within 10 working days after the date of notice, to discuss and resolve the matter. The program shall make every effort to resolve the matter within a timeframe that will not cause benefits to be withheld from an eligible enrollee.
- (13) (11) The following individuals may be subject to prosecution in accordance with s. 414.39:
- (a) An applicant obtaining or attempting to obtain benefits for a potential enrollee under the Florida Kidcare program  $\underline{if}$  when the applicant knows or should have known  $\underline{that}$  the potential

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enrollee does not qualify for the Florida Kidcare program.

(b) An individual who assists an applicant in obtaining or attempting to obtain benefits for a potential enrollee under the Florida Kidcare program <u>if</u> when the individual knows or should have known <u>that</u> the potential enrollee does not qualify for the <u>Florida Kidcare</u> program.

Section 3. Paragraph (f) of subsection (2) of section 409.815, Florida Statutes, is amended to read:

- 409.815 Health benefits coverage; limitations.-
- (2) BENCHMARK BENEFITS.—In order for health benefits coverage to qualify for premium assistance payments for an eligible child under ss. 409.810-409.821, the health benefits coverage, except for coverage under Medicaid and Medikids, must include the following minimum benefits, as medically necessary.
- (f) Outpatient services.—Covered services include preventive, diagnostic, therapeutic, palliative care, and other services authorized by the enrollee's health benefits coverage provider and provided to an enrollee in the outpatient portion of a health facility licensed under chapter 395, except for the following limitations:
- 1. Services must be authorized by the enrollee's health benefits coverage provider; and
- 2. Treatment for temporomandibular joint disease (TMJ) is specifically excluded.
- Section 4. Subsection (3) of section 409.816, Florida Statutes, is amended to read:
- 409.816 Limitations on premiums and cost-sharing.—The following limitations on premiums and cost-sharing are established for the program.

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(3) Enrollees in families with a family income above 150 percent of the federal poverty level who are not receiving coverage under the Medicaid program or who are not eligible under s. 409.814(8) 409.814(7) may be required to pay enrollment fees, premiums, copayments, deductibles, coinsurance, or similar charges on a sliding scale related to income, except that the total annual aggregate cost-sharing with respect to all children in a family may not exceed 5 percent of the family's income. However, copayments, deductibles, coinsurance, or similar charges may not be imposed for preventive services, including well-baby and well-child care, age-appropriate immunizations, and routine hearing and vision screenings.

Section 5. Paragraph (b) of subsection (1) of section 409.818, Florida Statutes, is amended to read:

409.818 Administration.—In order to implement ss. 409.810-409.821, the following agencies shall have the following duties:

- (1) The Department of Children and Family Services shall:
- (b) Establish and maintain the eligibility determination process under the program except as specified in subsection (5). The department shall directly, or through the services of a contracted third-party administrator, establish and maintain a process for determining eligibility of children for coverage under the program. The eligibility determination process must be used solely for determining eligibility of applicants for health benefits coverage under the program. The eligibility determination of eligibility for any coverage offered under the program, as well as a redetermination or reverification of eligibility each subsequent 6 months. Effective January 1, 1999, a child who has

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not attained the age of 5 and who has been determined eligible for the Medicaid program is eligible for coverage for 12 months without a redetermination or reverification of eligibility. In conducting an eligibility determination, the department shall determine if the child has special health care needs. The department, in consultation with the Agency for Health Care Administration and the Florida Healthy Kids Corporation, shall develop procedures for redetermining eligibility which enable a family to easily update any change in circumstances which could affect eligibility. The department may accept changes in a family's status as reported to the department by the Florida Healthy Kids Corporation without requiring a new application from the family. Redetermination of a child's eligibility for Medicaid may not be linked to a child's eligibility determination for other programs.

Section 6. Subsections (6) and (7) of section 409.904, Florida Statutes, are amended to read:

409.904 Optional payments for eligible persons.—The agency may make payments for medical assistance and related services on behalf of the following persons who are determined to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(6) A child who has not attained the age of 19 who has been determined eligible for the Medicaid program is deemed to be eligible for a total of 6 months, regardless of changes in circumstances other than attainment of the maximum age.

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Effective January 1, 1999, a child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is deemed to be eligible for a total of 12 months regardless of changes in circumstances other than attainment of the maximum age. Subject to federal regulations, a child who is eligible under this subsection must be offered the opportunity to be made presumptively eligible.

for the postpartum period as defined in federal law and rule, or a child under 1 year of age who lives in a family that has an income above 185 percent of the most recently published federal poverty level, but which is at or below 200 percent of such poverty level. In determining the eligibility of such child, an assets test is not required. An individual A child who is eligible for Medicaid under this subsection must be offered the opportunity, subject to federal rules, to be made presumptively eligible.

Section 7. Subsection (3), paragraph (b) of subsection (5), and paragraph (a) of subsection (6) of section 624.91, Florida Statutes, are amended to read:

624.91 The Florida Healthy Kids Corporation Act.-

- (3) ELIGIBILITY FOR STATE-FUNDED ASSISTANCE.—Only the following individuals are eligible for state-funded assistance in paying Florida Healthy Kids premiums:
- (a) Residents of this state who are eligible for the Florida Kidcare program pursuant to s. 409.814.
- (b) Notwithstanding s. 409.814, Legal aliens who are enrolled in the Florida Healthy Kids program as of January 31, 2004, who do not qualify for Title XXI federal funds because

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they are not qualified aliens as defined in s. 409.811.

- (5) CORPORATION AUTHORIZATION, DUTIES, POWERS.-
- (b) The Florida Healthy Kids Corporation shall:
- 1. Arrange for the collection of any family, local contributions, or employer payment or premium, in an amount to be determined by the board of directors, to provide for payment of premiums for comprehensive insurance coverage and for the actual or estimated administrative expenses.
- 2. Arrange for the collection of any voluntary contributions to provide for payment of Florida Kidcare program premiums for children who are not eligible for medical assistance under Title XIX or Title XXI of the Social Security Act.
- 3. Subject to the provisions of s. 409.8134, accept voluntary supplemental local match contributions that comply with the requirements of Title XXI of the Social Security Act for the purpose of providing additional Florida Kidcare coverage in contributing counties under Title XXI.
- 4. Establish the administrative and accounting procedures for the operation of the corporation.
- 5. Establish, with consultation from appropriate professional organizations, standards for preventive health services and providers and comprehensive insurance benefits appropriate to children if, provided that such standards for rural areas do shall not limit primary care providers to board-certified pediatricians.
- 6. Determine eligibility for children seeking to participate in the Title XXI-funded components of the Florida Kidcare program consistent with the requirements specified in s.

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409.814, as well as the non-Title-XXI-eligible children as provided in subsection (3).

- 7. Establish procedures under which providers of local match to, applicants to, and participants in the program may have grievances reviewed by an impartial body and reported to the board of directors of the corporation.
- 8. Establish participation criteria and, if appropriate, contract with an authorized insurer, health maintenance organization, or third-party administrator to provide administrative services to the corporation.
- 9. Establish enrollment criteria that include penalties or  $30-\mathrm{day}$  waiting periods of 30 days for reinstatement of coverage upon voluntary cancellation for nonpayment of family premiums.
- 10. Contract with authorized insurers or providers any provider of health care services, who meet meeting standards established by the corporation, for the provision of comprehensive insurance coverage to participants. Such standards must shall include criteria under which the corporation may contract with more than one provider of health care services in program sites. Health plans shall be selected through a competitive bid process. The Florida Healthy Kids Corporation shall purchase goods and services in the most cost-effective manner consistent with the delivery of quality medical care. The maximum administrative cost for a Florida Healthy Kids Corporation contract is shall be 15 percent. For health care contracts, the minimum medical loss ratio for a Florida Healthy Kids Corporation contract is shall be 85 percent. For dental contracts, the remaining compensation to be paid to the authorized insurer or provider must be at least under a Florida

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Healthy Kids Corporation contract shall be no less than an amount which is 85 percent of the premium; to the extent any contract provision does not provide for this minimum compensation, this section prevails shall prevail. The health plan selection criteria and scoring system, and the scoring results, must shall be available upon request for inspection after the bids have been awarded.

- 11. Establish disenvollment criteria  $\underline{if}$  in the event local matching funds are insufficient to cover enrollments.
- 12. Develop and implement a plan to publicize the Florida Kidcare program, the eligibility requirements of the program, and the procedures for enrollment in the program and to maintain public awareness of the corporation and the program.
- 13. Secure staff necessary to properly administer the corporation. Staff costs shall be funded from state and local matching funds and such other private or public funds as become available. The board of directors shall determine the number of staff members necessary to administer the corporation.
- 14. In consultation with the partner agencies, provide a report on the Florida Kidcare program annually to the Governor, the Chief Financial Officer, the Commissioner of Education, the President of the Senate, the Speaker of the House of Representatives, and the Minority Leaders of the Senate and the House of Representatives.
- 15. Provide information on a quarterly basis to the Legislature and the Governor which compares the costs and utilization of the full-pay enrolled population and the Title XXI-subsidized enrolled population in the Florida Kidcare program. The information, At a minimum, the information must

436 include:

a. The monthly enrollment and expenditure for full-pay enrollees in the Medikids and Florida Healthy Kids programs compared to the Title XXI-subsidized enrolled population; and

b. The costs and utilization by service of the full-pay enrollees in the Medikids and Florida Healthy Kids programs and the Title XXI-subsidized enrolled population.

By February 1, 2010, the Florida Healthy Kids Corporation shall provide a study to the Legislature and the Governor on premium impacts to the subsidized portion of the program from the inclusion of the full-pay program, which <u>must shall</u> include recommendations on how to eliminate or mitigate possible impacts to the subsidized premiums.

- 16. Establish benefit packages that conform to the provisions of the Florida Kidcare program, as created in ss. 409.810-409.821.
  - (6) BOARD OF DIRECTORS.-
- (a) The Florida Healthy Kids Corporation is shall operate subject to the supervision and approval of a board of directors chaired by the Chief Financial Officer or her or his designee, and composed of is 12 is 14 other members selected for 3-year terms of office as follows:
- 1. The Secretary of Health Care Administration, or his or her designee.
- 2. One member appointed by the Commissioner of Education from the Office of School Health Programs of the Florida Department of Education.
  - 3. One member appointed by the Chief Financial Officer from

among three members nominated by the Florida Pediatric Society.

- 4. One member, appointed by the Governor, who represents the Children's Medical Services Program.
- 5. One member appointed by the Chief Financial Officer from among three members nominated by the Florida Hospital Association.
- 6. One member, appointed by the Governor, who is an expert on child health policy.
- 7. One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Academy of Family Physicians.
- 8. One member, appointed by the Governor, who represents the state Medicaid program.
- 9. One member, appointed by the Chief Financial Officer, from among three members nominated by the Florida Association of Counties.
  - 10. The State Health Officer, or her or his designee.
- 11. The Secretary of Children and Family Services, or his or her designee.
- 12. One member, appointed by the Governor, from among three members nominated by the Florida Dental Association.
- Section 8. Subject to appropriation, the Agency for Health Care Administration shall implement the federal Family
  Opportunity Act, ss. 6062-6071 of the Deficit Reduction Act of 2005, to allow families whose income is up to 300 percent of the federal poverty level to buy Medicaid coverage for their disabled children.
  - Section 9. This act shall take effect October 1, 2010.