



# **SELECT COMMITTEE ON PATIENT PROTECTION AND AFFORDABLE CARE ACT**

**December 3, 2012**



# **INSURANCE REGULATION**



# Regulation of Insurance in Florida

## **Office of Insurance Regulation (OIR)**

- Regulates and licenses insurers and other risk-bearing entities
  - Regulatory oversight includes:
    - Licensure
    - Approval of rates and policy forms
    - Market conduct and financial exams
    - Solvency oversight
    - Administrative supervision

## **Agency for Health Care Administration (AHCA)**

- Responsible for ensuring HMO's meet quality of care standards
  - Networks are adequate to serve members
  - Internal and external dispute processes are adequate



# Early Reforms

## **Reforms Effective for Plan Years Beginning on or after 9/23/2010**

- Lifetime Limits
- Annual Limits
- Rescissions
- Preventive Health Services
- Adult Dependent Coverage
- Pre-Existing Condition Exclusion for Under 19
- Internal and External Review Process
- Patient Protections
- Medical Loss Ratios
- Rate Review and Disclosure



# 2014 Market Reforms

- Guaranteed Issue
- No Pre-Existing Condition Exclusions for Adults
- Rating Rules
  - No health status
  - 3:1 maximum variation for age
  - 1.5:1 maximum variation for tobacco use
- Essential Health Benefits Package
- Individual Mandate
- Employer Mandate



# Decision Points

## **Market Regulation: Who Does What?**

- Federal role
- State flexibility (OIR / AHCA authority)
- Comparability of regulations e.g. open enrollment
- Exchange functions

## **Consumer Protections: Who Enforces?**

- Minimum essential health benefits
- Complaints
- Grievance resolution

## **Rate Review: Who Evaluates?**

- Adequacy of rates
- Mitigation of market disruptions and insolvencies
- Compliance with medical loss ratio and rebate requirements
- Methodology e.g. regional vs. statewide



# Decision Points

## **Coverage Requirements: What Benchmarks?**

- The current benchmark is the default plan
- States can modify in the future



# **PURCHASING AND FINANCING**





# EXCHANGES

- Provide seamless consumer experience to obtain affordable health care coverage
- Eligibility screening and enrollment in insurance affordability programs:
  - Assess or determine eligibility for Medicaid and SCHIP
  - Facilitate purchase of insurance coverage by qualified individuals through qualified health plans (QHPs) - Individual market
  - Assist qualified employers enroll employees in QHPs—SHOP (Small Business Health Options Program)



## Minimum Functions of an Exchange

- Consumer Assistance
- Plan Management
- Eligibility
- Enrollment
- Financial Management & Security
- SHOP – specific functions to assist small employers
- Provide for appeal of determinations



# Minimum Functions of an Exchange

- Consumer assistance
  - Outreach and education
  - Call center
  - In person
  - Navigator program
  - Internet web site
  - Correspondence and notifications



# Minimum Functions of an Exchange

- Plan Management
  - Certification/recertification of QHPs
  - Data collection and quality reporting
  - Plan monitoring and oversight
  - Risk adjustment and reinsurance
  - Assess rate increases



# Minimum Functions of an Exchange

- Eligibility
  - Accept applications
  - Verify information (Federal data hub)
  - Assess or determine eligibility (redetermination) for Medicaid and SCHIP (MAGI)
  - Determine / redetermine eligibility for enrollment in QHPs, advance payment of premium assistance tax credits, and cost-sharing reductions (calculator)
  - Issue certificates of exemption



# Minimum Functions of an Exchange

- Enrollment
  - Facilitate enrollment in Medicaid and SCHIP
  - Enroll applicant in chosen QHP (reenrollment)
  - Transmit information to the QHP / HHS
  - Provide open enrollment periods and enrollment per triggering events
  - Continuously monitor plan enrollment



# Minimum Functions of an Exchange

- Financial Management & Security
  - Maintain operational budget, track costs and revenue
  - Aggregate and pay premiums to QHPs (optional)
  - Reconcile advance payments for tax credits and cost-sharing reductions according to terminations or changes in enrollee status
  - Maintain sustainability
  - Comply with standards for protecting confidential information (federal and state data sharing)



# Minimum Functions of an Exchange

- SHOP (Small Business Health Options Program) – specific functions
  - Determine employer eligibility
  - Verify employee eligibility
  - Premium aggregation





# EXCHANGE OPTIONS

- State Based Exchange (SBE)
- Federal/State Partnership Exchange (F/SP)
- Federally-Facilitated Exchange (FFE)

SBE may use Federal government services to perform advance premium tax credit, cost-sharing reduction, and exempt status eligibility determinations and administer reinsurance program

State may participate in FFE but operate its own reinsurance program



# State Based Exchange

- Governmental agency or non-profit entity established by the state (one or more exchanges)
- State may authorize the Exchange to contract with an eligible entity to carry out responsibilities
- State may operate individual market Exchange and SHOP under separate governance or administrative structures
- Grant funding available through 2014 for planning, establishment, and operations (operations must be self-sufficient beginning January 1, 2015)



# Approval Process for State Based Exchange (SBE)

- State submits Exchange Blueprint to HHS (Declaration Letter of Intent / Application by December 14, 2012 for operation in 2014 )
- Demonstrates operational readiness through readiness assessment
- May elect to operate Exchange after 2014
  - Must have approved or conditionally approved plan by at least January 1 of prior year
  - Must work with HHS to develop plan to transition from FFE or F/SP



## State Based Exchange (SBE) – Potential Participants

- Existing State Agencies / Entities performing some or similar activities
  - Agency for Health Care Administration
  - Office of Insurance Regulation
  - Department of Financial Services
  - Department of Children and Families
  - Florida Healthy Kids Corporation
  - Florida Health Choices
- New Entity(ies)



## Federal / State Partnership Exchange (F/SP)

- HHS has ultimate responsibility for and authority over partnership exchange
- Declaration Letter of Intent / Application by February 15, 2013
- State can assist in operating all plan management functions, some consumer assistance functions (in-person assistance to applicants and consumers, the Navigator program), or both



## Federal / State Partnership Exchange (F/SP)

- State must agree to ensure cooperation from the State's insurance, Medicaid, and SCHIP agencies to coordinate business processes, systems, data/information, and enforcement
- State can use Exchange grant funding for these functions



# Federally-Facilitated Exchange (FFE)

- HHS will carry out all Exchange functions, including consulting with stakeholders
- HHS intends to work with State to preserve traditional responsibilities of State insurance departments (leverage State policies, capabilities, and infrastructure)
- HHS will seek to harmonize FFE policies with existing State programs and laws wherever possible



# Decision Points

## **Exchange: What Type?**

- Federally Facilitated Exchange
- Partnership
- State Based Exchange

## **Exchange Functions: Who Does What?**

- Consumer Assistance
- Plan Management
- Eligibility
- Enrollment
- Financial Management & Security





# Decision Points

## **If Florida Operates an Exchange: Who Does What?**

- State agency (existing or new)
- Private not-for-profit (existing or new)

## **Market Participation: Who Decides?**

- Selective vs. open
- Integration of Medicaid and private markets



# **Medicaid & State Children's Health Insurance Plan (SCHIP)**



## Optional Medicaid Expansion

- Supreme Court Ruling – State Option to Expand
  - 133% FPL with 5% disregard = 138% FPL
- Expansion remains in the law, the penalty is unenforceable
- No deadline to notify federal CMS of expansion



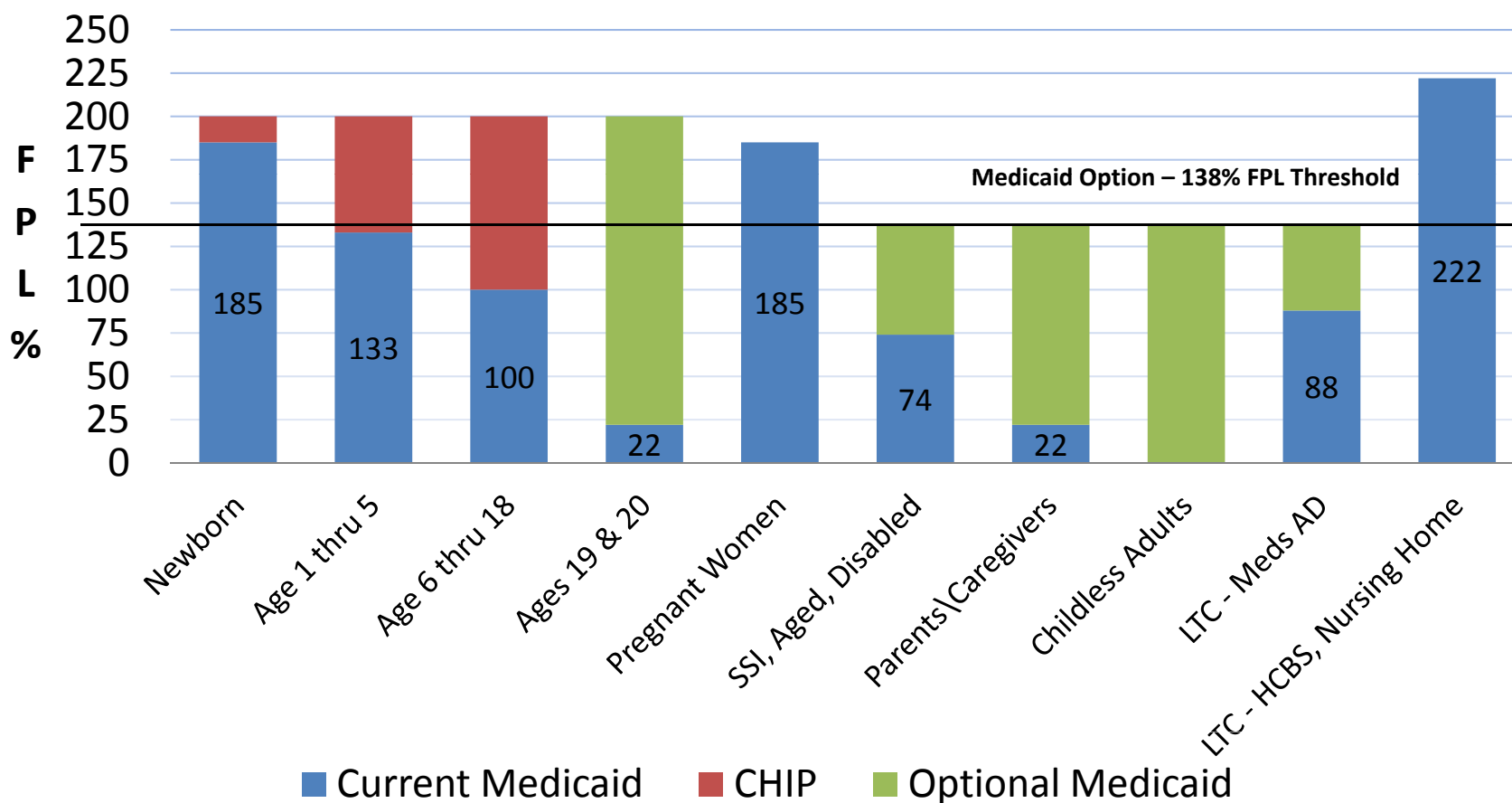
## Optional Medicaid Expansion

- Initial guidance indicates states may be allowed to expand partially
- States may retract the expansion at any time
- Expansion\Retractions through Medicaid state plan amendments



# Medicaid & SCHIP Overview

## Existing and Optional Medicaid and SCHIP Eligibility





# Medicaid & SCHIP Provisions

- Maintenance of Effort Provisions
  - Through December 31, 2013 for Adults
  - Through September 30, 2019 for Children
- What does that mean?
  - Maintain eligibility standards as of March 23, 2010
  - Maintain income standards, methodologies and procedures for children in Medicaid and SCHIP



# Changes in Eligibility Determination

Effective January 1, 2014 – *With or Without Medicaid Expansion*

## Current Medicaid

- Combination of financial and categorical criteria
- Based on the number of **related** persons residing in the household and their income
- Income disregards for each working parent

## MAGI

### *Modified Adjusted Gross Income*

- Utilizes last tax return; IRS filing
- Based on total household, total income
- Across the board 5% income disregard
- No other disregards permitted



# Impact of Eligibility Changes

- For children transitioning between Medicaid and SCHIP, families may experience:
  - Modifications in premium payments (up and down)
  - Potentially a change in health plans
  - Different benefits packages between Medicaid & SCHIP
  - Monthly premium payment requirement & co pays for services
  - Some families may no longer qualify for any subsidy
  - Loss of Medicaid coverage: child qualifies for SCHIP for one year





# Impact of Eligibility Changes

- For Adults –
  - If Medicaid expanded, additional coverage options
  - Parent cannot enroll if an eligible child is not also enrolled



## Current Medicaid Eligibility Continues

- Current Medicaid eligibility calculations will remain for some populations
- Non-MAGI populations include:
  - Supplemental Security Income (SSI) cash recipients
  - Aged, blind and disabled
  - Foster care children
- Eligibility could be conducted using both the old and new methods depending on the recipient's status



# Application & Enrollment

- Simplification requirements for enrollment and renewal
  - Streamlined, online enrollment system
  - Secure, electronic interface
- Medicaid and SCHIP interface with Exchange
  - Coordinate enrollment
  - Coordinate oversight of outreach navigators and assisters
- Assist applicants with process (initial and renewal)



## Background – Florida SCHIP

- Florida's Response to SCHIP –  
Combination of old and new programs
  - Cited as one of the models in 1997 federal enabling legislation
  - State has modified over lifetime of the program
  - Coordinated effort among 3 state agencies (AHCA, DCF, DOH/CMS) and Florida Healthy Kids Corporation (FHKC)



# Florida's SCHIP

- Florida KidCare – Enacted in 1998 and consists of four key program components:
  - Medicaid (children under 1 year old)
  - Medikids (children 1 – 5 years old)
  - Children's Medical Services Network (special needs)
  - Florida Healthy Kids Corporation (children 6 – 18 years old)



# Considerations for SCHIP

- Title XXI – SCHIP
  - Re-authorized in 2009 through 2013
  - PPACA extended Program funding through 2015
  - Extended Program authorization through 2019
  - Increased Federal Medical Assistance Percentages (FMAP) for SCHIP FFY 2015 - FFY 2019
- SCHIP is not an entitlement
  - Limited federal funds and state can set enrollment caps
  - If funds exhausted for SCHIP, child referred to Exchange for coverage



# Decision Points

## **Expansion: If and When?**

- Short term and long term funding
- Relationship to statewide Medicaid managed care implementation

## **Coordination: How and How Much?**

- Medicaid plans in exchanges
- Family enrollment
- Basic Health Plan

## **Children: Automatic or Optional?**

- Florida Healthy Kids and Medicaid transitions



# POTENTIAL FISCAL IMPACT





## Four Aspects of Fiscal Impact on Medicaid

- Medicaid Eligibility Expansion (optional)
  - Effects on Caseload
  - Effects on Expenditures
- “Woodwork Effect”
- Primary Care Physician Rate Increase
- Medicaid Eligibility System



# Potential PPACA Enrollment Impact

- **Optional Medicaid Eligibility Expansion:**

- Under PPACA, states are directed to expand Medicaid eligibility to 138% of the Federal Poverty Level and receive enhanced federal match for the expansion population, beginning January 1, 2014.
- U.S. Supreme Court rendered optional the PPACA's requirement for states to expand Medicaid eligibility in this way.
- Effect of Expansion on Enrollment:
  - In SFY 2013-14, between Medicaid and KidCare, an estimated 463,000 new enrollees would be added due to eligibility expansion (a gain of 528,000 in Medicaid and a loss of 65,000 in KidCare).
  - By SFY 2015-16, eligibility expansion would result in an estimated 845,000 additional enrollees (a gain of 912,000 in Medicaid and a loss of 67,000 in KidCare).
  - By SFY 2020-21, eligibility expansion would result in an estimated 892,000 additional enrollees (a gain of 972,000 in Medicaid and a loss of 80,000 in KidCare).

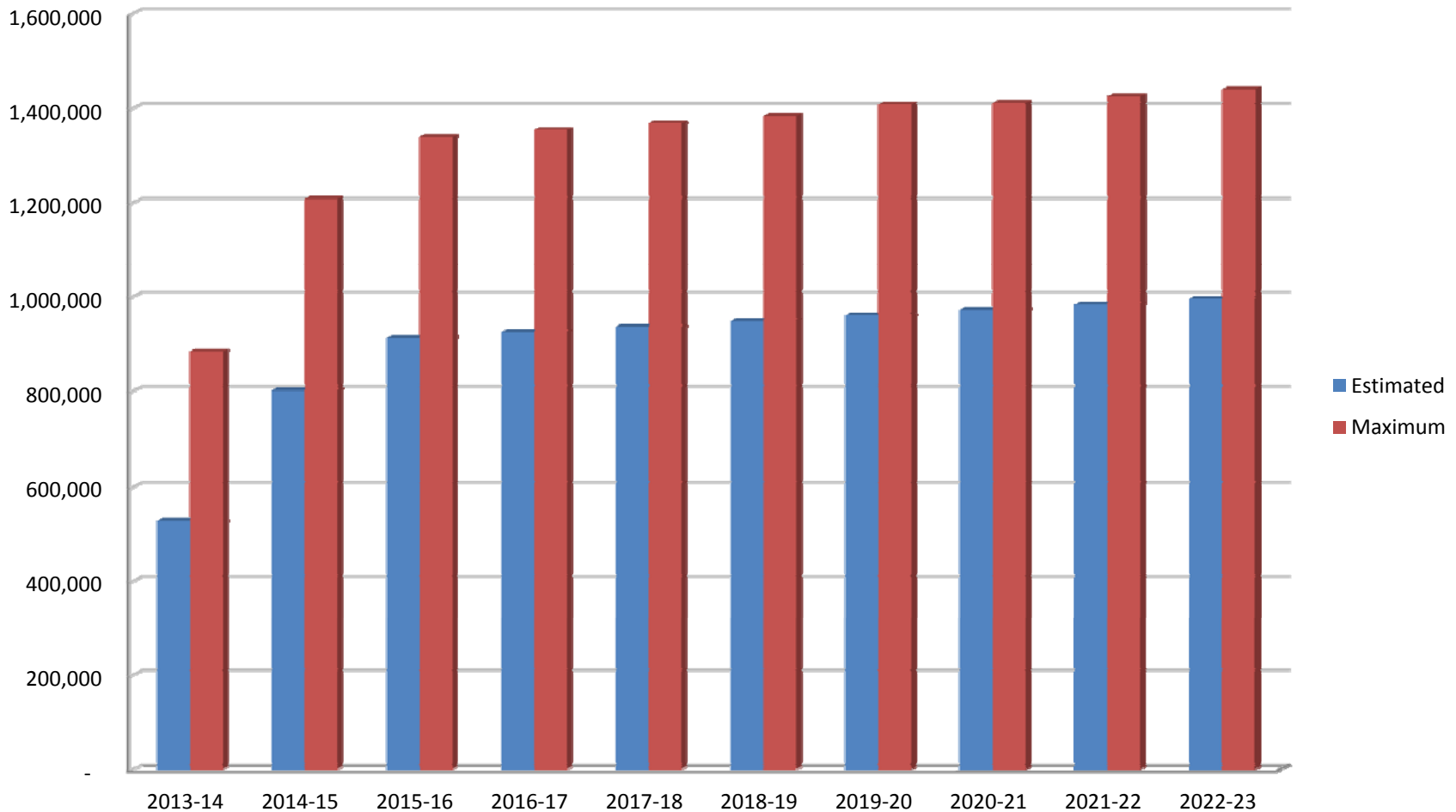


# Potential PPACA Enrollment Impact

- **“Woodwork Effect”:**
  - Not everyone currently eligible for Medicaid is enrolled in the program.
  - In Florida, an estimated 79.7% of individuals currently eligible for Medicaid are actually enrolled.
  - The PPACA mandate for individual coverage could cause a higher percentage to become enrolled. The Social Service Estimating Conference SSEC classified this potential impact as “indeterminate.”
  - “Maximum exposure” could be significant, but SSEC assumes 100% woodwork is highly unlikely.
  - Woodwork effect, in theory, could happen regardless of state’s decision on Medicaid eligibility expansion.
  - Enhanced federal match would *not* apply to recipients eligible under preexisting standards.

# Medicaid Expansion's Impact on Enrollment

## Estimated and Maximum Enrollment Increases due to Expansion to 138% FPL



Includes Medicaid enrollment only, without offsets in Kidcare program.

"Estimated" assumes indeterminate woodwork effect. "Maximum" assumes 100% woodwork effect.

Data Source: Social Services Estimating Conference, Aug 14, 2012



# Potential PPACA Fiscal Impact

- **Optional Medicaid Eligibility Expansion:**
  - Federal match for expansion population is 100% for first three calendar years (2014, 2015, and 2016), then is phased-down to 90% by 2020.
  - Expenditures: First Three Years
    - No net increase in state costs during first three years due to expansion are estimated.
      - Small increase in state Medicaid costs would be offset by identical reductions in state KidCare costs.
    - Significant increases in federal costs in first three years.
      - In SFY 2013-14, over \$900 in million additional federal costs.
      - By SFY 2015-16, federal costs would increase by roughly \$3.2 billion.

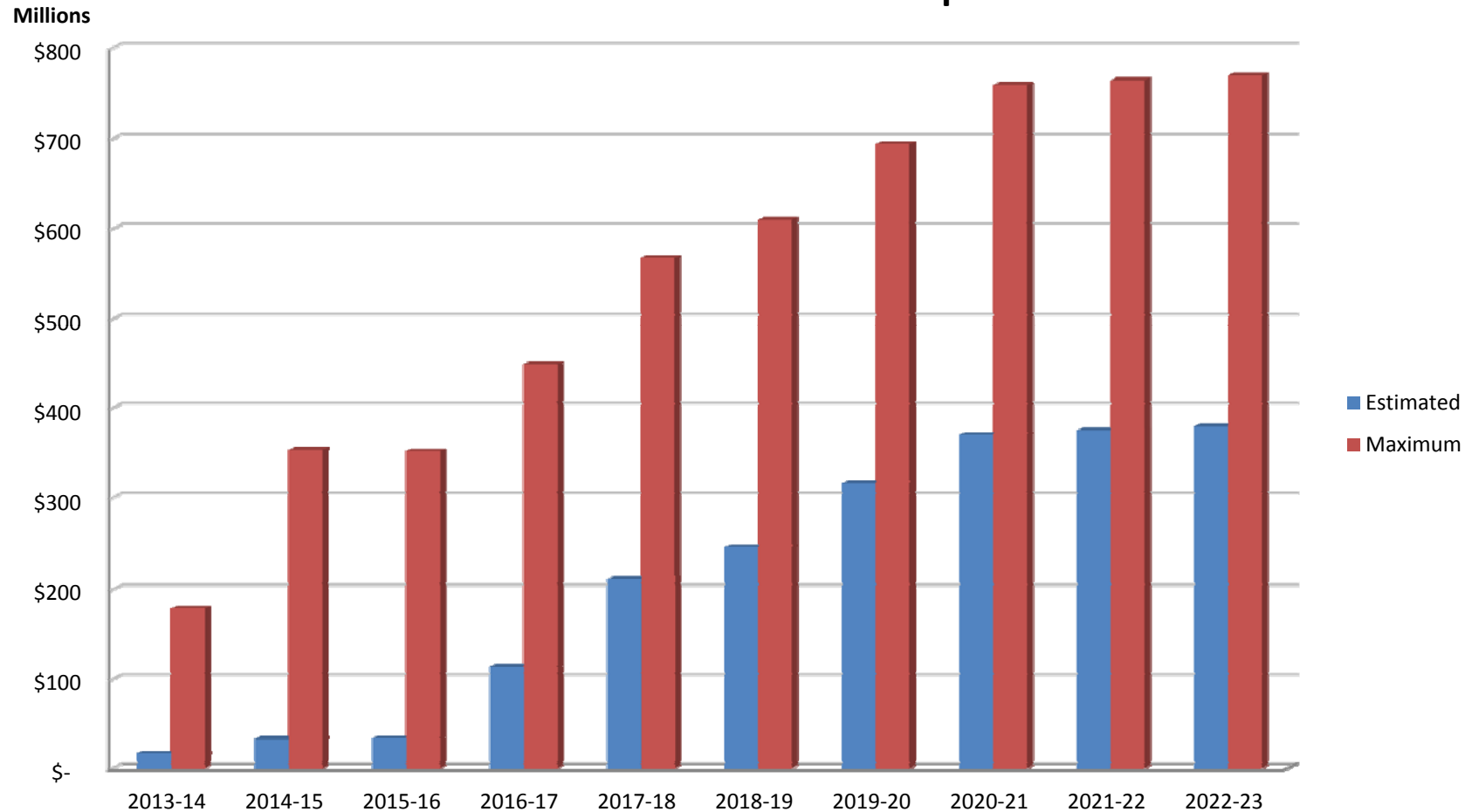


# Potential PPACA Fiscal Impact

- **Optional Medicaid Eligibility Expansion (cont.):**
  - Expenditures: State Costs in out-years
    - In SFY 2016-17, the state would begin paying for expansion population.
    - State costs (for Medicaid and KidCare combined) would increase by an estimated \$79 million in SFY 2016-17.
    - In SFY 2017-18, state costs would increase by an estimated \$176 million.
    - By SFY 2020-21, state costs would increase by an estimated \$330 million.
  - These estimates are for eligibility expansion only and do not include other PPACA aspects.
  - These estimates also are based on an “indeterminate” woodwork effect, which means no potential woodwork effect costs are included.

# Expansion's Impact on State Medicaid Costs

## Estimated and Maximum Increases due to Expansion to 138% FPL



Includes costs of Medicaid eligibility expansion only, without costs of PCP rate increase and without offsets in Kidcare.

“Estimated” assumes indeterminate woodwork effect. “Maximum” assumes 100% woodwork effect.

Data Source: Social Services Estimating Conference, Aug 14, 2012.



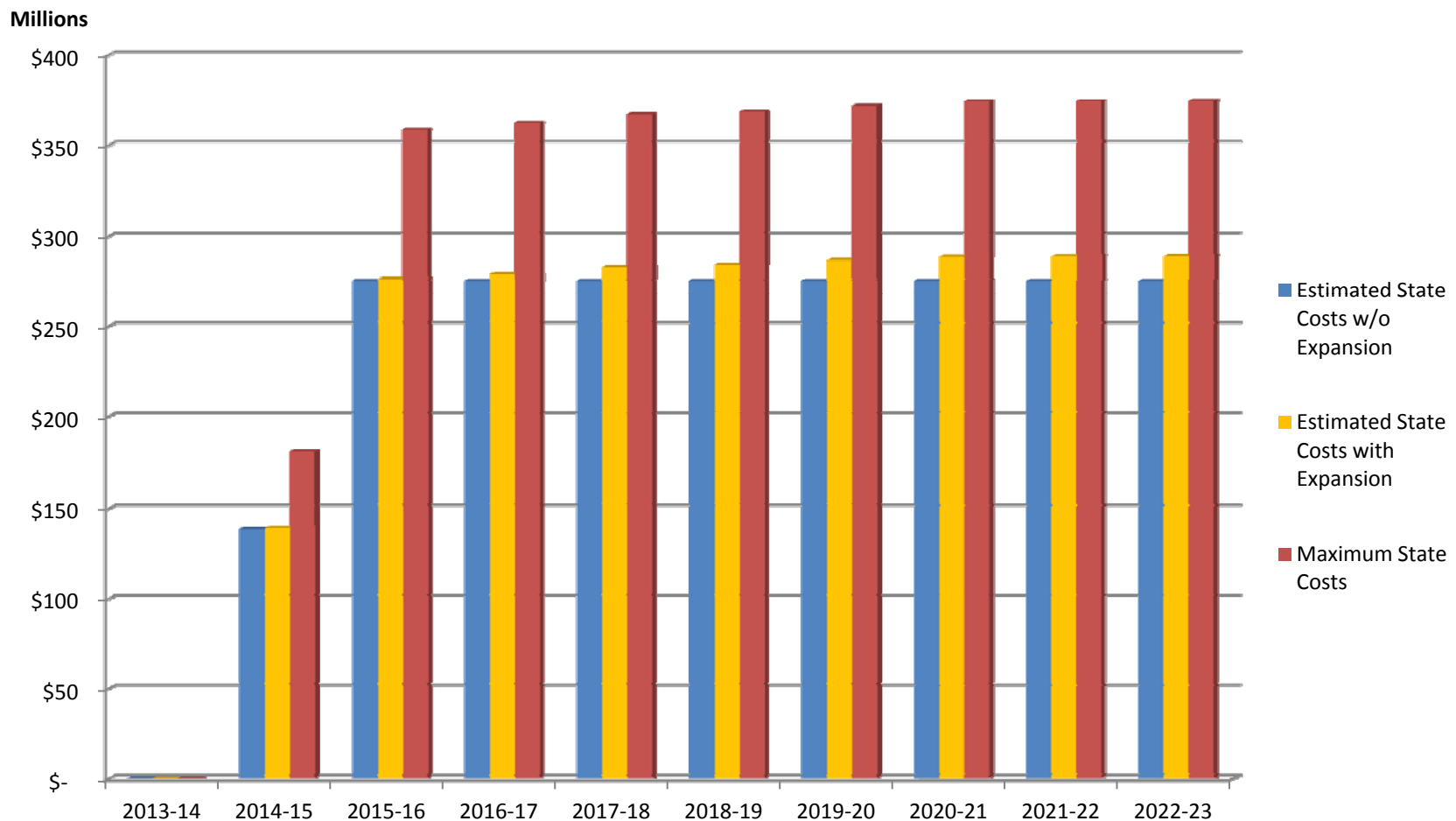
# Potential PPACA Fiscal Impact

- **Primary Care Physician Rate Increase**
  - States are required to pay Medicare rates to Medicaid primary care physicians providing primary care services during calendar years 2013 and 2014.
  - Federal government pays 100% of the difference during those two years.
  - Requirement ends in 2015, as does the 100% match.
  - If Florida continues with increase beyond CY 2014, state Medicaid costs would increase at least \$174 million in SFY 2014-15 and \$345 million in 2015-16.



# Impact of PCP Rate Increase on State Costs

## Primary Care Rate Increase: Estimated and Maximum State Costs



Assumes state continues PCP rate increase beyond 2014 CY.

“Estimated” assumes indeterminate woodwork effect. “Maximum” assumes Medicaid expansion and 100% woodwork effect.

Data Source: Social Services Estimating Conference, Aug 14, 2012.



# Potential PPACA Budget Impacts

- **Medicaid Eligibility System**

- States are required to use Modified Adjusted Gross Income (MAGI) to determine Medicaid and KidCare eligibility starting January 2014.
- The PPACA provides 90% match for technology infrastructure upgrades.
- Various options:
  - Full replacement of all current eligibility technology housed at Dept. of Children and Families (FLORIDA system)
  - Remediate Medicaid and KidCare eligibility systems only
  - Transfer all or part of eligibility determination to PPACA Exchange (state-based, federally facilitated, or partnership)



# IMPACT ON EMPLOYERS



# Employer Mandate

- Employers with 50 or more fulltime employees must offer insurance benefits or face penalties
- The amount and scope of benefits offered must meet the requirements of PPACA
- Employer contributions for the purchase of these benefits must meet certain standards
- Employers failing to provide the mandated benefits at the specified contribution level are subject to certain penalties



# Employer Penalties

- For failure to offer insurance, the penalty = \$2,000 for each full-time employee (excluding the first 30)
  - “Full time employees” are those working more than 30 hours per week.
- For failure to offer “affordable” insurance that covers at least 60% of the cost of the plan, the penalty is the lesser of:
  - \$3,000 per employee who enrolls in the exchange
  - \$2,000 for every FTE, minus the first 30.
- “Affordable” means the cost of coverage does not exceed 9.5% of family income



# State Group Health Insurance

- Florida is a “large employer” under PPACA
- OPS employees currently cannot participate in the State Group Plan
  - Florida will be subject to penalties if coverage is not extended to all employees working 30 hours or more a week.
- Employees who currently choose not to participate in the State Group Plan may do so to comply with the individual mandate



# State Group Health Insurance

- Impact Estimates
  - OPS enrollment: 3,864 eligible; 2,552 estimated
  - Opt-out enrollment: 14,897 eligible; 2,979 estimated
  - Various regulatory changes
- Estimated cost of “no coverage” penalty:
  - \$312 million annually
- Estimated costs to comply with employer aspects of PPACA:
  - SFY 2012–’13 - \$0.38 million
  - SFY 2013–’14 - \$48.8 million
  - SFY 2014–’15 - \$117.6 million
  - SFY 2015–’16 - \$127.6 million



## Decision Points

### **Private Employers: What Assistance?**

- Future of Florida Health Choices
- Future of flex plans, etc

### **State Group: What Changes?**

- Eligibility
- Coverage
- Plan design





# More Information

State of Florida Long-Range Financial Outlook, Fiscal Year 2013-14 through 2015-16

<http://edr.state.fl.us/Content/long-range-finacial-outlook/>

Medicaid Program; Eligibility Changes Under the Affordable Care Act of 2010; Final Rule

<http://www.gpo.gov/fdsys/pkg/FR-2012-03-23/pdf/2012-6560.pdf>

Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; Final Rule and Interim Final Rule

<http://www.gpo.gov/fdsys/pkg/FR-2012-03-27/pdf/2012-6125.pdf>

Patient Protection and Affordable Care Act; Establishment of Exchanges and Qualified Health Plans; Exchange Standards for Employers; Correction

<http://www.gpo.gov/fdsys/pkg/FR-2012-05-29/pdf/2012-12914.pdf>

Impact on the State Health Insurance Program of the Patient Protection and Affordable Care Act; Self-Insurance Estimating Conference State Employees' Health Insurance Trust Fund

<http://edr.state.fl.us/Content/conferences/healthinsurance/HealthInsuranceImpact.pdf>



# Acronyms

- AHCA - Agency for Health Care Administration
- FFE - Federally-Facilitated Exchange
- F/SP - Federal/State Partnership Exchange
- FMAP - Federal Medical Assistance Percentages
- FHKC - Florida Healthy Kids Corporation
- MLR - Medical Loss Ratios
- MAGI - Modified Adjusted Gross Income
- OIR - Office of Insurance Regulation
- QHPs - Qualified Health Plans
- SBE - State Based Exchange
- SCHIP - State Children's Health Insurance Plan
- SHOP - Small Business Health Options Program
- SSI - Supplemental Security Income