HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 155 w/CS Medicaid Buy-in Program/Disabled
SPONSOR(S): Cusack and others
TIED BILLS: None. **IDEN./SIM. BILLS:** SB 1394 (i), SB 1010 (c)

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Health Services (Sub)	11 Y, 0 N	Rawlins	Collins
2) Health Care	21 Y, 0 N w/CS	Rawlins	Collins
3) Health Access and Financing (Sub)			
4) Insurance			
5) Health Appropriations (Sub)			
6) Appropriations			

SUMMARY ANALYSIS

This bill reenacts the Ticket to Work/Medicaid Buy-in Program that was enacted by the Legislature in 2001 and then repealed in December 2001, effective July 1, 2002. The bill authorizes individuals with disabilities who have an income up to 250 percent of the federal poverty level to buy into the Medicaid program, subject to specific federal authorization. Persons age 16 through 64 who have a disability and return to work may qualify for a Medicaid buy-in program established in the federal "Ticket to Work and Work Incentives Improvement Act of 1999", Title II of Pub. L. No. 106-170. In addition, income related premiums and cost sharing are required.

The fiscal impact of this bill on the Agency for Health Care Administration is estimated at $7,629,791 for recurring costs and $100,000 in non-recurring costs. The Department of Children and Families estimates the need for approximately $1 million for the first year for eligibility staff and computer programming.

The bill provides for an effective date of July 1, 2003.

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

1. Reduce government?	Yes[]	No[x]	N/A[]
2. Lower taxes?	Yes[]	No[x]	N/A[]
3. Expand individual freedom?	Yes[x]	No[]	N/A[]
4. Increase personal responsibility?	Yes[x]	No[]	N/A[]
5. Empower families?	Yes[x]	No[]	N/A[]

For any principle that received a "no" above, please explain:

This expands the Medicaid program and government responsibility, providing Medicaid eligibility to individuals that are disabled and who may be receiving an income.

This bill does not lower taxes.

B. EFFECT OF PROPOSED CHANGES:

Societal attitudes have shifted toward goals of economic self-sufficiency, enabling people with disabilities to fully participate in society. Although, at one time, the common business practice was to encourage someone with a disability to leave the workforce, today a growing number of private companies have been focusing on enabling people with disabilities to return to work.

Almost one in five Americans and more than ten percent of all Floridians has a disability. Individuals with disabilities have lower employment rates and lower incomes than persons who do not have a disability according to Florida's ABLE Trust, December 1999 report: "Cost-Benefit Analysis of Employment of Floridians with Disabilities." The ABLE Trust report estimated that the cost of unemployment for Floridians with disabilities is $8.1 - $10.5 billion annually.

Many individuals with disabilities have both the motivation and the ability for employment. However, individuals presently receiving financial assistance from Federal and State programs are hindered in their employment attempts by regulations and restrictions that make employment unattractive due to the fear of losing necessary assistance before establishing an earned income sufficient to cover basic needs.

The General Accounting Office noted in a 1997 report (HEHS-97-46):

> "The Social Security Administration's disability insurance and supplemental security income programs have not kept pace with the trend toward returning disabled people to the work place. Less than one percent of disability insurance beneficiaries leave the rolls to return to work each year. Yet, even relatively small improvements in return to work outcomes offer the potential for significant savings in program outlays. For example, if an additional one percent of the 6.6 million working age beneficiaries under the two programs were to leave the disability rolls and return to work, lifetime cash benefits would be reduced by an estimated $3 billion."

The General Accounting Office estimated that no more than one in 500 people with disabilities leaves the Social Security Disability Insurance and Supplemental Security Income (SSDI/SSI) rolls because of employment. One of the main reasons cited for people not going to work is the fear of losing necessary benefits, cash and/or medical insurance, particularly if the job causing this loss is a low-paying entry-level position. Loss of necessary assistance before one's income is sufficient to cover medical and/or attendant care costs, as well as basic living needs, can be disastrous.

MEDICAID

Medicaid is a medical assistance program that pays for health care for the poor and disabled. The program is jointly funded by the federal government, the state, and the counties. The federal government, through law and regulations, has established extensive requirements for the Medicaid program. The Agency for Health Care Administration (AHCA) is the single state agency responsible for the Florida Medicaid Program. The statutory provisions for the Medicaid program appear in ss. 409.901 through 409.9205, F.S.

Individuals who are elderly or disabled, whose incomes are at or below 88 percent of the federal poverty level (FPL) are an optional coverage group eligible for Medicaid under s. 409.904(1), F.S. Payments for services to individuals in the optional categories are subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, F.S.

The federal poverty levels for the year 2003 are:

Family Size	Income
1	$8,980
2	$12,120
3	$15,260
4	$18,400
5	$24,680

Section 409.914(2), F.S., directs AHCA to seek federal authorization and financial support for a buy-in program that provides federally supported medical assistance coverage for persons with incomes up to 250 percent of the FPL.

The Social Services Estimating Conference convened on February 14, 2003, to revisit the estimates of Medicaid caseloads, and reconvened on March 10th to reestimate Medicaid expenditures for FY 2002-03 and 2003-04. With regard to expenditures, the conference adopted a forecast for FY 2003-04 that is $914.8 million higher than this year's recurring appropriation base. The General Revenue contribution to the program will rise by $280.7 million, about 9.1%. This forecast reflects a cost of $280.7 million to continue the current program without additional policy changes beyond those adopted during the 2002 session. The Federal share of expenditures is expected to rise slightly. No deficit is projected for the current fiscal year.

SUPPLEMENTAL SECURITY INCOME AND SOCIAL SECURITY DISABILITY INSURANCE

Supplemental Security Income (SSI) pays a cash benefit to individuals who are age 65 or older, or who are blind, or who have a disability and who have limited income and assets. Persons who qualify for SSI automatically qualify for Medicaid. Social Security Disability Insurance (SSDI) pays disabled former workers a monthly benefit based on their prior work and contributions under Social Security. After approximately two years of a qualifying disability, SSDI beneficiaries qualify for Medicare.

Social Security does not pay for short-term or partial disability. Applicants are considered disabled if they cannot do the work they did before sustaining the disability and Social Security confirms that each applicant cannot adjust to other work because of a medical condition. The disability also must last, or be expected to last, a year or to result in death. Over the years, the Social Security disability programs have developed a number of work incentives to encourage disabled persons to return to work. The loss of health care benefits (Medicaid) has frequently been cited as a barrier, or disincentive, for persons with disabilities to return to the workforce.

TICKET TO WORK AND WORK INCENTIVES IMPROVEMENT ACT OF 1999

Legislation enacted by Congress in 1999, provided states the option and flexibility regarding the ability of people with disabilities to join the workforce without fear of losing their Medicaid coverage and to

allow individuals with disabilities who are working to “buy-in" to the state’s Medicaid program. The federal legislation also permits states to set more liberal income and asset limits for eligibility purposes. This Medicaid “Buy-In” program for the working disabled results from the Ticket to Work and Work Incentives Improvement Act (TWWIIA).

Under Public Law 106-170, states may permit working individuals with income above 250% of the Federal Poverty Level (FPL) to purchase Medicaid coverage. Under Medicare, coverage is also provided for those working people with disabilities, with extended part A premium-free hospital insurance coverage for four and-a-half years beyond the prior limit of 4 years making it a total of 8½ years.

The TWWIIA legislation (federal), which was effective January 1, 2001, specifies that individuals using a “ticket” are not subjected to continuing medical disability reviews. However, any cash benefits may be subject to termination if earnings for the disabled (excluding the blind) are above the substantial gainful activity level of $740 a month and $1,110 a month for the blind.

The federal legislation allows states to set the income and asset limits at any level it chooses. The state must, at a minimum, use the SSI budgeting methodologies to determine what income is and what is an asset and how they are counted; a state may elect to use more liberal methodologies. For example, SSI excludes one automobile. Theoretically, the state could elect to exclude an automobile for the individual and one for the spouse. Conversely, the state can not be more restrictive and count the one automobile as an asset, which is excluded under the federal guidelines.

In addition, the state may elect to require a premium payment and other cost-sharing charges to participate in the program, as provided for in the bill. Premiums and cost-sharing charges are at the option of the state for anyone whose adjusted gross annual income is less than $75,000. If a state elects to charge a premium, according to the federal requirements, the state must base the premium on a sliding fee scale based on income for persons whose income is at or below 250% of the federal poverty level.

Expedited reinstatement of benefits is also another benefit TWWIIA extended to the disabled. Federal legislation effective on January 1, 2001, indicated that when an individual is terminated from Social Security or SSI disability/blindness they can be reinstated including their Medicare and Medicaid, benefits without having to file a new application. There are however, certain limitations: an individual must be unable to work due to his/her medical condition; the impairment must be the same or related to the impairment that was the basis for the individual’s previous disability benefits; and the reinstatement request must be filed within 60 months of termination of benefits, however may be extended for good cause.

Florida had opted to fund and implement this program for those disabled individuals that qualify who have incomes that do not exceed 250% of the FPL as of April 1, 2001. The program was eliminated effective July 1, 2002, as a result of the 2001 Special Legislative Session. The total enrollment for the program during this three-month period was 19. This low enrollment may have been partially attributed to the fact that potentially eligible individuals were informed upfront that the benefits would only be provided for a three-month period.

As part of a feasibility study conducted by AHCA in December 2000, approximately 27 percent of the study’s survey respondents indicated that they would go to work if they could get Medicaid or continue to receive Medicaid (the persons surveyed were disabled persons who were either already receiving Medicaid or were enrolled in the Medically Needy program).

The table below represents the number of disabled persons receiving Medicaid or enrolled in the Medically Needy program who have earned income as of 2000:

PROGRAM	NUMBER ELIGIBLE	NUMBER WITH EARNINGS
SSI*	281,000	11,529 (4.1%)
MEDS (aged/disabled) **	36,100	3,068 (8.5%)
MEDICALLY NEEDY**	28,535	1,940 (6.8%)

*Data from SSA, Office of Policy, Office of Research, Evaluation, and Statistics publication, June 2000.
**Data provided by Department of Children and Families (AHCA TWWIIA Study, page 25).

OPTIONS FOR THE DISABLED

Disabled persons who become ineligible for full Medicaid due to income, may qualify for the Medically Needy program. However, to receive any Medicaid benefits within a month, the recipient is responsible for medical expenses equal to the difference in their income and the Medically Needy income level which is currently $180 for an individual and $241 for a couple. Effective May 1, 2003, the limit for disabled individuals will rise to $450 and $511 for a couple. In many instances, the change in income results in the loss of medical coverage from Medicaid and the inability to obtain coverage elsewhere. Even if Medicare covers the disabled, there is no coverage available to assist with the cost of prescription drugs.

The disabled SSI recipients that begin working and subsequently lose their SSI and Medicaid due to engaging in substantial gainful activity, may qualify for the benefit continuation programs under Section 1619 of the Social Security Act that allows the individuals to continue their Medicaid coverage. In Florida, as of December 2001, there were 4,129 individuals receiving Medicaid benefits under the "1619" provision. Their eligibility for Section 1619(a) and (b) benefits is determined by the Social Security Administration.

To be eligible for 1619(a), the recipient must have:

- been receiving SSI in the month before working at the substantial gainful activity (SGA) level;
- continue to otherwise be disabled; and
- meet all of the other eligibility rules including income and resource tests.

To be eligible under 1619(b), the recipient must:

- be eligible for an SSI cash payment for at least one month;
- continue to be otherwise disabled;
- meet the resource test and other eligibility rules--other than income;
- need Medicaid to continue to work; and
- have gross earned income that is insufficient to replace SSI, Medicaid, and any publicly funded attendant care.

This bill reenacts the Ticket to Work/Medicaid Buy-in Program that was enacted by the Legislature in 2001 and then repealed in December 2001, effective July 1, 2002. The bill authorizes individuals with disabilities who have an income up to 250 percent of the federal poverty level to buy into the Medicaid program, subject to specific federal authorization. Persons age 16 through 64 who have a disability and return to work may qualify for a Medicaid buy-in program established in the federal a "Ticket to Work and Work Incentives Improvement Act of 1999", Title II of Pub. L. No. 106-170. In addition, income related premiums and cost-sharing are required.

In addition, the bill clarifies the income and assets determination for individual's eligibility status specifying the terms of "earned income" and "assets."

The "earned income" limit is established at:

- Up to 250 percent of the federal poverty level, after application of the SSI earned income disregards, will be disregarded in determining eligibility.

The asset limit is established at:

- $8,000 for an individual and $9,000 for a couple, with the following additional exclusions: a second vehicle if there is a spouse living in the home, and all funds placed in a retirement account recognized by the Internal Revenue Service.

The bill takes effect July 1, 2003.

C. SECTION DIRECTORY:

Section 1: Amends s. 409.904 F.S., adding subsection (11), authorizing state implementation of the Ticket to Work/Medicaid Buy-In program, and setting certain eligibility requirements, specifying "earned income" limits and "asset" limits; requiring premium collection and cost share for buy-in coverage.

Section 2: Provides an effective date of July 1, 2003.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Minimal.

2. Expenditures:

   See 'Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Provides health care coverage to working individuals with disabilities. Encourages such individuals to become gainfully employed or maintain employment.

D. FISCAL COMMENTS:

The Department of Children and Families estimates the need for approximately $1 million for the first year for eligibility staff and computer programming to implement the program.

According to the Agency for Health Care Administration, the fiscal impact of HB 155 is based on estimates of costs for the additional number of persons who would become eligible for Medicaid under the terms of the buy-in program. Cost and enrollment estimates were obtained from "The Medicaid Buy-in Program: A Cost and Feasibility Study," December 1, 2000. The study estimates a caseload of 1,500 persons who would meet the eligibility criteria under the provisions of the bill and an estimated cost per person per year of $5,062. The total cost estimate for this caseload is $7,593,000 (1,500 persons x $5,062 per year). Of this, $2,665,477 would come from General Revenue, $453,727 from Grants and Donations Trust Fund-State Match, $650,769 from Grants and Donations Trust Fund-Federal Match, and $3,823,027 from the Medical Care Trust Fund.

The total fiscal contract expense for claims processing is estimated at $36,792 (average of 120 claims per person per year x 1,500 persons = 180,000 claims a year at a cost of $0.2044 per claim). Of the total, $9,198 would come from General Revenue and $27,594 would come from the Administrative Trust Fund.

The estimated fiscal contract total (non-recurring impact) for changes to the Florida Medicaid Management Information System (FMMIS) is $100,000. Revenues of $50,000 each would come from General Revenue and the Administrative Trust Fund.

Although the bill requires premiums and cost sharing, the feasibility study indicated that the potential expense associated with administering the cost sharing requirements and premium collections may actually exceed the premiums collected, therefore the preceding analysis does not include offsets for premiums or cost sharing.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Counties are required to participate in the cost of inpatient hospitalization for Medicaid recipients. There is the potential for the state to serve additional recipients under the new coverage group, increasing the billing to the counties for their residents on Medicaid who access inpatient services.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Clarification of the income and asset thresholds would facilitate the promulgation of the eligibility rule, as well as any income or asset exclusions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 19, 2003, the Subcommittee on Heath Services adopted one amendment and reported the bill favorably to the Committee on Health Care.

Amendment 1 clarifies the income and assets determination for individual's eligibility status specifying the terms "earned income" and "assets."

The "earned income" limit is established at:

- Up to 250 percent of the federal poverty level, after application of the SSI earned income disregards, will be disregarded in determining eligibility.

The asset limit is established at:

- $8,000 for an individual and $9,000 for a couple, with the following additional exclusions: a second vehicle if there is a spouse living in the home, and all funds placed in a retirement account recognized by the Internal Revenue Service.

On March 26, 2003, the Committee on Health Care adopted the amendment recommended by the Subcommittee and reported the bill favorably with a committee substitute.