

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1744

SPONSOR: Banking and Insurance Committee and Senator Peaden

SUBJECT: Health Flex Plans

DATE: March 4, 2004      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>HC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The Committee Substitute for Senate Bill 1744 allows health flex plans to be established statewide as approved by the Agency for Health Care Administration (Agency) and the Office of Insurance Regulation (Office). Currently, such plans may only be offered in the three areas of the state that have the highest number of uninsured persons and Indian River County. The bill, requires the Agency to ensure that health flex plans follow standardized grievance procedures similar to those required of HMOs, and requires the Office to provide regulatory oversight of health flex plan advertising and marketing procedures. The Agency and the Office must use health flex plans to gather information to evaluate low-income, consumer driven benefit packages and submit a report that includes this information to the Governor, Senate President, and Speaker of the House by January 1, 2005. The bill includes public-private partnerships within the definition of a “health flex plan entity” and also clarifies the rulemaking authority of the Financial Services Commission and the Agency to implement the regulation of health flex plans.

This bill substantially amends section 408.909 of the Florida Statutes.

**II. Present Situation:**

**Health Flex Plan Pilot Program**

The Health Flex Plan pilot program was created by the Florida Legislature during the 2002 Session. The pilot program permits entities to develop alternative health care coverage plans, referred to as health flex plans, for uninsured persons who have a family income equal to or less than 200 percent of the federal poverty level. The goal of the program is to improve the affordability and availability of health care coverage for low-income Floridians who are unable to

obtain health coverage, by encouraging the development of alternative approaches to traditional health insurance that still provide basic and preventative health care services.

A health flex plan is permitted to take measures that are impermissible for regular providers of health care coverage. The health flex plan may limit or exclude benefits that are otherwise required by law for insurers offering coverage in Florida (s. 408.909(3), F.S.). The plan may also cap the total amount of claims paid per year per enrollee, and may limit the number of enrollees (s. 408.909(3), F.S.).

A health flex plan may be developed and implemented by health insurers, HMOs, health care provider-sponsored organizations, local governments, health care districts, or other community-based organizations (s. 408.909(2), F.S.). Current law specifies that the Agency for Health Care Administration (Agency) must develop guidelines for reviewing health flex plan applications and must disapprove or withdraw approval of plans that do not meet minimum standards for quality of care and access to care. The Office of Insurance Regulation (Office) must also develop guidelines for reviewing health flex plan applications and must disapprove or withdraw approval of plans that:

- Contain any ambiguous, inconsistent, or misleading provisions, or exceptions or conditions that deceptively affect or limit the benefits purported to be assumed in the general coverage provided by the plan;
- Provide benefits that are unreasonable in relation to the premium charged, contain provisions that are unfair or inequitable or contrary to the public policy of this state or that encourage misrepresentation, or result in unfair discrimination in sales practices; or
- Cannot demonstrate that the health flex plan is financially sound and that the applicant has the ability to underwrite or finance the benefits provided. (s. 408.909(3), F.S.)

The statute attempts to target the pilot programs in areas of the state that have the greatest number of the uninsured poor. The statute authorizes the Agency and the Office to approve health flex plans in the three areas of the state having the highest number of uninsured persons (s. 408.909(3), F.S.). These areas are northern Florida (Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Gulf, Franklin, Liberty, Gadsden, Leon, Wakulla, Jefferson, Taylor, Hamilton, Suwannee Lafayette, Dixie, Levy, Citrus, Sumter, Columbia, Baker, Union, Bradford, Putnam, Clay, Duval and Madison counties), south Florida (Miami-Dade and Broward county), and in Hillsborough County. The statute also authorizes the issuance of health flex plans in Indian River County.

Eligibility to enroll in a health flex plan is limited to Florida residents who are under 65 years of age and have a family income equal to or less than 200 percent of the federal poverty level. (s. 408.909(5), F.S.). The enrollee must not be covered by a private insurance policy, must not be eligible for coverage through a public health insurance program such as Medicare, Medicaid, or KidCare, and must not have been covered at any time during the past 6 months. The enrollee must also have applied for health care coverage through an approved plan and agree to make any payments required for participation, including periodic payments or payments due at the time health care services are provided.

The Agency for Health Care Administration must evaluate the pilot program and its effects on the entities that seek approval as health flex plans, as well as the number of enrollees and the scope of the coverage afforded. (s. 408.909(9), F.S.). The Agency and the Office are mandated to assess the health flex plans and their potential applicability in other settings. The Agency and the Office submitted a report due January 1, 2004, regarding the applicability of health flex programs to other areas of the state, to the Governor, President of the Senate, and the Speaker of the House of Representatives. The report states that several health insurers and governmental entities in areas of the state currently not covered by the program have contact the Agency to express interest in establishing health flex plans. Each approved health flex plan is required to maintain records of enrollment, finances, and claims experience to enable the agency and the department to monitor the plan (s. 408.909(7), F.S.). The statute authorizing the health flex pilot program was amended during the 2003 session to extend the expiration date of the program from July 1, 2004 to July 1, 2008.

The Agency for Health Care Administration reports that to date, three health flex plans have been approved. American Care, Inc. has created a plan in Dade County that covers outpatient services only, including many outpatient surgery components with substantial co-payments limitations; the program had 130 enrollees as of November 2003. Preferred Medical Plan, Inc., who has operated as an HMO for a number of years in Florida, was approved to offer a health flex plan in Dade County that offers primary care and outpatient benefit plan with limited drug coverage along with preventive services such as immunizations and mammograms. On December 1, 2003, JaxCare (a public/private sector partnership) became the most recent health flex plan to be approved. The plan links community groups and providers with private sector providers to create a network across Dade County. The JaxCare plan was developed through the "Communities In Charge" grant initiative of The Robert Wood Johnson Foundation and the technological infrastructure for the plan was developed through grants from the Department of Health and Human Services. In addition to the already approved plans, local government in Miami-Dade County is currently developing a health flex plan to offer to uninsured workers.

### **Governor's Task Force on Access to Affordable Health Insurance**

The Governor's Task force on Access to Affordable health Insurance (Governor's Task Force) was created for the purpose of identifying factors that contribute to rising health care costs and prevent Floridians from obtaining health insurance coverage. A recent study by the Kaiser Family Foundation ranks Florida sixth in the nation in percent of population without health insurance coverage, with 18 percent of Floridians uninsured during 2001-2002. The Governor's Task Force was to recommend policies that will improve access to health insurance at affordable, predictable costs, while maintaining consumer choice. The Governor's Task force was co-chaired by Lieutenant Governor Toni Jennings and Chief Financial Officer Tom Gallagher and was comprised of 17 members representing business leaders, health policy experts, health care providers, consumers, and legislators.

The Governor's Task Force recommended expanding the Health Flex Program statewide as a means of offering basic, lower-cost health care coverage to uninsured workers who have low

incomes.<sup>1</sup> In addition to expanding the program statewide, the Governor's Task Force made three accompanying recommendations. The first recommendation is that the Office regulate Health Flex advertisement and marketing procedures. The second recommendation is to require that Health Flex programs offer standardized consumer grievance procedures similar to those required for HMOs. Finally, the Governor's Task Force stated that Health Flex Plans should be used to gather more information to assist in the evaluation of low-income consumer driven health benefit packages. In addition to the recommendations specifically targeted to Health Flex Plans, the Governor's Task Force also recommended encouraging the creation of public-private sector partnerships that develop local health care plans for the uninsured.<sup>2</sup>

### III. Effect of Proposed Changes:

**Section 1.** Amends s. 408.909(2)(f), F.S., to include public-private partnerships within the definition of a "health flex plan entity."

The bill amends s. 408.909(3), F.S., by deleting language limiting health flex plans to residents of the three areas of the state that have the highest number of uninsured persons and Indian River County. The change will allow the creation of approved health flex plans throughout the state. The Agency for Health Care Administration (Agency) is required to ensure that health flex plans follow grievance procedures similar to those required of health maintenance organizations. The Office of Insurance Regulation (Office) is required by the bill, to provide regulatory oversight of the advertisement and marketing procedures for health flex plans. The bill also clarifies the authority of the Agency and the Financial Services Commission to adopt rules in order to administer s. 408.909, F.S.

Section 408.909(9), F.S., is also amended to mandate that the Office and the Agency use health flex plans to gather more information to evaluate benefit packages designed for low-income consumers. The Office and the Agency must include this information in a report to the Governor, President of the Senate, and Speaker of the House that is due on January 1, 2005, that evaluates the health flex plan program.

**Section 2.** The act takes effect upon becoming a law.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

---

<sup>1</sup> Final Report of the Governor's Task Force on Access to Affordable Health Insurance, page 74.  
[http://www.fdhc.state.fl.us/affordable\\_health\\_insurance/PDFs/task\\_force\\_report\\_021504\\_final.pdf](http://www.fdhc.state.fl.us/affordable_health_insurance/PDFs/task_force_report_021504_final.pdf)

<sup>2</sup> See fn. 1, at page 85.

C. Trust Funds Restrictions:

None.

**V. Economic Impact and Fiscal Note:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Making health flex plans potentially available statewide could have the effect of making basic, lower-cost health insurance to low income working uninsured in Florida.

C. Government Sector Impact:

The Agency for Health Care Administration does not expect there to be any additional cost to the Agency is processing an increased number of health flex plan applications. The Department of Financial Services also does not expect any fiscal impact from the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.