

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: CS/SB 348

INTRODUCER: Children, Families, and Elder Affairs and Senator Crist

SUBJECT: Medicaid buy-in for persons with disabilities

DATE: March 18, 2009                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bell	Wilson	HR	<b>Fav/1 amendment</b>
2.	Walsh	Walsh	CF	<b>Fav/CS</b>
3.			HA	
4.			WPSC	
5.				
6.				

**Please see Section VIII. for Additional Information:**

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

The Committee Substitute for SB 348 establishes a work group of staff from the Agency for Health Care Administration (AHCA), the Agency for Persons with Disabilities (APD), the Department of Children and Family Services (DCF), and the Division of Vocational Rehabilitation (VR). The work group is to prepare a report to the legislature, due on December 1, 2009, which assesses the most efficient and cost-effective means of implementing and administering a Medicaid Buy-in program for persons with disabilities.

The bill creates an undesignated section of law.

**II. Present Situation:**

**Florida Medicaid Program**

Florida's Medicaid Program is jointly funded by the federal, state, and county governments to provide medical care to eligible individuals. Florida implemented its Medicaid program on January 1, 1970, to provide medical services to indigent people. The 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.

Some Medicaid services are mandatory services that must be covered by any state participating in the Medicaid program pursuant to federal law.<sup>1</sup> Other services are optional. A state may choose to include optional services in its state Medicaid plan, but if included, such services must be offered to all individuals statewide who meet Medicaid eligibility criteria as though they are mandatory benefits.<sup>2</sup>

Similarly, some eligibility categories are mandatory<sup>3</sup> and some are optional.<sup>4</sup> Payments for services to individuals in the optional eligibility categories are subject to the availability of monies and any limitations established by the General Appropriations Act or chapter 216, Florida Statutes.

For FY 2009-10, the Florida Medicaid Program is projected to cover 2.6 million people<sup>5</sup> at an estimated cost of \$16.3 billion.<sup>6</sup>

### **Medicaid Buy-In Programs**

The working disabled or disabled persons who desire to attempt employment have limits on the amount of income they may earn in order to maintain their Medicaid benefits. This may create a disincentive to employment. To address this problem, legislation enacted by Congress in 1999 provided states the option and flexibility to allow people with disabilities to join the workforce without loss of their Medicaid coverage by allowing individuals with disabilities who work to “buy in” to a state’s Medicaid program. This Medicaid buy-in program is based on the Ticket to Work and Work Incentives Improvement Act (TWWIIA),<sup>7</sup> which permits states to set more liberal income and asset limits for eligibility purposes.

In 2006, 32 states were operating a Medicaid buy-in program and 97,491 individuals were enrolled at some point during that year.<sup>8</sup>

### **Florida’s Medicaid Buy-In Program**

Florida has had variations of Medicaid buy-in programs for several years. Florida established the Assistance for the Uninsured program in 1991.<sup>9</sup> The program required the department<sup>10</sup> to use its claims payment systems, utilization control systems, cost control systems, case management systems, and other systems and controls that it had developed for the management and control of

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<sup>1</sup> These mandatory services are codified in s. 409.905, F.S.

<sup>2</sup> Optional services covered under the Florida Medicaid Program are codified in s. 409.906, F.S.

<sup>3</sup> s. 409.903, F.S.

<sup>4</sup> s. 409.904, F.S.

<sup>5</sup> <http://edr.state.fl.us/conferences/medicaid/medcases.pdf> (last visited on March 13, 2009).

<sup>6</sup> <http://edr.state.fl.us/conferences/medicaid/medhistory.pdf> (last visited on March 13, 2009).

<sup>7</sup> Public Law 106-170.

<sup>8</sup> The Three E’s: Enrollment, Employment, and Earnings in the Medicaid Buy-In Program, 2008. Found at: [http://www.mathematica-mpr.com/publications/pdfs/EEE\\_FinalReport\\_Apr2008.pdf](http://www.mathematica-mpr.com/publications/pdfs/EEE_FinalReport_Apr2008.pdf) (last visited March 13, 2009).

<sup>9</sup> s. 409.914, F.S.

<sup>10</sup> Then the Department of Health and Rehabilitative Services.

the Medicaid program to assist other agencies and private entities to solve problems of lack of insurance, underinsurance, or uninsurability in the general population.

In 1993, the department was charged with seeking federal authority to implement a Medicaid buy-in program to provide medical assistance to persons ineligible for Medicaid because of their current income and categorical restrictions. The department was required to use funds provided by the Robert Wood Johnson Foundation to assist in developing the buy-in program, including, but not limited to: the determination of eligibility and service coverages; cost sharing requirements; managed care provisions; and changes needed to the Medicaid program's claims processing, utilization control, cost control, case management, and provider enrollment systems to operate a buy-in program. The buy-in program was charged with providing medical assistance coverage for persons with incomes up to 250 percent of the FPL. However, the department was prohibited from implementing a buy-in program until it received necessary federal authorization and state appropriations. No funds were allocated and the program was not implemented, even though it is still authorized in s. 409.914(2), F.S.

In 2002, Florida chose to fund and implement a Medicaid "buy-in" program effective April 1, 2002, for disabled individuals who had earned income, after established disregards, that did not exceed 250 percent of the FPL and who met other existing factors of eligibility. The program was eliminated effective July 1, 2002, as a result of the 2002 Special Legislative Session. The total enrollment for the program during this three-month period was 19 individuals. This low enrollment may be attributed to the fact that potentially eligible individuals were informed upfront that the benefits would only be provided for a three-month period.

### **Agency for Persons with Disabilities**

The Agency for Persons with Disabilities (APD) is responsible for providing all services provided to persons with developmental disabilities under chapter 393, F.S., including the operation of all state institutional programs and the programmatic management of Medicaid waivers established to provide services to persons with developmental disabilities.<sup>11</sup>

Since January 2006, Florida has received funding each year from the Centers for Medicaid and Medicare through a Medicaid Infrastructure Grant (MIG), and APD has been the state agency administering the grant. The purpose of the grant is to support the State's efforts to enhance employment options for people with disabilities by building Medicaid infrastructure. Funding may be used to develop a Medicaid buy-in program, increase availability of Personal Assistance Services, plan a Demonstration to Maintain the Independence and Employment Program, or for State-to-State technical assistance.<sup>12</sup> In addition, States may use funding to develop a comprehensive approach to bridge Medicaid services with other key supports and programs used by employed people with disabilities.

In Florida, the Medicaid Infrastructure Grant funding has been used to collaborate with other agencies and organizations in an attempt to implement a Medicaid buy-in program to make health insurance available for purchase by workers with disabilities, to conduct studies and report

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<sup>11</sup> s. 20.197, F.S.

<sup>12</sup> CMS MIG: Found at: [http://www.cms.hhs.gov/TWWIIA/03\\_MIG.asp](http://www.cms.hhs.gov/TWWIIA/03_MIG.asp) (last visited on March 13, 2009).

on conditions that affect the ability of Floridians with disabilities to work, and to fund other projects that support employment within the scope of the grant.<sup>13</sup>

### **Department of Children and Family Services**

The Department of Children and Family Services is the entity responsible for determining the financial eligibility of applicants for government assistance, including for Medicaid coverage. In addition, DCF administers the Home and Community Based Services Medicaid Waiver (Medicaid Waiver) program to assist low income adults between the ages of 18 and 59 years of age who have one or more permanent physical or mental limitations that restrict their ability to perform one or more activities of daily living.<sup>14</sup>

This program uses Medicaid funds to serve disabled adults who are unable to care for themselves and are eligible for nursing home placement. The program makes available such services as personal care, home-delivered meals, homemaker service, and adult day care, which allow clients to remain in their homes instead of in nursing homes.<sup>15</sup>

The Medicaid Waiver administered by DCF serves disabled adults aged 18-59. As of September, 2008 DCF served 739 individuals through the Medicaid Waiver program and had a waiting list of 3,530 individuals.<sup>16</sup>

### **Division of Vocational Rehabilitation**

The Florida Division of Vocational Rehabilitation is located within the Department of Education, which is, pursuant to s. 413.201, F.S., the designated state agency to effect compliance with the Vocational Rehabilitation Act of 1973. The Division provides the services that are required for eligible customers to achieve an employment goal, with priority placed on serving the customers with the most significant disabilities.

According to VR, in state fiscal year 2006-07, over 11,000 persons with disabilities entered gainful employment in jobs with an average hourly wage of \$11.49.<sup>17</sup> Those disabilities included chronic medical conditions; developmental disabilities; learning disabilities; mental health disorders; orthopedic conditions; sensory impairments; and substance abuse issues.<sup>18</sup>

### **III. Effect of Proposed Changes:**

The bill creates an undesignated section of law to direct the Secretaries of AHCA and DCF, the Executive Director of APD, and the Director of VR to jointly convene a work group to assess the most efficient and cost-effective means of implementing and administering a Medicaid Buy-in program for persons with disabilities. The work group is to be staffed by agency employees with

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<sup>13</sup> More information on MIG can be found online at: <http://apd.myflorida.com/mig/> (last visited March 13, 2009).

<sup>14</sup> *The Florida Senate Issue Brief 2009-304*, January 2009, page 25.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> *Florida Division of Vocational Rehabilitation 2006-07 Annual Report*, available at:

<http://www.rehabworks.org/Files/DocumentsLinks/2007%20Annual%20Report.pdf> (last visited March 18, 2009).

<sup>18</sup> *Id.*

expertise in the needs of the disabled. It is to prepare a report to the legislature by December 1, 2009, which is to include at least the following information:

- Data on the number and characteristics of disabled persons to whom the Buy-in Program could be offered;
- Description of the services to be offered under the Program;
- Proposed premiums to be charged and the basis therefor;
- Costs to the state Medicaid program of extending coverage through a Medicaid Buy-in Program, including costs of administration of the Buy-in Program;
- A recommendation on how and by which entity the Buy-in Program should be administered;
- Legislation for consideration during the 2010 Regular Session of the Legislature to implement the recommendations of the report.

The effective date of the bill is July 1, 2009.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The work group is staffed by employees of AHCA, APD, DCF, and VR. Their work can be completed within existing agency resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

- A. **Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on March 18, 2009:**

The Committee Substitute for SB 348 amends the bill to establish a work group of staff from AHCA, APD, DCF, and VR. The work group is to prepare a report to the legislature, due on December 1, 2009, which assesses the most efficient and cost-effective means of implementing and administering a Medicaid Buy-in program for persons with disabilities.

- B. **Amendments:**

**Barcode 104114 by Health Regulation on March 11, 2009:**

Requires AHCA, in consultation with APD and DCF, to develop a Medicaid buy-in program for individuals eligible for Medicaid under s. 409.904(10), F.S., by July 1, 2010; specifies that APD will be responsible for administering the Medicaid buy-in program; and provides APD with rulemaking authority to administer the Medicaid buy-in program.  
(WITH TITLE AMENDMENT)