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 Committee on Children, Families, and Elder Affairs

BILL:	SB 548
INTRODUCER:	Senators Detert and Ring
SUBJECT:	Florida Kidcare Program
DATE:	March 29, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Hendon	CF	**Pre-meeting**
2.			AHS	
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 548 grants presumptive eligibility to any child under the age of 19 who applies for coverage under the Kidcare program through a federally qualified health center, subject to federal rules. A child is presumed eligible for coverage if, based on a preliminary comparison of the family's income to the eligibility criteria, it appears the child is meets the program's eligibility criteria. Presumptive eligibility provides up to 60 days of coverage until a completed application is submitted, income is verified, and a final eligibility determination is made.

This bill will have a significant fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends section 409.814 of the Florida Statutes.

II. Present Situation:

Florida Kidcare Program

Florida Kidcare is the state's children's health insurance program for uninsured children from birth to age 19 who meet income and eligibility requirements. The 1998 Florida Legislature created Florida Kidcare after Congress passed the State Children's Health Insurance Program (CHIP), as part of the Balanced Budget Act of 1997 (BBA). CHIP is a non-entitlement program located in Title XXI of the Social Security Act.[1] Initially authorized for 10 years and then

[1] Pub. Law No. 105-33, H.R. 2015, 105th Cong. (Aug. 5, 1997).

recently re-authorized[2] through 2019 with federal funding through 2015, CHIP provides subsidized health insurance coverage to uninsured children who do not qualify for Medicaid but who meet other eligibility requirements. Because it is a non-entitlement program, the state is able to determine how many children to cover and may discontinue enrollment or modify benefits within federal requirements in order to ensure that program expenditures do not exceed available Title XXI funding. The state statutory authority for Kidcare is found in part II of ch. 409, F.S.

Kidcare encompasses four programs: Medicaid for children, the Medikids program, the Children's Medical Services Network, and the Florida Healthy Kids program. Kidcare coverage is funded by state and federal funds through Title XIX (Medicaid) and Title XXI (CHIP) of the federal Social Security Act. Families also contribute to the cost of the coverage under the Title XXI-funded components of Kidcare based on their household size, income, and other eligibility factors. For families with incomes above the income limits for premium assistance or who do not otherwise qualify for assistance, Kidcare also offers an option under the Healthy Kids component and the Medikids component for the family to obtain coverage for its children by paying the full premium.

Eligibility for the Kidcare components that are funded by Title XXI is determined in part by age and household income as follows:[3]

- Medicaid for Children: Title XXI funding is available from birth until age 1 for family incomes between 185 percent and 200 percent of the Federal Poverty Level (FPL).
- Medikids: Title XXI funding is available from age 1 until age 5 for family incomes between 133 percent and 200 percent of the FPL.
- Healthy Kids: Title XXI funding is available from age 5 until age 6 for family incomes between 133 percent and 200 percent of the FPL. For age 6 until age 19, Title XXI funding is available for family incomes between 100 percent and 200 percent of the FPL.
- Children's Medical Services Network: Title XXI and Title XIX funds are available from birth until age 19 for family incomes up to 200 percent of the FPL for children with special health care needs. The Department of Health assesses whether children meet the program's clinical requirements.

Kidcare is administered jointly by the Agency for Health Care Administration (AHCA), the Department of Children and Families (DCF), the Department of Health, and the Florida Healthy Kids Corporation. Each entity has specific duties and responsibilities under Kidcare as detailed in part II of ch. 409, F.S. DCF determines eligibility for Medicaid, and the Florida Healthy Kids Corporation processes all Kidcare applications and determines eligibility for CHIP, which includes a Medicaid screening and referral process to the Department of Children and Families, as appropriate.

To enroll in Kidcare, families utilize a form that is both a Medicaid and CHIP application. Families may apply using the paper application or an online application. Both formats are

[2] Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Pub. Law No. 111-3, H.R. 2, 111th Cong. (Feb. 4, 2009).
[3] Fla. Dep't of Health, *Florida Kidcare Eligibility*, *available at* www.doh.state.fl.us/alternatesites/kidcare/images/data/FKC-eligibilityflag-accessible.pdf (last visited on Mar. 5, 2013).

available in English, Spanish, and Creole. Income eligibility is determined through electronic data matches with available databases or, in cases where income cannot be verified electronically, through submission of current pay stubs, tax returns, or W-2 forms.

Medicaid applications must be approved or denied within 45 days from the date the application is received and all factors of eligibility are verified. Currently, eligibility determinations for the Title XXI-funded programs occur within 4 – 6 weeks.[4] Coverage for a child under a Title XXI-funded program begins the first day of the month following the date the child is determined eligible for services and the required premium is paid.

Once a child is determined eligible, Florida Kidcare has 12 months of continuous eligibility for all children, except children ages 5 – 19 who are enrolled in Medicaid who receive six months continuous eligibility, regardless of changes in circumstance (other than aging out of the program). Continuous eligibility allows a child to maintain coverage for a set period, which reduces breaks in coverage and ensures continuity of care.[5] Medicaid may also be authorized for up to three months prior to the date of application provided an applicant has an unpaid medical bill for one or more of the three months preceding the application.

As of December 2012, total enrollment in Kidcare was 2,069,470. Between December 2011 and December 2012:

- Total Florida Kidcare enrollment increased by 4.3 percent. Medicaid child enrollments increased by 4.5 percent, while Title XXI-funded Florida Kidcare enrollment decreased by 1.5 percent.
- Among the Title XXI-funded components, enrollment in MediKids increased by 0.4 percent and Healthy Kids by 3.2 percent, while CMS Network enrollment decreased by 5.8 percent.
- MediKids full pay enrollment increased by 3.1 percent, while Healthy Kids full pay enrollment increased 13.5 percent.[6]

The 2012 – 2013 General Appropriations Act appropriated $539,160,556 to operate the Florida Kidcare Program, including $59,122,591 in General Revenue and $480,037,965 from trust funds.[7] The Social Services Estimating Conference convened on November 16, 2012 to adopt a caseload and expenditure forecast for the Kidcare Program through June 2016. For fiscal year 2012-13, the program is projected to end the year with a General Revenue surplus of $9.8 million.[8]

The Georgetown University Center for Children and Families reports that in 2010 the overall number of uninsured nationwide increased 8.5 percent from 2008 to a total of 47.2 million people. The number of children in poverty also increased significantly from 13.2 million in 2008 to 15.7 million in 2010. Yet, during this same period, the number of uninsured children

[4] Conversation with Fred Knapp, Florida Healthy Kids Corporation (Mar. 25, 2013).
[5] Fla. KidCare Coordinating Council, *2013 Annual Report and Recommendations*, (Jan. 4, 2012), *available at* http://www.floridakidcare.org/council/reports/2013_KCC_Report.pdf (last visited Mar. 5, 2012).
[6] *Id.*
[7] Ch. 2012-118, L.O.F.
[8] Social Services Estimating Conference, *Florida KidCare Program* (Nov. 16, 2012), *available at* http://www.floridakidcare.org/council/12-07-12/kidcareSSEC_Exec_Summary.pdf (last visited Mar. 5, 2013).

decreased from 6.9 million to 5.9 million – a decrease the report attributes to the success of CHIP and Medicaid. Florida saw the largest decrease in uninsured children nationwide. Florida's child uninsurance rate declined 4 percent from 667,758 uninsured children in 2008 to 506,934 in 2010. Despite this large decrease, Florida's overall rate still remained at 12.7 percent in 2010, which exceeds the national average of 8.0 percent.[9]

Presumptive Eligibility

At the same time it created CHIP, Congress also amended Title XIX of the Social Security Act, to give states the option to allow specified qualified entities to make presumptive eligibility determinations of all children who apply for benefits through Medicaid or CHIP.[10] Qualified entities identify children they are already serving who are uninsured and who are likely to be eligible for Medicaid or CHIP. The qualified entity compares the family income of those children to eligibility levels for children's health care coverage under Medicaid or CHIP. If it looks like a child is eligible, he or she is given immediate access to temporary care until an official determination is made. Reported income is then verified after the fact. If, on verification, the family is determined to have income that exceeds the limits for program eligibility, he or she is taken off the program. The presumptive eligibility period for a child found to be eligible, based upon preliminary information that the family meets the financial eligibility standards, begins on the date of the presumptive eligibility determination and ends at the end of the next month, which is when a complete application must be filed.[11]

During the presumptive eligibility period, states receive their regular federal medical assistance participation (FMAP) match for children determined presumptively eligible for Medicaid and the enhanced FMAP for children determined eligible for CHIP or CHIP-funded Medicaid expansion. The ultimate federal match – once the child is enrolled in services – is based on the child's final eligibility determination. States receive the federal match even if the child is later determined ineligible.[12]

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[9] Georgetown University Center for Children and Families, *Despite Economic Challenges, Progress Continues: Children's Health Insurance Coverage in the United States from 2008 – 2010* (Nov. 2011), *available at* http://ccf.georgetown.edu/wp-content/uploads/2012/03/uninsured_acs_brief.pdf (last visited Mar. 5, 2013).

[10] Pub. Law No. 105-33, s. 4912, H.R. 2015, 105th Cong. (Aug. 5, 1997). "When presumptive eligibility was first enacted through the Children's Health Insurance Program (CHIP), the law did not explicitly extend presumptive eligibility to children eligible for CHIP. However, in a State Medicaid Director letter dated October 10, 1997, CMS issued guidance indicating that a state could craft an equivalent procedure in CHIP as a health services initiative. However, by doing presumptive eligibility as a health services initiative, CHIP PE expenditures counted against the state's 10 percent cap on administrative and outreach costs. In the 2000 enactment of [Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000], presumptive eligibility was fully extended to CHIP. This ended the requirement that presumptive eligibility expenditures be counted toward the 10-percent cap." Georgetown University Center for Children and Families, *Presumptive Eligibility: Providing Access to Health Care Without Delay and Connecting Children to Coverage* (May 2011), *available at* http://ccf.georgetown.edu/wp-content/uploads/2012/03/Presumptive_eligibility_20111.pdf (last visited Mar. 5, 1013).

[11] 42 U.S.C. s.1396r-1a(b)(2); 42 U.S.C. s.1397gg(e)(1)(D).

[12] 42 CFR s. 457.355.

The benefits of presumptive eligibility include:

- Providing immediate access to health care services. Without insurance to cover the cost, families might delay treatment for conditions which, because of the delay, result in costlier and more extensive services.
- Allowing established community-based organizations to enroll eligible children who have not been reached through other means.
- Encouraging families to follow through on completing an application.[13]

Concerns expressed by states about implementing presumptive eligibility include:

- The administrative cost (e.g. training qualified entities).
- The programmatic cost of providing care during the presumptive eligibility period.
- The risk of providing expensive services to a child who is later determined ineligible.
- Whether, with simplified application processes and retroactive Medicaid coverage, presumptive eligibility is necessary.[14]

Entities states may authorize to make presumptive eligibility determinations include: health care providers participating in Medicaid; primary or secondary schools; organizations that determine eligibility for Head Start, WIC, and the Child Care and Development Block Grant program; agencies administering Medicaid, CHIP, TANF, or housing assistance; child support enforcement agencies, certain homeless shelters; and any other entity a state chooses, if approved by the Secretary of Health and Human Services.[15] In addition and starting in 2014, the Patient Protection and Affordable Care Act gives hospitals that provide Medicaid services the option to make presumptive eligibility determinations for Medicaid beneficiaries whether or not the state has otherwise adopted the option.[16]

Currently, sixteen states have implemented some form of presumptively eligibility, whether for CHIP, Medicaid, or both.[17]

Presumptive Eligibility in Florida

Florida currently offers presumptive eligibility for Medicaid benefits to pregnant women and babies born to women who are Medicaid eligible. Presumptive eligibility for pregnant women begins with the date the preliminary determination of eligibility is completed and extends for an additional two months while DCF makes a final determination of eligibility for ongoing

[13] Georgetown University Center for Children and Families, *Presumptive Eligibility: Providing Access to Health Care Without Delay and Connecting Children to Coverage* (May 2011), *available at* http://ccf.georgetown.edu/wp-content/uploads/2012/03/Presumptive_eligibility_20111.pdf (last visited Mar. 5, 2013).
[14] Rachel Klein, *Presumptive Eligibility*, THE FUTURE OF CHILDREN J., Vol. 13, No. 1 (Spring 2003), *available at* http://futureofchildren.org/publications/journals/article/index.xml?journalid=41&articleid=158&sectionid=1021 (last visited Mar. 18, 2013).
[15] 42 U.S.C. s. 1396r-1a et. seq.
[16] Pub. Law No. 111-148, S. 2202, H.R. 3590, 111th Cong. (Mar. 23, 2010).
[17] California, Colorado, Connecticut, Illinois, Iowa, Kansas, Massachusetts, Michigan, Missouri, Montana, New Hampshire, New Jersey, New Mexico, New York, Ohio, and Wisconsin. MedicaidlGov, *Presumptive Eligibility for Medicaid and CHIP Coverage*, http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Outreach-and-Enrollment/Presumptive-Eligibility.html (last visited Mar. 6, 2013).

Medicaid coverage. Presumptive eligibility covers outpatient prenatal care, only. Presumptive eligibility for newborns extends for up to thirteen months from the baby's date of birth.[18] Currently, DCF approves county health departments, regional perinatal intensive care centers, and other qualified designated providers to conduct Medicaid presumptive eligibility determinations for pregnant women. Federally qualified health centers are among the designated providers DCF has approved.[19]

The Legislature authorized presumptive eligibility for children applying for Kidcare as part of a series of reforms implemented in 2000.[20] A study conducted by AHCA at the request of the 1998 Legislature found that the benefits associated with implementing presumptive eligibility outweigh the costs because:

- Health outcomes for children would improve.
- The enrollment process would be simplified and less confusing, particularly for those applying to Title XXI programs who meet referral criteria for Medicaid.
- Hospitals and other providers would benefit to the extent they are currently providing uncompensated care to children.
- The cost to the state is low due to the enhanced federal match rate.[21]

At the time, implementation was expected to alleviate delays resulting from the then-existing backlog of applications.[22]

Beginning in fiscal year 2002, annual expenditures on the program exceeded the state's federal allotment with the anticipated consequence of spending down and eventually exceeding reserves. The 2003 Legislature funded a "no growth" enrollment policy that resulted in a waiting list of 90,000 children as of January 1, 2004. As a result, the 2004 Legislature implemented a number of changes intended to address the waitlist while still ensuring that the program's size remained within anticipated federal revenues. Among the changes, presumptive eligibility was repealed.[23]

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[18] Fla. Dept. of Children & Families, *Family-related Medicaid Programs Fact Sheet, (*April 2012), *available at* http://www.dcf.state.fl.us/programs/access/docs/fammedfactsheet.pdf (last visited Mar. 18, 2013).

[19] Dept. of Children and Families, *Operating Procedure No. 165-9: Presumptive Eligibility for Pregnant Women* (April 6, 2012) , *available at* http://www.dcf.state.fl.us/admin/publications/cfops/165%20Economic%20Self-Sufficiency%20Services%20(CFOP%20165-XX)/CFOP%20165-09,%20Presumptive%20Medicaid%20Eligibility%20for%20Pregnant%20Women.pdf (last visited Mar. 19, 2013).

[20] Chapter 2000-253, s. 4, L.O.F.

[21] Senate Committee on Health, Aging and Long-Term Care , *Staff Analysis of CS/SB 212 – Health Care Assistance/Florida Kidcare Program*, (Jan. 20, 2000) (on file with the Senate Committee on Children, Families, and Elder Affairs).

[22] Comm. on Health, Aging and Long-Term Care, The Florida Senate, *Review Implementation of the Florida KidCare Act*, 6, (Interim Report 2000-57) (Sept. 1999).

[23] Senate Committee on Appropriation, *Staff Analysis of CS/SB 2000 – Children's Health Care,* (Mar. 1, 2004) (on file with the Senate Committee on Children, Families, and Elder Affairs). Language relating to presumptive eligibility for Medicaid-eligible children remains in statute. However, it appears that presumptive eligibility was never implemented for any portion of the Kidcare program, including Medicaid.

III. Effect of Proposed Changes:

Section 1 amends s. 409.814, F.S., to grant presumptive eligibility to any child under the age of 19 who applies for coverage under the Kidcare program through a federally qualified health center.

Section 2 provides an effective date of July 1, 2013.

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:

Health care providers who serve children enrolled in the Kidcare program would benefit from immediate access to payments while the full eligibility determination is pending. Families of children who are presumptively eligible would have a means to cover the cost of any services provided to their children during the presumptive eligibility period. Children who are presumptively eligible would benefit from immediate access to services.

C. Government Sector Impact:

Services provided during the presumptive eligibility period will result in a positive fiscal impact to the state[24] for both the Title XIX and Title XXI programs, but the cost is indeterminate because we cannot predict the number of children who will apply for coverage through an FQHC; of those children, the number whose initially-reported income will qualify them for presumptive eligibility coverage; and the period of time each child would remain presumptively eligible. The bill will result in an increased cost to the state if the effect is to increase the number of children who apply for and ultimately

[24] In fiscal year 2013-2014, the state share of Title XXI (CHIP) expenditures is 28.97% and the state share of Title XIX (Medicaid) expenditures is 41.33%. The federal government will pay the difference.

receive coverage under the Kidcare program. It will also result in an increased cost to the state if it results in children who are ineligible for Kidcare receiving services during the presumptive eligibility period. This cost would be calculated by multiplying the number of children who apply for presumptive eligibility times the monthly cost of coverage times two months, which is the maximum period during which presumptive eligibility is available. The average estimated per member per month cost for each category of coverage is: Title XIX: $229 and Title XXI: $173.

Medicaid eligibility changes proposed in the bill would require programming to FLORIDA and other ACCESS eligibility system components, which is estimated as 5,420 hours of programming and testing at a blended rate of $100/hour for a total cost of $542,000.

VI. Technical Deficiencies:

Implementation of presumptive eligibility will require federal approval through amendments to the CHIP and Medicaid state plans. Approval typically takes 90 – 180 days, which AHCA believes will make a July 1, 2013 implementation date uncertain.[25]

AHCA has raised a concern regarding whether the state will receive federal approval since the bill provides presumptive eligibility for only a subset of Medicaid and CHIP applicants. The concern is based on a previously proposed bill that would have extended presumptive eligibility to children who have been denied Medicaid during the transition to CHIP. At the time, the federal government indicated that presumptive eligibility could not be given to a subset of a population. In addition, language in the Medicaid State Plan only allows a state to indicate whether or not presumptive eligibility is offered. AHCA interprets that as providing an all or nothing choice.[26] Federal law, however, allows states to determine which qualified entities may perform presumptive eligibility determinations. which AHCA interprets as a conflict in policy and, as a result, has requested clarification from the federal government. A response has not yet been received.

VII. Related Issues:

As a result of the Patient Protection and Affordable Care Act, the federal government is developing a new, centralized data services hub to assist in eligibility determinations. Access to the hub is intended to help defray states' ongoing costs and result in greater efficiency. For example, states will be able to electronically verify eligibility factors through the hub, where previously they had to verify through multiple federal and private venues. Access to the hub could further decrease eligibility determination waiting periods, thereby decreasing the value or impact of presumptive eligibility.

[25] Agency for Health Care Administration, *Senate Bill 548 Bill Analysis & Economic Impact Statement*, (undated) (on file with the Senate Committee on Children, Families and Elder Affairs).
[26] *Id.*

VIII. Additional Information:

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

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.