CHAPTER 97-263

House Bill No. 1965

An act relating to health care; creating s. 154.501, F.S.; creating the "Primary Care for Children and Families Challenge Grant Act"; creating s. 154.502, F.S.; providing legislative findings and intent; creating s. 154.503, F.S.; providing for the creation and administration of the Primary Care for Children and Families Challenge Grant Program; creating s. 154.504, F.S.; providing for eligibility and benefits; creating s. 154.505, F.S.; providing an application process and requirements; authorizing contracts for health care services; creating s. 154.506, F.S.; providing for primary care for children and families challenge grant awards; providing for local matching funds; requiring a study and a report; directing the Agency for Health Care Administration to seek federal waivers; repealing s. 766.1115(12), F.S., relating to expiration of the Access to Health Care Act; amending s. 236.0812, F.S.; authorizing certified match for expanded school-based services; amending s. 409.904, F.S.; providing technical changes; amending s. 409.905, F.S.; authorizing a preventive focus for Medicaid family planning services; amending s. 409.9071, F.S.; incorporating conforming revisions; amending s. 409.908, F.S.; modifying the Medicaid reimbursement for certified match services; amending s. 409.912, F.S.; authorizing Medicaid to enter prepaid contracts with provider service networks; directing the Agency for Health Care Administration to develop a program to inform certain persons about sources of health care; amending s. 409.906, F.S.; authorizing the Agency for Health Care Administration to pay for certain services provided by a registered nurse first assistant; amending s. 409.9071, F.S.; incorporating conforming revisions; amending s. 409.908, F.S.; authorizing the Agency for Health Care Administration to pay for certain services provided by a registered nurse first assistant; modifying the Medicaid reimbursement for certified match services; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 154.501, Florida Statutes, is created to read:

154.501 Short title.—Sections 154.501-154.506 may be cited as the "Primary Care for Children and Families Challenge Grant Act."

Section 2. Section 154.502, Florida Statutes, is created to read:

154.502 Legislative findings and intent.—

(1) The Legislature finds that, despite significant state investments in health care programs, millions of low-income Floridians, many of them families with children, continue to lack access to basic health care. The Legislature finds that local solutions to health care problems can have a dramatic and positive effect on the health status of children and families. Local gov-

ernments are better equipped to identify the health care needs of the children and families in their communities, mobilize the community to donate time and services to help their neighbors, and organize health care providers to provide health services to needy children and families.

(2) It is the intent of the Legislature to provide matching funds to Florida counties in the form of primary care for children and families challenge grants to stimulate the development of coordinated primary health care delivery systems for low-income, children and families. Further, it is the intent of the Legislature to foster the development of coordinated primary health care delivery systems which emphasize volunteerism, cooperation, and broad-based participation by public and private health care providers. Finally, it is the intent of the Legislature that the Primary Care for Children and Families Challenge Grant Program function as a partnership between state and local governments and private sector health care providers.

Section 3. Section 154.503, Florida Statutes, is created to read:

154.503 Primary Care for Children and Families Challenge Grant Program; creation; administration.—

(1) Effective July 1, 1997, there is created the Primary Care for Children and Families Challenge Grant Program to be administered by the Department of Health.

(2) The department shall:

(a) Publicize the availability of funds and the method by which a county or counties may submit a primary care for children and families challenge grant application.

(b) Develop a quality assurance process to monitor the quality of health services provided under ss. 154.501-154.506.

(c) Provide technical assistance, as requested, to primary care for children and families challenge grant recipients.

(d) Develop uniform data reporting requirements for primary care for children and families challenge grant recipients, for the purpose of evaluating the performance of the projects.

(e) Coordinate with the primary care program developed pursuant to s. 154.011, the Florida Healthy Kids Corporation program created in s. 624.91, the school health services program created in ss. 402.32 and 402.321, the Healthy Communities, Healthy People Program created in s. 408.604, and the volunteer health care provider program developed pursuant to s. 766.1115.

(3) A primary care for children and families challenge grant shall be in effect for 1 year and may be renewed for additional years upon application to and approval by the department, subject to meeting quality standards and outcomes, and subject to the availability of funds.

(4) The department is authorized to adopt rules necessary to implement ss. 154.501-154.506.

Section 4. Section 154.504, Florida Statutes, is created to read:

154.504 Eligibility and benefits.—

(1) Any county or counties may apply for a primary care for children and families challenge grant to provide primary health care services to children and families with incomes of up to 150 percent of the federal poverty level. Participants shall pay no monthly premium for participation, but shall be required to pay a copayment at the time a service is provided. Copayments may be paid from sources other than the participant, including, but not limited to, the child's or parent's employer, or other private sources.

(2) Nothing in this section shall prevent counties with populations less than 100,000, based on the annual estimates produced by the Population Program of the University of Florida Bureau of Economic and Business Research, from submitting a multi-county application for a primary care for children and families challenge grant to jointly administer and operate a coordinated multi-county primary care for children and families program under ss. 154.501-154.506. However, when such counties submit a joint application, the application shall clearly identify one lead county with respect to program accountability and administration.

(3) Each county or group of counties submitting an application to participate in the Primary Care for Children and Families Challenge Grant Program shall develop a schedule of benefits and services appropriate for the population to be served. However, at a minimum, such benefits must cover preventive and primary care services and include a coordination mechanism for limited inpatient hospital care.

Section 5. Section 154.505, Florida Statutes, is created to read:

154.505 Proposals; application process; minimum requirements.—

(1) Any county or counties which desire to receive state funding under ss. 154.501-154.506 shall submit an application to the department. The department shall develop an application process for the Primary Care for Children and Families Challenge Grant Program.

(2) Applications shall be competitively reviewed by an independent panel appointed by the secretary of the department. This panel shall determine the relative weight for scoring and evaluating each of the following elements to be used in the evaluation process:

(a) The target population to be served.

(b) The health benefits to be provided.

(c) The proposed service network, including specific health care providers and health care facilities that will participate in the service network on a paid or voluntary basis.

(d) The methods that will be used to measure cost-effectiveness.

(e) How patient and provider satisfaction will be measured.

(f) The proposed internal quality assurance process.

(g) Projected health status outcomes.

(h) The way in which data to measure the cost-effectiveness, outcomes, and overall performance of the program will be collected, including a description of the proposed information system.

(i) All local resources, including cash, in-kind, voluntary, or other resources, that will be dedicated to the proposal.

(3) Preference shall be given to proposals which:

(a) Exceed the minimum local contribution requirements specified in s. 154.506.

(b) Demonstrate broad-based local support for the project, including, but not limited to, agreements to participate in the service network, letters of endorsement, or other forms of support.

(c) Demonstrate a high degree of participation by health care providers on a free or volunteer basis, or through financial contributions. This may include participation by publicly or privately funded health care providers, such as, hospitals, county health departments, community health centers, or rural health clinics, in the service network.

(d) Are submitted by counties with a high proportion of children and families living in poverty and with poor health status indicators.

(e) Demonstrate coordinated service delivery with existing publicly financed health care programs, including those programs specified in s. 154.503(2)(e).

(4) Nothing in ss. 154.501-154.506 shall prevent a county or group of counties from contracting for the provision of health care services. A service network may include, but need not be limited to, special health care districts, county health departments, federally qualified health centers, community health centers, and rural health clinics.

Section 6. Section 154.506, Florida Statutes, is created to read:

154.506 Primary care for children and families challenge grant awards.—

(1) Primary care for children and families challenge grants shall be awarded on a matching basis. The county or counties shall provide $1 in local matching funds for each $2 grant payment made by the state. Except as provided in subsection (2), up to 50 percent of the county match may be in-kind in the form of free hospital and physician services. However, a county shall not supplant the value of donated services in fiscal year 1996

as documented in the volunteer health care provider program annual report. The department shall develop a methodology for determining the value of an in-kind match. Any third party reimbursement and all fees collected shall not be considered local match or in-kind contributions. Fifty percent of the local match shall be in the form of cash.

(2) A small county with a population of no more than 50,000 may provide the required local matching funds entirely through an in-kind contribution as long as the new system of care produces an increase in patients served or services delivered, or both.

(3) Grant awards shall be based on a county's population size, or each individual county's size in a group of counties, and other factors, in an amount as determined by the department. However, for fiscal year 1997-98, no fewer than four grants shall be awarded.

(4) Children and families eligible for other state and federally financed health care programs shall exhaust all health care benefits funded through those programs prior to receiving health services through the primary care for children and families challenge grant. A program funded under this act may bill for third party reimbursement for services provided.

(5) Implementation of the Primary Care for Children and Families Challenge Grant Program shall be subject to the allocation of a specific appropriation in the General Appropriations Act.

Section 7. (1) It is the intent of the Legislature that there be an evaluation of the various health care programs serving children and families.

(2) The Agency for Health Care Administration, in conjunction with the Department of Health, shall evaluate the cost benefits, program effectiveness, and quality outcomes associated with a service delivery model versus an insurance coverage model. The evaluation shall account for program differences with regard to eligibility coverages, benefits, population differences, and other factors that may affect program operations. This evaluation shall include, but not be limited to, Medicaid, the Primary Care for Children and Families Challenge Grant Program, the Children's Medical Services alternative service network, and the Florida Healthy Kids Corporation program. The agency shall submit a report of its findings to the Legislature and the Governor by January 1, 1999.

Section 8. The Agency for Health Care Administration, working jointly with the Department of Health and the Florida Healthy Kids Corporation, is directed to seek federal waivers to secure Title XIX matching funds for the Florida Healthy Kids program and the Primary Care for Children and Families Challenge Grant. The federal waiver application shall seek Medicaid matching funds for all general revenue, family contributions, and local contributions. The number of persons supported with federal matching funds under the Florida Healthy Kids Corporation shall not exceed the number annually specified in the General Appropriations Act.

Section 9. Effective June 30, 1997, subsection (12) of section 766.1115, Florida Statutes, as created by section 1 of chapter 92-278, Laws of Florida, is hereby repealed.

Section 10. Subsection (1) of section 236.0812, Florida Statutes, is amended to read:

236.0812 Medicaid certified school funding maximization.—

(1) Each school district, subject to the provisions of ss. ~~s.~~ 409.9071 and 409.908(21), appropriate federal authorization, and this section, is authorized to certify funds provided for school-based physical and behavioral health and transportation~~, occupational, and speech therapy~~ services for the purpose of earning federal Medicaid financial participation. While not limited to these services, each participating school district must place an emphasis on direct medically related nursing services.

Section 11. Section 409.904, Florida Statutes, 1996 Supplement, is amended to read:

409.904 Optional payments for eligible persons.—The agency ~~department~~ may make payments for medical assistance and related services on behalf of the following persons who are determined ~~the department determines~~ to be eligible subject to the income, assets, and categorical eligibility tests set forth in federal and state law. Payment on behalf of these Medicaid eligible persons is subject to the availability of moneys and any limitations established by the General Appropriations Act or chapter 216.

(1) A person who is age 65 or older or is determined ~~by the department~~ to be disabled, whose income is at or below 100 percent of federal poverty level, and whose assets do not exceed established limitations ~~established by the department~~.

(2) A family, a pregnant woman, a child under age 18, a person age 65 or over, or a blind or disabled person who would be eligible under any group listed in s. 409.903(1), (2), or (3), except that the income or assets of such family or person exceed established limitations ~~established by the department~~. For a family or person in this group, medical expenses are deductible from income in accordance with federal requirements in order to make a determination of eligibility. A family or person in this group, which group is known as the "medically needy," is eligible to receive the same services as other Medicaid recipients, with the exception of services in skilled nursing facilities and intermediate care facilities for the developmentally disabled.

(3) A person who is in need of the services of a licensed nursing facility, a licensed intermediate care facility for the developmentally disabled, or a state mental hospital, whose income does not exceed 300 percent of the SSI income standard, and who meets the assets standards established under federal and state law.

(4) A low-income person who meets all other requirements for Medicaid eligibility except citizenship and who is in need of emergency medical services. The eligibility of such a recipient is limited to the period of the emergency, in accordance with federal regulations.

(5) Subject to specific federal authorization, a postpartum woman living in a family that has an income that is at or below 185 percent of the most

current federal poverty level is eligible for family planning services as specified in s. 409.905(3) for a period of up to 24 months following a pregnancy for which Medicaid paid for pregnancy-related services.

Section 12. Subsection (3) of section 409.905, Florida Statutes, 1996 Supplement, is amended to read:

409.905 Mandatory Medicaid services.—The agency may make payments for the following services, which are required of the state by Title XIX of the Social Security Act, furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any service under this section shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, number of services, or any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216.

(3) FAMILY PLANNING SERVICES.—The agency shall pay for services necessary to enable a recipient voluntarily to plan family size or to space children. These services include information~~,~~ education; counseling regarding the availability, benefits, and risks of each method of pregnancy prevention~~,~~ drugs and supplies~~,~~ and necessary medical care and followup. Each recipient participating in the family planning portion of the Medicaid program must be provided freedom to choose any alternative method of family planning, as required by federal law.

Section 13. Subsection (1) of section 409.9071, Florida Statutes, 1996 Supplement, is amended to read:

409.9071 Medicaid provider agreements for school districts certifying state match.—

(1) Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures to allow for certification of state and local education funds which have been provided for services as authorized in s. 236.0812 ~~physical, occupational, and speech therapy services~~. Any state or local funds certified pursuant to this section shall be for children with specified disabilities who are eligible for ~~both~~ Medicaid and ~~the exceptional student education program, and~~ who have an individualized educational plan that demonstrates that such services are medically necessary and a physician authorization order if ~~where~~ required by federal Medicaid laws.

Section 14. Subsection (21) of section 409.908, Florida Statutes, 1996 Supplement, is amended to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimburse-

ment methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(21) The agency may reimburse school districts which certify the state match pursuant to s. 409.9071 for the federal portion of ~~either the Medicaid fee or~~ the school district's allowable costs to deliver the services, subject to federal approval ~~whichever is less~~. The school district shall determine the allowable costs for delivering ~~therapy~~ services as authorized in s. 236.0812 for which the state Medicaid match will be certified, based on the policies and procedures published by the agency. Reimbursement of school-based therapy providers is contingent on such providers being enrolled as Medicaid therapy providers and meeting the qualifications contained in 42 C.F.R. s. 440.110, unless otherwise waived by the federal Health Care Financing Administration. Speech therapy providers who are certified through the Department of Education pursuant to rule 6A-4.0176, Florida Administrative Code, may bill for services that are provided on school premises.

Section 15. Subsection (3) of section 409.912, Florida Statutes, 1996 Supplement, is amended to read:

409.912 Cost-effective purchasing of health care.—The agency shall purchase goods and services for Medicaid recipients in the most cost-effective manner consistent with the delivery of quality medical care. The agency shall maximize the use of prepaid per capita and prepaid aggregate fixed-sum basis services when appropriate and other alternative service delivery and reimbursement methodologies, including competitive bidding pursuant to s. 287.057, designed to facilitate the cost-effective purchase of a case-managed continuum of care. The agency shall also require providers to minimize the exposure of recipients to the need for acute inpatient, custodial, and other institutional care and the inappropriate or unnecessary use of high-cost services.

(3) The agency may contract with:

(a) An entity that provides no prepaid health care services other than Medicaid services under contract with the agency and which is owned and operated by a county, county public health unit, or county-owned and operated hospital to provide health care services on a prepaid or fixed-sum basis to recipients, which entity may provide such prepaid services either directly or through arrangements with other providers. Such prepaid health care services entities must be licensed under parts I and III by July 1, 1997, and until then are exempt from the provisions of part I of chapter 641. An entity

recognized under this paragraph which demonstrates to the satisfaction of the Department of Insurance that it is backed by the full faith and credit of the county in which it is located may be exempted from s. 641.225.

(b) An entity that is providing comprehensive inpatient and outpatient mental health care services to certain Medicaid recipients in Hillsborough, Highlands, Hardee, Manatee, and Polk Counties, through a capitated, prepaid arrangement pursuant to the federal waiver provided for by s. 409.905(5). Such an entity must become licensed under chapter 624 or chapter 641 by December 31, 1998, and is exempt from the provisions of part I of chapter 641 until then. However, if the entity assumes risk, the Department of Insurance shall develop appropriate regulatory requirements by rule under the insurance code before the entity becomes operational.

(c) A federally qualified health center or an entity owned by one or more federally qualified health centers or an entity owned by other migrant and community health centers receiving non-Medicaid financial support from the Federal Government to provide health care services on a prepaid or fixed-sum basis to recipients. Such prepaid health care services entity must be licensed under parts I and III of chapter 641 by July 1, 1997. However, such an entity is exempt from s. 641.225 if the entity meets the requirements specified in subsections (14) and (15).

(d) No more than four provider service networks for demonstration projects to test Medicaid direct contracting. However, no such demonstration project shall be established with a Federally Qualified Health Center nor shall any provider service network under contract with the agency pursuant to this paragraph include a Federally Qualified Health Center in its provider network. One demonstration project must be located in Orange County. The demonstration projects may be reimbursed on a fee-for-service or prepaid basis. A provider service network which is reimbursed by the agency on a prepaid basis shall be exempt from parts I and III of chapter 641, but must meet appropriate financial reserve, quality assurance and patient rights requirements as established by the agency. The agency shall award contracts on a competitive bid basis and shall select bidders based upon price and quality of care. Medicaid recipients assigned to a demonstration project shall be chosen equally from those who would otherwise have been assigned to prepaid plans and MediPass. The agency is authorized to seek federal Medicaid waivers as necessary to implement the provisions of this section. A demonstration project awarded pursuant to this paragraph shall be for two years from the date of implementation.

Section 16. The Agency for Health Care Administration shall develop a program, in conjunction with the Department of Education, the Department of Children and Family Services, the Department of Health, local school districts, and other stakeholders to identify low-income, uninsured children and, to the extent possible and subject to appropriation, refer them to the Department of Children and Family Services for a Medicaid eligibility determination and provide parents with information about alternative sources of health care.

Section 17. Present subsections (20) and (21) of section 409.906, Florida Statutes, 1996 Supplement, are renumbered as subsections (21) and (22), respectively, and a new subsection (20) is added to that section to read:

409.906 Optional Medicaid services.—Subject to specific appropriations, the agency may make payments for services which are optional to the state under Title XIX of the Social Security Act and are furnished by Medicaid providers to recipients who are determined to be eligible on the dates on which the services were provided. Any optional service that is provided shall be provided only when medically necessary and in accordance with state and federal law. Nothing in this section shall be construed to prevent or limit the agency from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Optional services may include:

(20) REGISTERED NURSE FIRST ASSISTANT SERVICES.—The agency may pay for all services provided to a recipient by a registered nurse first assistant as described in s. 464.027. Reimbursement for such services may not be less than 80 percent of the reimbursement that would be paid to a physician providing the same services.

Section 18. Subsection (1) of section 409.9071, Florida Statutes, 1996 Supplement, is amended to read:

409.9071 Medicaid provider agreements for school districts certifying state match.—

(1) Subject to any limitations provided for in the General Appropriations Act, the agency, in compliance with appropriate federal authorization, shall develop policies and procedures to allow for certification of state and local education funds which have been provided for services as authorized in s. 236.0812 ~~physical, occupational, and speech therapy services~~. Any state or local funds certified pursuant to this section shall be for children with specified disabilities who are eligible for ~~both~~ Medicaid and ~~the exceptional student education program, and~~ who have an individualized educational plan that demonstrates that such services are medically necessary and a physician authorization order if ~~where~~ required by federal Medicaid laws.

Section 19. Present paragraphs (q), (r), and (s) of subsection (3) of section 409.908, Florida Statutes, 1996 Supplement, are redesignated as paragraphs (r), (s), and (t), respectively, and a new paragraph (q) is added to that subsection, and subsection (21) of that section is amended, to read:

409.908 Reimbursement of Medicaid providers.—Subject to specific appropriations, the agency shall reimburse Medicaid providers, in accordance with state and federal law, according to methodologies set forth in the rules of the agency and in policy manuals and handbooks incorporated by reference therein. These methodologies may include fee schedules, reimbursement methods based on cost reporting, negotiated fees, competitive bidding pursuant to s. 287.057, and other mechanisms the agency considers efficient and effective for purchasing services or goods on behalf of recipients. Payment for Medicaid compensable services made on behalf of Medicaid eligible persons is subject to the availability of moneys and any limitations or directions provided for in the General Appropriations Act or chapter 216. Further, nothing in this section shall be construed to prevent or limit the agency

from adjusting fees, reimbursement rates, lengths of stay, number of visits, or number of services, or making any other adjustments necessary to comply with the availability of moneys and any limitations or directions provided for in the General Appropriations Act, provided the adjustment is consistent with legislative intent.

(3) Subject to any limitations or directions provided for in the General Appropriations Act, the following Medicaid services and goods may be reimbursed on a fee-for-service basis. For each allowable service or goods furnished in accordance with Medicaid rules, policy manuals, handbooks, and state and federal law, the payment shall be the amount billed by the provider, the provider's usual and customary charge, or the maximum allowable fee established by the agency, whichever amount is less, with the exception of those services or goods for which the agency makes payment using a methodology based on capitation rates, average costs, or negotiated fees.

(q) Registered nurse first assistant services.

(21) The agency may reimburse school districts which certify the state match pursuant to s. 409.9071 for the federal portion of ~~either the Medicaid fee or~~ the school district's allowable costs to deliver the services, subject to federal approval ~~whichever is less~~. The school district shall determine the allowable costs for delivering ~~therapy~~ services as authorized in s. 236.0812 for which the state Medicaid match will be certified, based on the policies and procedures published by the agency. Reimbursement of school-based therapy providers is contingent on such providers being enrolled as Medicaid therapy providers and meeting the qualifications contained in 42 C.F.R. s. 440.110, unless otherwise waived by the federal Health Care Financing Administration. Speech therapy providers who are certified through the Department of Education pursuant to rule 6A-4.0176, Florida Administrative Code, may bill for services that are provided on school premises.

Section 20. This act shall take effect upon becoming a law.

Became a law without the Governor's approval May 30, 1997.

Filed in Office Secretary of State May 29, 1997.