

## CHAPTER 2023-277

### Committee Substitute for Committee Substitute for House Bill No. 121

An act relating to Florida Kidcare program eligibility; amending s. 409.8132, F.S.; increasing the income eligibility threshold for coverage under the Medikids program component; amending s. 409.814, F.S.; increasing the income eligibility threshold for coverage under the Florida Kidcare program; requiring an applicant seeking coverage under the program to provide certain documentation if eligibility cannot be verified using reliable data sources; amending s. 409.816, F.S.; requiring that premiums for certain enrollees under the Florida Kidcare program be based on a tiered system of uniform premiums; amending s. 624.91, F.S.; conforming a provision to changes made by the act; providing effective dates.

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

Section 1. Effective January 1, 2024, paragraph (a) of subsection (6) of section 409.8132, Florida Statutes, is amended to read:

409.8132 Medikids program component.—

(6) ELIGIBILITY.—

(a) A child who has attained the age of 1 year but who is under the age of 5 years is eligible to enroll in the Medikids program component of the Florida Kidcare program, if the child is a member of a family that has a family income which exceeds the Medicaid applicable income level as specified in s. 409.903, but which is equal to or below 300 ~~200~~ percent of the current federal poverty level. In determining the eligibility of such a child, an assets test is not required. A child who is eligible for Medikids may elect to enroll in Florida Healthy Kids coverage or employer-sponsored group coverage. However, a child who is eligible for Medikids may participate in the Florida Healthy Kids program only if the child has a sibling participating in the Florida Healthy Kids program and the child's county of residence permits such enrollment.

Section 2. Effective January 1, 2024, section 409.814, Florida Statutes, is amended to read:

409.814 Eligibility.—A child who has not reached 19 years of age whose family income is equal to or below 300 ~~200~~ percent of the federal poverty level is eligible for the Florida Kidcare program as provided in this section. If an enrolled individual is determined to be ineligible for coverage, he or she must be immediately disenrolled from the respective Florida Kidcare program component.

(1) A child who is eligible for Medicaid coverage under s. 409.903 or s. 409.904 must be enrolled in Medicaid and is not eligible to receive health benefits under any other health benefits coverage authorized under the Florida Kidcare program.

(2) A child who is not eligible for Medicaid, but who is eligible for the Florida Kidcare program, may obtain health benefits coverage under any of the other components listed in s. 409.813 if such coverage is approved and available in the county in which the child resides.

(3) A Title XXI-funded child who is eligible for the Florida Kidcare program who is a child with special health care needs, as determined through a medical or behavioral screening instrument, is eligible for health benefits coverage from and shall be assigned to and may opt out of the Children's Medical Services Network.

(4) A Title XXI-funded child who reaches 19 years of age is eligible for continued Title XXI-funded coverage for the duration of a pregnancy and the postpartum period consisting of the 12-month period beginning on the last day of a pregnancy, if such pregnancy or postpartum period begins prior to the child reaching 19 years of age, and if the child is ineligible for Medicaid.

(5) The following children are not eligible to receive Title XXI-funded premium assistance for health benefits coverage under the Florida Kidcare program, except under Medicaid if the child would have been eligible for Medicaid under s. 409.903 or s. 409.904 as of June 1, 1997:

(a) A child who is covered under a family member's group health benefit plan or under other private or employer health insurance coverage, if the cost of the child's participation is not greater than 5 percent of the family's income. If a child is otherwise eligible for a subsidy under the Florida Kidcare program and the cost of the child's participation in the family member's health insurance benefit plan is greater than 5 percent of the family's income, the child may enroll in the appropriate subsidized Kidcare program.

(b) A child who is seeking premium assistance for the Florida Kidcare program through employer-sponsored group coverage, if the child has been covered by the same employer's group coverage during the 60 days before the family submitted an application for determination of eligibility under the program.

(c) A child who is an alien but who does not meet the definition of a lawfully residing child. This paragraph does not extend eligibility for the Florida Kidcare program to an undocumented immigrant.

(d) A child who is an inmate of a public institution or a patient in an institution for mental diseases.

(e) A child who is otherwise eligible for premium assistance for the Florida Kidcare program and has had his or her coverage in an employer-

sponsored or private health benefit plan voluntarily canceled in the last 60 days, except those children whose coverage was voluntarily canceled for good cause, including, but not limited to, the following circumstances:

- 1. The cost of participation in an employer-sponsored health benefit plan is greater than 5 percent of the family’s income;
- 2. The parent lost a job that provided an employer-sponsored health benefit plan for children;
- 3. The parent who had health benefits coverage for the child is deceased;
- 4. The child has a medical condition that, without medical care, would cause serious disability, loss of function, or death;
- 5. The employer of the parent canceled health benefits coverage for children;
- 6. The child’s health benefits coverage ended because the child reached the maximum lifetime coverage amount;
- 7. The child has exhausted coverage under a COBRA continuation provision;
- 8. The health benefits coverage does not cover the child’s health care needs; or
- 9. Domestic violence led to loss of coverage.

(6) A child who is otherwise eligible for the Florida Kidcare program and who has a preexisting condition that prevents coverage under another insurance plan as described in paragraph (5)(a) which would have disqualified the child for the Florida Kidcare program if the child were able to enroll in the plan is eligible for Florida Kidcare coverage when enrollment is possible.

(7) A child whose family income is above 300 ~~200~~ percent of the federal poverty level or a child who is excluded under the provisions of subsection (5) may participate in the Florida Kidcare program as provided in s. 409.8132 or, if the child is ineligible for Medikids by reason of age, in the Florida Healthy Kids program, subject to the following:

- (a) The family is not eligible for premium assistance payments and must pay the full cost of the premium, including any administrative costs.
- (b) The board of directors of the Florida Healthy Kids Corporation may offer a reduced benefit package to these children in order to limit program costs for such families.

(8) Once a child is enrolled in the Florida Kidcare program, the child is eligible for coverage for 12 months without a redetermination or reverification of eligibility, if the family continues to pay the applicable premium.

Eligibility for program components funded through Title XXI of the Social Security Act terminates when a child attains the age of 19. A child who has not attained the age of 5 and who has been determined eligible for the Medicaid program is eligible for coverage for 12 months without a redetermination or reverification of eligibility.

(9) When determining or reviewing a child's eligibility under the Florida Kidcare program, the applicant shall be provided with reasonable notice of changes in eligibility which may affect enrollment in one or more of the program components. If a transition from one program component to another is authorized, there shall be cooperation between the program components and the affected family which promotes continuity of health care coverage. Any authorized transfers must be managed within the program's overall appropriated or authorized levels of funding. Each component of the program shall establish a reserve to ensure that transfers between components will be accomplished within current year appropriations. These reserves shall be reviewed by each convening of the Social Services Estimating Conference to determine the adequacy of such reserves to meet actual experience.

(10) In determining the eligibility of a child, an assets test is not required. If eligibility for the Florida Kidcare program cannot be verified using reliable data sources in accordance with federal requirements, each applicant shall provide documentation during the application process and the redetermination process, including, but not limited to, the following:

(a) Proof of family income, which must be verified electronically to determine financial eligibility for the Florida Kidcare program. Written documentation, which may include wages and earnings statements or pay stubs, W-2 forms, or a copy of the applicant's most recent federal income tax return, is required only if the electronic verification is not available or does not substantiate the applicant's income.

(b) A statement from all applicable, employed family members that:

1. Their employers do not sponsor health benefit plans for employees;
2. The potential enrollee is not covered by an employer-sponsored health benefit plan; or
3. The potential enrollee is covered by an employer-sponsored health benefit plan and the cost of the employer-sponsored health benefit plan is more than 5 percent of the family's income.

(c) To enroll in the Children's Medical Services Network, a completed application, including a clinical screening.

(11) Subject to paragraph (5)(a), the Florida Kidcare program shall withhold benefits from an enrollee if the program obtains evidence that the enrollee is no longer eligible, submitted incorrect or fraudulent information in order to establish eligibility, or failed to provide verification of eligibility.

The applicant or enrollee shall be notified that because of such evidence program benefits will be withheld unless the applicant or enrollee contacts a designated representative of the program by a specified date, which must be within 10 working days after the date of notice, to discuss and resolve the matter. The program shall make every effort to resolve the matter within a timeframe that will not cause benefits to be withheld from an eligible enrollee.

(12) The following individuals may be subject to prosecution in accordance with s. 414.39:

(a) An applicant obtaining or attempting to obtain benefits for a potential enrollee under the Florida Kidcare program when the applicant knows or should have known the potential enrollee does not qualify for the Florida Kidcare program.

(b) An individual who assists an applicant in obtaining or attempting to obtain benefits for a potential enrollee under the Florida Kidcare program when the individual knows or should have known the potential enrollee does not qualify for the Florida Kidcare program.

Section 3. Effective January 1, 2024, subsection (3) of section 409.816, Florida Statutes, is amended to read:

409.816 Limitations on premiums and cost sharing.—The following limitations on premiums and cost sharing are established for the program.

(3) Enrollees in families with a family income above 150 percent of the federal poverty level who are not receiving coverage under the Medicaid program or who are not eligible under s. 409.814(7) may be required to pay enrollment fees, premiums, copayments, deductibles, coinsurance, or similar charges on a sliding scale related to income, except that the total annual aggregate cost sharing with respect to all children in a family may not exceed 5 percent of the family's income. However, copayments, deductibles, coinsurance, or similar charges may not be imposed for preventive services, including well-baby and well-child care, age-appropriate immunizations, and routine hearing and vision screenings. Premiums for enrollees paying enrollment fees, premiums, copayments, deductibles, coinsurance, or similar charges as provided in this subsection shall be based on at least three but no more than six tiers of uniform premiums that increase with each tier as a percentage of the applicable threshold amount of the federal poverty level, by tier.

Section 4. Effective January 1, 2024, paragraph (b) of subsection (2) of section 624.91, Florida Statutes, is amended to read:

624.91 The Florida Healthy Kids Corporation Act.—

(2) LEGISLATIVE INTENT.—

(b) It is the intent of the Legislature that the Florida Healthy Kids Corporation serve as one of several providers of services to children eligible for medical assistance under Title XXI of the Social Security Act. Although the corporation may serve other children, the Legislature intends the primary recipients of services provided through the corporation be school-age children with a family income equal to or below 300 ~~200~~ percent of the federal poverty level, who do not qualify for Medicaid. It is also the intent of the Legislature that state and local government Florida Healthy Kids funds be used to continue coverage, subject to specific appropriations in the General Appropriations Act, to children not eligible for federal matching funds under Title XXI.

Section 5. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 22, 2023.

Filed in Office Secretary of State June 22, 2023.