

PCB SPPACA 13-03

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to the Health Choices Plus program;
 3 amending s. 408.910; providing that all employers who
 4 meet the requirements of the Florida Health Choices
 5 Program are eligible to enroll in the program;
 6 providing that individuals and employees of enrolled
 7 employers are eligible to participate in the program;
 8 providing that vendors may not refuse to sell any
 9 offered product or service to any participant in the
 10 program; providing that product prices shall be based
 11 on criteria established by Florida Health Choices;
 12 providing that certain forms, website design, and
 13 marketing communication developed by Florida Health
 14 Choices shall not be subject to the Florida Insurance
 15 Code; creating s. 408.9105; creating the Health
 16 Choices Plus Program; providing definitions; providing
 17 eligibility requirements; providing exceptions in
 18 specific situations; requiring the Department of
 19 Children and Families to determine eligibility;
 20 providing for enrollment in the program; establishing
 21 open enrollment periods; requiring cessation of
 22 enrollment under certain circumstances; providing that
 23 participation in the program is not an entitlement;
 24 prohibiting a cause of action against certain entities
 25 under certain circumstances; requiring an education
 26 and outreach campaign; requiring certain joint
 27 activities by the Florida Health Choices Corporation
 28 and the Florida Healthy Kids Corporation; providing

PCB SPPACA 13-03

ORIGINAL

YEAR

29 | for a state benefit allowance, subject to an
 30 | appropriation; requiring an individual contribution;
 31 | providing for disenrollment in specific situations;
 32 | allowing contributions from certain other entities;
 33 | providing requirements and procedures for use of
 34 | funds; providing for refunds; requiring the
 35 | corporation to submit to the Governor and the
 36 | Legislature information about the program in its
 37 | annual report and an evaluation of the effectiveness
 38 | of the program; creating a task force; establishing
 39 | membership; amending s. 641.402, F.S.; authorizing
 40 | prepaid health clinic plans to offer hospital services
 41 | under certain circumstances; providing an effective
 42 | date.

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

46 | Section 1. Paragraph (a) of subsection (3), paragraphs
 47 | (a), (b), (e), and (f) of subsection (4), paragraph (b) of
 48 | subsection (5), paragraph (b) of subsection (7), and subsection
 49 | (10) of section 408.910, Florida Statutes, are amended to read:

50 | 408.910 Florida Health Choices Program.—

51 | (3) PROGRAM PURPOSE AND COMPONENTS.—The Florida Health
 52 | Choices Program is created as a single, centralized market for
 53 | the sale and purchase of various products that enable
 54 | individuals and employers to pay for health care. These products
 55 | include, but are not limited to, health insurance plans, health
 56 | maintenance organization plans, prepaid services, service

PCB SPPACA 13-03

ORIGINAL

YEAR

57 | contracts, and flexible spending accounts. The components of the
 58 | program include:

59 | (a) Enrollment of employers and individuals.

60 | (b) Administrative services for participating employers,
 61 | including:

62 | 1. Assistance in seeking federal approval of cafeteria
 63 | plans.

64 | 2. Collection of premiums and other payments.

65 | 3. Management of individual benefit accounts.

66 | 4. Distribution of premiums to insurers and payments to
 67 | other eligible vendors.

68 | 5. Assistance for participants in complying with reporting
 69 | requirements.

70 | (c) Services to individual participants, including:

71 | 1. Information about available products and participating
 72 | vendors.

73 | 2. Assistance with assessing the benefits and limits of
 74 | each product and policy, including information necessary to
 75 | distinguish between policies offering creditable coverage and
 76 | other products available through the program.

77 | 3. Account information to assist individual participants
 78 | with managing available resources.

79 | 4. Services that promote healthy behaviors.

80 | (d) Recruitment of vendors, including, but not limited to,
 81 | insurers, health maintenance organizations, prepaid clinic
 82 | service providers, provider service networks, and any other
 83 | health care providers.

84 | (e) Certification of vendors to ensure capability,

PCB SPPACA 13-03

ORIGINAL

YEAR

85 reliability, and validity of offerings.

86 (f) Collection of data, monitoring, assessment, and
87 reporting of vendor performance.

88 (g) Information services for individuals and employers.

89 (h) Program evaluation.

90 (4) ELIGIBILITY AND PARTICIPATION.—Participation in the
91 program is voluntary and shall be available to employers,
92 individuals, vendors, and health insurance agents as specified
93 in this subsection.

94 (a) Employers that meet criteria established by the
95 corporation and elect to make their employees eligible through
96 the program are ~~Employers~~ eligible to enroll in the program.
97 ~~include:~~

98 1. ~~Employers that meet criteria established by the~~
99 ~~corporation and elect to make their employees eligible through~~
100 ~~the program.~~

101 2. ~~Fiscally constrained counties described in s. 218.67.~~

102 3. ~~Municipalities having populations of fewer than 50,000~~
103 ~~residents.~~

104 4. ~~School districts in fiscally constrained counties.~~

105 5. ~~Statutory rural hospitals.~~

106 (b) Individuals and employees of enrolled employers are
107 eligible to participate in the program. ~~include:~~

108 1. ~~Individual employees of enrolled employers.~~

109 2. ~~State employees not eligible for state employee health~~
110 ~~benefits.~~

111 3. ~~State retirees.~~

112 4. ~~Medicaid participants who opt out.~~

PCB SPPACA 13-03

ORIGINAL

YEAR

113 (e) ~~Eligible individuals may voluntarily continue~~
 114 ~~participation in the program regardless of subsequent changes in~~
 115 ~~job status or Medicaid eligibility.~~ Individuals who join the
 116 program may participate by complying with the procedures
 117 established by the corporation. These procedures must include,
 118 but are not limited to:

- 119 1. Submission of required information.
- 120 2. Authorization for payroll deduction if the individual
 121 is employed and the employer agrees to the deduction.
- 122 3. Compliance with federal tax requirements.
- 123 4. Arrangements for payment ~~in the event of job changes.~~
- 124 5. Selection of products and services.

125 (f) Vendors who choose to participate in the program may
 126 enroll by complying with the procedures established by the
 127 corporation. These procedures ~~may~~ include, but are not limited
 128 to:

- 129 1. Submission of required information, including a
 130 complete description of the coverage, services, provider
 131 network, payment restrictions, and other requirements of each
 132 product offered through the program.
- 133 2. Execution of an agreement to comply with requirements
 134 established by the corporation.
- 135 3. Execution of an agreement that prohibits refusal to
 136 sell any offered ~~non-risk-bearing~~ product or service to a
 137 participant who elects to buy it.
- 138 4. Communication of product and service prices,
 139 established by the vendor. ~~Establishment of product prices based~~
 140 ~~on age, gender, and location of the individual participant,~~

PCB SPPACA 13-03

ORIGINAL

YEAR

141 | ~~which may include medical underwriting.~~

142 | 5. Arrangements for receiving payment for enrolled
143 | participants.

144 | 6. Participation in ongoing reporting processes
145 | established by the corporation.

146 | 7. Compliance with grievance procedures established by the
147 | corporation.

148 | (5) PRODUCTS.—

149 | (a) The products that may be made available for purchase
150 | through the program include, but are not limited to:

151 | 1. Health insurance policies.

152 | 2. Health maintenance contracts.

153 | 3. Limited benefit plans.

154 | 4. Prepaid clinic services.

155 | 5. Service contracts.

156 | 6. Arrangements for purchase of any specific amounts and
157 | types of health services and treatments.

158 | 7. Flexible spending accounts.

159 | (b) Health insurance policies, health maintenance
160 | contracts, limited benefit plans, prepaid service contracts, and
161 | other contracts for services must ensure the availability of
162 | contracted~~covered~~ services.

163 | (c) Products may be offered for multiyear periods provided
164 | the price of the product is specified for the entire period or
165 | for each separately priced segment of the policy or contract.

166 | (d) The corporation shall provide a disclosure form for
167 | consumers to acknowledge their understanding of the nature of,
168 | and any limitations to, the benefits provided by the products

PCB SPPACA 13-03

ORIGINAL

YEAR

169 and services being purchased by the consumer.

170 (e) The corporation must determine that making the plan
 171 available through the program is in the interest of eligible
 172 individuals and eligible employers in the state.

173 (7) THE MARKETPLACE PROCESS.—The program shall provide a
 174 single, centralized market for purchase of health insurance,
 175 health maintenance contracts, and other health products and
 176 services. Purchases may be made by participating individuals
 177 over the Internet or through the services of a participating
 178 health insurance agent. Information about each product and
 179 service available through the program shall be made available
 180 through printed material and an interactive Internet website. A
 181 participant needing personal assistance to select products and
 182 services shall be referred to a participating agent in his or
 183 her area.

184 (a) Participation in the program may begin at any time
 185 during a year after the employer completes enrollment and meets
 186 the requirements specified by the corporation pursuant to
 187 paragraph (4) (c).

188 (b) Initial selection of products and services must be
 189 made during the applicable open enrollment period. ~~by an~~
 190 ~~individual participant within 60 days after the date the~~
 191 ~~individual's employer qualified for participation. An individual~~
 192 ~~who fails to enroll in products and services by the end of this~~
 193 ~~period is limited to participation in flexible spending account~~
 194 ~~services until the next annual enrollment period.~~

195 (c) Initial enrollment periods for each product selected
 196 by an individual participant must last at least 12 months,

PCB SPPACA 13-03

ORIGINAL

YEAR

197 unless the individual participant specifically agrees to a
 198 different enrollment period.

199 (d) If an individual has selected one or more products and
 200 enrolled in those products for at least 12 months or any other
 201 period specifically agreed to by the individual participant,
 202 changes in selected products and services may only be made
 203 during the annual enrollment period established by the
 204 corporation.

205 (e) The limits established in paragraphs (b)-(d) apply to
 206 any risk-bearing product that promises future payment or
 207 coverage for a variable amount of benefits or services. The
 208 limits do not apply to initiation of flexible spending plans if
 209 those plans are not associated with specific high-deductible
 210 insurance policies or the use of spending accounts for any
 211 products offering individual participants specific amounts and
 212 types of health services and treatments at a contracted price.

213 (10) EXEMPTIONS.—

214 (a) Products, other than the products set forth in
 215 subparagraphs (4)(d)1.-4., sold as part of the program are not
 216 subject to the licensing requirements of the Florida Insurance
 217 Code, as defined in s. 624.01 or the mandated offerings or
 218 coverages established in part VI of chapter 627 and chapter 641.

219 (b) The corporation may act as an administrator as defined
 220 in s. 626.88 but is not required to be certified pursuant to
 221 part VII of chapter 626. However, a third party administrator
 222 used by the corporation must be certified under part VII of
 223 chapter 626.

224 (c) Any standard form, website design, or marketing

PCB SPPACA 13-03

ORIGINAL

YEAR

225 communication developed by the corporation and utilized by the
 226 corporation or any vendor participating in the program is not
 227 subject to the Florida Insurance Code, as defined in s. 624.01.

228 Section 2. Section 408.9105, Florida Statutes, is created
 229 to read:

230 408.9105 Florida Health Choices Plus Program.-

231 (1) PROGRAM.-The Florida Health Choices Plus Program is
 232 established within the Florida Health Choices Program to assist
 233 uninsured Floridians to gain access to affordable health
 234 coverage, products and services.

235 (2) DEFINITIONS.-As used in this section, the term:

236 (a) "CHIP" means Children's Health Insurance Program as
 237 authorized under Title XXI of the Social Security Act.

238 (b) "Corporation" means Florida Health Choices, Inc.,
 239 established under s. 408.910.

240 (c) "Marketplace" means the single, centralized market
 241 established by the corporation which offers and facilitates the
 242 purchase of health coverage, products and services.

243 (d) "Department" means the Department of Children and
 244 Families.

245 (e) "Enrollee" means an individual who participates in or
 246 receives benefits under the Health Choices Plus Program.

247 (f) "Household" means the group or the individual whose
 248 income is considered in determining eligibility for the program.
 249 The term "household" has the same meaning as provided in section
 250 36B(d) (2) of the Internal Revenue Code of 1986.

251 (g) "Program" means the Health Choices Plus Program
 252 established under this section.

253 (h) "Parent" or "caretaker relative" means an individual
 254 who is a relative that has primary custody or legal guardianship
 255 of a dependent child under the age of 19, and who provides the
 256 primary care and supervision to that dependent child in the same
 257 household, and who is related to the dependent child by blood,
 258 marriage, or adoption within the fifth degree of kinship.

259 (i) "Qualified alien" means an alien as defined in s. 431
 260 of the Personal Responsibility and Work Opportunity
 261 Reconciliation Act of 1996, as amended, Pub. L. No. 104-193.

262 (j) "Patient Protection and Affordable Care Act" means the
 263 federal law enacted as Pub. L. No. 111-148, as amended by the
 264 federal Health Care and Education Reconciliation Act of 2010,
 265 Pub. L. No. 111-152, and regulations issued thereunder.

266 (3) ELIGIBILITY.-

267 (a) A Florida resident who meets the following criteria is
 268 eligible to participate in the program. An eligible resident
 269 must:

- 270 1. Be 19 to 64 years of age, inclusive; and
- 271 2. Be a United States citizen or a qualified alien; and
- 272 3. Be uninsured and ineligible for Medicaid; and
- 273 4. Be a parent or caretaker relative, or the spouse of a
 274 parent or caretaker relative living in the same household, of a
 275 child under age 18 whose household income does not exceed 100
 276 percent of the federal poverty level based on the most recent
 277 federal tax return, or, if a tax return was not filed, the most
 278 recent monthly income; or
- 279 5. Be a person who receives payments from, who is
 280 determined eligible for, or who was eligible for but lost cash

PCB SPPACA 13-03

ORIGINAL

YEAR

281 benefits from, the federal program known as the Supplemental
 282 Security Income program, whose household income does not exceed
 283 100 percent of the federal poverty level based on the most
 284 recent federal tax return, or, if a tax return was not filed,
 285 the most recent monthly income.

286 (b) To maintain eligibility, enrollees eligible under
 287 subparagraph 4. must provide proof to the department of
 288 engagement in work activities consistent with s. 445.024 and 45
 289 C.F.R. 261.2.

290 (c) The department shall establish and maintain a process
 291 for determining eligibility of individuals for coverage under
 292 the program. The department shall use the same simplified
 293 application process and income determination methods used for
 294 Medicaid and CHIP pursuant to the Patient Protection and
 295 Affordable Care Act. The department shall refer eligible
 296 applicants to the program. The eligibility determination
 297 process must include an initial determination of eligibility and
 298 a redetermination or reverification of eligibility every 12
 299 months. Enrollees are obligated to report changes in income
 300 which could affect eligibility to the department within 30 days
 301 of the change. The department, in consultation with the
 302 corporation, shall develop procedures for redetermining or
 303 reverifying eligibility which enable a family to easily update
 304 any change in circumstances which could affect eligibility.

305 (4) ENROLLMENT.-

306 (a) Subject to available funding, the corporation shall
 307 establish two 30-day open enrollment periods each fiscal year.
 308 The first open enrollment period shall commence March 31, 2014.

PCB SPPACA 13-03

ORIGINAL

YEAR

309 Enrollment in the program may occur through the portal of the
 310 Florida Health Choices Program, or by referral from the
 311 Department of Children and Families, the Florida Healthy Kids
 312 Corporation, or the health insurance exchange established in
 313 this state pursuant to the Patient Protection and Affordable
 314 Care Act.

315 (b) Eligible individuals shall be enrolled on a first-
 316 come, first-served basis using the date the application is
 317 received. The corporation shall cease enrollment when projected
 318 expenditures equal the available funding.

319 (c) Participation in the program is not an entitlement.
 320 No cause of action shall arise against the corporation, the
 321 state, or any political subdivision of the state, for
 322 determination of ineligibility, failure to enroll or failure to
 323 make a state contribution for any person in the program.

324 (d) The corporation shall develop and maintain an
 325 education and public outreach campaign for the program. The
 326 corporation shall provide choice counseling for enrollees
 327 including information about available products and services and
 328 participating vendors, and information necessary to enable
 329 enrollees to compare products and services. The corporation's
 330 website must also provide information about the availability of
 331 Medicaid, CHIP, and federally subsidized coverage in the health
 332 insurance exchange established in this state pursuant to the
 333 Patient Protection and Affordable Care Act. The corporation and
 334 the Florida Healthy Kids Corporation shall engage in joint
 335 marketing of and cross-promotion efforts for their health
 336 coverage programs for children and parents.

337 (5) CARE ACCOUNTS.-
 338 (a) Subject to annual appropriation, each enrollee will
 339 receive \$2,000 to fund a contribution amount for responsible
 340 expenditures (CARE) account to purchase health coverage,
 341 products and services in the marketplace.
 342 (b) As a condition of eligibility, each enrollee will make
 343 a monthly individual contribution of \$25, or as otherwise
 344 provided in the General Appropriations Act, to the CARE account.
 345 The corporation shall disenroll individuals who fail to pay the
 346 individual contribution. Disenrollment procedures shall include
 347 a one-month grace period. Individuals who are disenrolled may
 348 reenroll at the next open enrollment period, if still eligible,
 349 subject to availability of funding.
 350 (c) Enrollees may make additional contributions to their
 351 CARE accounts to increase their purchasing power, if desired.
 352 (d) Enrollees' employers may make contributions to the
 353 enrollees' CARE account on behalf of enrollees.
 354 (e) Governmental entities, political subdivisions, and
 355 charitable organizations as defined in s. 736.1201, may make
 356 contributions to the program which shall be used to enhance the
 357 enrollees' CARE accounts.
 358 (f) Enrollees may use the contributions for any product
 359 available in the marketplace. Enrollees eligible under
 360 subparagraph (3)(a)4. must purchase a product or service, or a
 361 combination of products and services, that includes both
 362 preventive and catastrophic coverage or hospital care. The
 363 corporation shall provide a secure website to compare and
 364 facilitate the selection of products and services and to provide

PCB SPPACA 13-03

ORIGINAL

YEAR

365 public information about the program. Unused funds in the
 366 enrollees' CARE accounts may be used to fund health savings
 367 accounts for expenditure on qualified medical expenses as
 368 defined in Section 213(d) of the Internal Revenue Code.
 369 Enrollees eligible under paragraph (3)(a)5. may use funds in the
 370 health savings account for Medicare-related premiums and cost-
 371 sharing. Enrollees may maintain unused funds in the CARE
 372 account for additional purchases in the marketplace.

373 (g) The corporation shall receive the contributions and
 374 manage their use for individual enrollees. The corporation may
 375 establish and manage an operating fund for the purposes of
 376 addressing the corporation's unique cash-flow needs and
 377 facilitating the fiscal management of the corporation. The
 378 corporation may accumulate and maintain in the operating fund at
 379 any given time a cash balance reserve equal to no more than 25
 380 percent of its annualized operating expenses. The corporation
 381 must ensure the timely distribution and appropriate expenditure
 382 of the contributions. The corporation shall establish health
 383 savings accounts for unused contributions. The corporation
 384 shall establish a refund process for an enrollee who disenrolls
 385 from the program to return any unused individual or employer
 386 contributions. The enrollee may be refunded only those funds
 387 that the enrollee has contributed; the employer may be refunded
 388 only those funds that the employer has contributed. Remaining
 389 state contribution amounts revert to the state. Upon
 390 dissolution of the program, any remaining cash balances of state
 391 funds shall revert to the General Revenue Fund, or such other
 392 state funds consistent with the appropriated funding, as

PCB SPPACA 13-03

ORIGINAL

YEAR

393 provided by law.

394 (6) PROGRAM EVALUATION; TASK FORCE.—

395 (a) The corporation shall include information about the
 396 Health Choices Plus Program in its annual report submitted
 397 pursuant to s. 408.910. The corporation shall complete and
 398 submit by January 1, 2016, a separate independent evaluation of
 399 the effectiveness of the Health Choices Plus Program to the
 400 Governor, the President of the Senate, and the Speaker of the
 401 House of Representatives.

402 (b) The Florida Health Care Market Task Force is created
 403 within the Florida Legislature. The mission of the task force
 404 is to study and make recommendations on:

405 1. Strategies for allowing state employees to participate
 406 in Florida Health Choices using a defined contribution;

407 2. Methods for increasing the capacity of our current
 408 health care workforce to serve more patients by allowing
 409 advanced registered nurse practitioners and physician assistants
 410 to practice more independently; and

411 3. Options for reducing federal control of the Medicaid
 412 program and for building a medical assistance program customized
 413 for Florida's needs.

414
 415 The task force shall be comprised of seven members: three
 416 members appointed by the President of the Senate; three members
 417 appointed by the Speaker of the House of Representatives; and a
 418 chairman appointed jointly by the President of the Senate and
 419 the Speaker of the House of Representatives. The task force
 420 shall submit a report to the President of the Senate, and the

PCB SPPACA 13-03

ORIGINAL

YEAR

421 Speaker of the House of Representatives by January 1, 2014.
 422 Section 3. Subsection (4) of section 641.402, Florida
 423 Statutes, is amended to read:
 424 641.402 Definitions.—As used in this part, the term:
 425 (4) "Prepaid health clinic" means any organization
 426 authorized under this part which provides, either directly or
 427 through arrangements with other persons, basic services to
 428 persons enrolled with such organization, on a prepaid per capita
 429 or prepaid aggregate fixed-sum basis, including those basic
 430 services which subscribers might reasonably require to maintain
 431 good health. ~~However, n~~No clinic that provides or contracts for,
 432 either directly or indirectly, inpatient hospital services,
 433 hospital inpatient physician services, or indemnity against the
 434 cost of such services shall be a prepaid health clinic, unless
 435 it meets the qualifications of this part. Any prepaid health
 436 clinic that applies for and obtains a health care provider
 437 certificate pursuant to part III of this chapter and meets the
 438 surplus requirements of s. 641.225, and meets all other
 439 applicable requirements of this part may provide or contract
 440 for, either directly or indirectly, inpatient hospital services
 441 and hospital inpatient physician services.
 442 Section 4. This act shall take effect July 1, 2013.