

# VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

## CHAPTER 824

*An Act to amend and reenact §§ 32.1-351, 32.1-352, and 32.1-353 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 32.1-351.1 and 32.1-351.2, relating to children's health insurance.*

[S 550]

Approved April 9, 2000

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-351, 32.1-352, and 32.1-353 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 32.1-351.1 and 32.1-351.2 as follows:**

### CHAPTER 13.

#### **VIRGINIA CHILDREN'S FAMILY ACCESS TO MEDICAL INSURANCE SECURITY INSURANCE PLAN.**

§ 32.1-351. Family Access to Medical Insurance Security Plan established.

A. The Department of Medical Assistance Services shall ~~develop, implement and administer~~ *amend* the Virginia Children's Medical Security Insurance Plan to ~~provide coverage for~~ *be renamed the Family Access to Medical Insurance Security (FAMIS) Plan. The Department of Medical Assistance Services shall provide coverage under the Family Access to Medical Insurance Security Plan for individuals, up to the age of nineteen, when such individuals (i) have family incomes at or below 200 percent of the federal poverty level, as set forth in the appropriation act, and or were enrolled on the date of federal approval of Virginia's FAMIS Plan in the Children's Medical Security Insurance Plan (CMSIP); such individuals shall continue to be enrolled in FAMIS for so long as they continue to meet the eligibility requirements of CMSIP; (ii) are otherwise not eligible for such benefits in compliance with medical assistance services pursuant to Title XXI XIX of the Social Security Act, as amended, and the Commonwealth's plan for the State Children's Health Insurance Program (SCHIP) as established in Subtitle J of the federal Balanced Budget Act of 1997 (P. L. 105-33); (iii) are not covered under a group health plan or under health insurance coverage, as defined in § 2791 of the Public Health Service Act (42 U.S.C. 300gg-91(a) and (b)(1)); (iv) have been without health insurance for at least six months or meet the exceptions as set forth in the Virginia Plan for Title XXI of the Social Security Act, as amended; and (v) meet both the requirements of Title XXI of the Social Security Act, as amended, and the Family Access to Medical Insurance Security Plan.*

B. Family Access to Medical Insurance Security Plan participants whose incomes are above 150 percent of the federal poverty level shall participate in cost-sharing to the extent allowed under Title XXI of the Social Security Act, as amended, and as set forth in the Virginia Plan for Title XXI of the Social Security Act. The annual aggregate cost-sharing for all eligible children in a family at or above 150 percent of the federal poverty level shall not exceed five percent of the family's gross income or as allowed by federal law and regulations. Cost-sharing for all eligible children in a family between 100 percent and 150 percent of federal poverty level shall be limited to nominal copayments and the annual aggregate cost-sharing shall not exceed 2.5 percent of the family's gross income. Cost-sharing shall not be required for well-child and preventive services including age-appropriate child immunizations.

C. The Family Access to Medical Insurance Security Plan shall provide comprehensive health care benefits to program participants, including well-child and preventive services, to the extent required to comply with federal requirements of Title XXI of the Social Security Act. These benefits shall include comprehensive medical, dental, vision, mental health, substance abuse services, physical therapy, occupational therapy, speech-language pathology, and skilled nursing services for special education students.

D. The Virginia Plan for Title XXI of the Social Security Act shall include a provision that participants in the Family Access to Medical Insurance Security Plan who have access to employer-sponsored health insurance coverage, as defined in § 32.1-351.1, may, but shall not be required to, enroll in an employer's health plan, and the Department of Medical Assistance Services or its designee shall make premium payments to such employer's plan on behalf of eligible participants if the Department of Medical Assistance Services or its designee determines that such enrollment is cost-effective, as defined in § 32.1-351.1. The Family Access to Medical Insurance Security Plan shall provide for benefits not included in the employer-sponsored health insurance benefit plan through supplemental insurance equivalent to the comprehensive health care benefits provided in subsection C.

E. The Family Access to Medical Insurance Security Plan shall ensure that coverage under this program does not substitute for private health insurance coverage.

F. The health care benefits provided under the Family Access to Medical Insurance Security Plan

shall be through existing Department of Medical Assistance Services' contracts with health maintenance organizations and other providers, or through new contracts with health maintenance organizations, health insurance plans, other similarly licensed entities, or other entities as deemed appropriate by the Department of Medical Assistance Services, or through employer-sponsored health insurance.

G. The Department of Medical Assistance Services may establish a centralized processing site for the administration of the program to include responding to inquiries, distributing applications and program information, and receiving and processing applications. The Department of Medical Assistance Services may contract with third-party administrators to provide any additional administrative services. Duties of the third-party administrators may include, but shall not be limited to, enrollment, outreach, eligibility determination, data collection, premium payment and collection, financial oversight and reporting, and such other services necessary for the administration of the Family Access to Medical Insurance Security Plan. Any centralized processing site shall determine a child's eligibility for either Title XIX or Title XXI and shall enroll eligible children in Title XIX or Title XXI. In the event that an application is denied, the applicant shall be notified of any services available in his locality that can be accessed by contacting the local department of social services.

H. The Virginia Plan for Title XXI of the Social Security Act, as amended, shall include a provision that, in addition to any centralized processing site, local social services agencies shall provide and accept applications for the Family Access to Medical Insurance Security Plan and shall assist families in the completion of applications. Contracting health plans, providers, and others may also provide applications for the Family Access to Medical Insurance Security Plan and may assist families in completion of the applications.

~~B.~~ I. The Department of Medical Assistance Services shall develop and submit to the federal Secretary of Health and Human Services ~~a~~ an amended Title XXI plan for ~~this program~~ the Family Access to Medical Insurance Security Plan and may revise such plan as may be necessary. Such plan and any subsequent revisions shall comply with the requirements of federal law, this chapter, and any conditions set forth in the appropriation act. In addition, the plan shall provide for coordinated implementation of publicity, enrollment, and service delivery with existing local programs throughout the Commonwealth that provide health care services, educational services, and case management services to children. In developing and revising the plan, the Department of Medical Assistance Services shall advise and consult with the Joint Commission on Health Care and shall provide quarterly reports on enrollment, policies affecting enrollment, such as the exceptions that apply to the six months' prior coverage limitation referenced in subsection A of this section, benefit levels, outreach efforts, including efforts to enroll uninsured children of former Temporary Assistance to Needy Families (TANF) recipients, and other topics.

~~C.~~ J. Funding for ~~this program~~ the Family Access to Medical Insurance Security Plan shall be provided through state and federal appropriations and ~~may~~ shall include appropriations of any funds which may be generated through the Virginia Children's Medical Security Insurance Family Access to Medical Insurance Security Plan Trust Fund.

~~D.~~ K. The Board of Medical Assistance Services, or the Director, as the case may be, shall adopt, promulgate, and enforce such regulations pursuant to the Administrative Process Act (§ 9-6.14:1 et seq.) as may be necessary for the implementation and administration of the ~~program~~ Family Access to Medical Insurance Security Plan.

L. Children enrolled in the Virginia Plan for Title XXI of the Social Security Act prior to implementation of these amendments shall continue their eligibility under the Family Access to Medical Insurance Security Plan and shall be given reasonable notice of any changes in their benefit packages. Continuing eligibility in the Family Access to Medical Insurance Security Plan for children enrolled in the Virginia Plan for Title XXI of the Social Security Act prior to implementation of these amendments shall be determined in accordance with their regularly scheduled review dates or pursuant to changes in income status. Families may select among the options available pursuant to subsections D and F of this section.

M. The provisions of Chapter 9 (§ 32.1-310 et seq.) of this title relating to the regulation of medical assistance shall apply, mutatis mutandis, to the Family Access to Medical Insurance Security Plan.

§ 32.1-351.1. Assistance with employer-sponsored health insurance.

A. For purposes of this chapter, "employer-sponsored health insurance" or "ESHI" means comprehensive health insurance offered by the employer when the employer contributes at least fifty percent towards the cost of dependent or family coverage, or as otherwise approved by the Health Care Financing Administration in the U.S. Department of Health and Human Services.

B. For purposes of this chapter, ESHI shall be deemed cost-effective when the payment by the Department of Medical Assistance Services for health insurance coverage of the enrollee or enrollees under the Family Access to Medical Insurance Security Plan shall be no greater than what would have otherwise been paid by the Department or its designee for the enrollee or enrollees.

C. If a family chooses to participate in ESHI and ESHI is deemed cost-effective, the Department of Medical Assistance Services shall contribute to the cost of ESHI for eligible dependent children for those program participants that have access to ESHI. Participants receiving ESHI under the Family

*Access to Medical Insurance Security Plan shall apply for the full premium contribution available from the employer. Those eligible for Family Access to Medical Insurance Security Plan with access to ESHI may enroll in their designated ESHI at the first available opportunity and shall be covered under the Family Access to Medical Insurance Security Plan until coverage under ESHI becomes available.*

*D. For purposes of this chapter, employers who provide health insurance coverage to employees under the Virginia health insurance demonstration project established pursuant to Chapter 11 (§ 32.1-332 et seq.) of this title may meet the requirements of being employers that offer ESHI.*

**§ 32.1-351.2. Outreach plan.**

*The Board, in consultation with the Outreach Oversight Committee, shall develop a comprehensive, statewide community-based outreach plan to enroll children in the Family Access to Medical Insurance Security Plan and, if so eligible, in Medicaid. The Outreach Plan shall include specific strategies for (i) improving outreach and enrollment in those localities where enrollment is less than the statewide average and (ii) enrolling uninsured children of former Temporary Assistance to Needy Families (TANF) recipients.*

*The Department of Medical Assistance Services shall maintain an Outreach Oversight Committee composed of representatives from community-based organizations engaged in outreach activities, social services eligibility workers, the provider community, health plans and consumers that shall meet on a quarterly basis to discuss strategies to improve outreach activities. As may be appropriate, the Committee shall make recommendations regarding state-level outreach activities, the coordination of regional and local outreach activities, and procedures for streamlining and simplifying the application process, brochures, other printed materials, forms, and applicant correspondence.*

**§ 32.1-352. Virginia Family Access to Medical Insurance Security Plan Trust Fund.**

*A. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Children's Medical Security Insurance Family Access to Medical Insurance Security Plan Trust Fund, hereinafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and shall be administered by the Director of the Department of Medical Assistance Services. The Fund shall consist of the premium differential, any and all employer contributions which may be solicited or received by the Department of Medical Assistance Services, and all grants, donations, gifts, and bequests, or any and all moneys designated for the Fund, from any source, public or private. As used in this section, "premium differential" means an amount equal to the difference between (i) 0.75 percent of the direct gross subscriber fee income derived from eligible contracts and (ii) the amount of license tax revenue generated pursuant to subdivision A 4 of § 58.1-2501 with respect to eligible contracts. As used in this section, "eligible contract" means any subscription contract for any kind of plan classified and defined in § 38.2-4201 or § 38.2-4501 issued other than to (i) an individual or (ii) a primary small group employer if income from the contract is subject to license tax at the rate of 2.25 percent pursuant to subdivision D of § 38.2-4229.1. The State Corporation Commission shall annually, on or before June 30, calculate the premium differential for the immediately preceding taxable year and notify the Comptroller of the Commonwealth to transfer such amount to the Virginia Children's Medical Security Insurance Family Access to Medical Insurance Security Plan Trust Fund as established on the books of the Comptroller.*

*B. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely to support the Virginia Children's Medical Security Insurance Family Access to Medical Insurance Security Plan in accordance with the requirements of Title XXI of the Social Security Act, as amended, the Commonwealth's plan for the State Children's Health Insurance Program (SCHIP), as established in Subtitle J of the federal Balanced Budget Act of 1997 (P. L. 105-33), and any conditions set forth in the appropriation act.*

*C. The Director of the Department of Medical Assistance Services shall report annually on December 1 to the Governor, the General Assembly, and the Joint Commission on Health Care on the status of the Fund, the number of children served by this program, the costs of such services, and any issues related to the Virginia Children's Medical Security Insurance Family Access to Medical Insurance Security Plan that may need to be addressed.*

**§ 32.1-353. Rights and Responsibilities.**

*This chapter shall not be construed as creating any legally enforceable right or entitlement to payment for medical services on the part of any medically indigent benefits under the Family Access to Medical Insurance Security Plan under Title XXI of the Social Security Act, as amended, on the part of any person or any right or entitlement to participation. The Department of Medical Assistance Services shall enroll applicants into the Family Access to Medical Insurance Security Plan under Title XXI to the extent funds are made available or as directed by the appropriation act. The Family Access to Medical Insurance Security Plan and any benefits provided thereunder shall not be assistance or public assistance pursuant to Chapter 6 (§ 63.1-86 et seq.) of Title 63.1.*

**2. That the provisions of this act shall become effective upon federal approval of the Family Access to Medical Insurance Security Plan from the Health Care Financing Administration in the U.S. Department of Health and Human Services.**

- 3. That, notwithstanding the provisions of the second enactment, the Department of Medical Assistance Services shall, as soon as possible after the enactment of this act, develop and submit, in accordance with the provisions of this act, the Family Access to Medical Insurance Security (FAMIS) Plan to the Health Care Financing Administration and seek approval of such Plan from the Secretary of Health and Human Services.**
- 4. That, as of the effective date of this act, any moneys remaining in the Virginia Children's Medical Security Insurance Plan Trust Fund shall be transferred to the Family Access to Medical Insurance Security Plan Trust Fund.**
- 5. That a seamless transition between the Children's Medical Security Insurance Plan and the implementation of the Family Access to Medical Insurance Security Plan shall be deemed to be a public health emergency situation pursuant to § 9-6.14:4.1; therefore, to meet this emergency situation, the Board shall promulgate emergency regulations to implement this act.**