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SENATE BILL NO. 550

Offered January 24, 2000

A BILL 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 a section numbered 32.1-351.1, relating to children's health insurance.

Patrons—Bolling, Hanger, Martin, Newman, Quayle, Rerras, Schrock and Williams; Delegates: Broman, Davis and Harris

Referred to Committee on Education and Health

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 a section numbered 32.1-351.1 as follows:

§ 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 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; (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 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 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. The annual aggregate cost sharing for all eligible children in a family between 100 percent and 150 percent of the federal poverty level shall not exceed 2.5 percent of the family's gross income or as allowed by federal law and regulations. 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.

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 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 will provide for benefits not included in the employer-sponsored health insurance benefit plan through a supplemental insurance program, to the extent necessary to be 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 will 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

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60 administration of the program to include responding to inquiries, distributing applications and program
61 information, and receiving and processing applications. The Department of Medical Assistance Services
62 may contract with third-party administrators to provide any additional administrative services. Duties of
63 the third-party administrators may include, but shall not be limited to, enrollment, outreach, eligibility
64 determination, data collection, premium payment and collection, financial oversight and reporting, and
65 such other services necessary for the administration of the Family Access to Medical Insurance Security
66 Plan.

67 H. The Department of Medical Assistance Services shall develop and submit to the federal Secretary
68 of Health and Human Services a ~~an amended~~ Title XXI plan for ~~this program~~ the Family Access to
69 Medical Insurance Security Plan and may revise such plan as may be necessary. Such plan and any
70 subsequent revisions shall comply with the requirements of federal law, this chapter, and any conditions
71 set forth in the appropriation act.

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

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

80 K. Children enrolled in the Virginia Plan for Title XXI of the Social Security Act prior to
81 implementation of these amendments shall continue their eligibility under the Family Access to Medical
82 Insurance Security Plan and will be given reasonable notice of any changes in their benefit packages.
83 Continuing eligibility in the Family Access to Medical Insurance Security Plan for children enrolled in
84 the Virginia Plan for Title XXI of the Social Security Act prior to implementation of these amendments
85 shall be determined in accordance with their regularly scheduled review dates or pursuant to changes in
86 income status.

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

89 § 32.1-351.1. Assistance with employer-sponsored health insurance.

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

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

98 C. If ESHI is deemed cost effective, the Department of Medical Assistance Services will contribute to
99 the cost of ESHI for eligible dependent children for those program participants that have access to
100 ESHI. Participants receiving ESHI under the Family Access to Medical Insurance Security Plan must
101 apply for the full premium contribution available from the employer. Those eligible for Family Access to
102 Medical Insurance Security Plan with access to ESHI shall enroll in their designated ESHI at the first
103 available opportunity and shall be covered under the Family Access to Medical Insurance Security Plan
104 until coverage under ESHI becomes available.

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

108 § 32.1-352. Virginia Family Access to Medical Insurance Security Plan Trust Fund.

109 A. There is hereby created in the state treasury a special nonreverting fund to be known as the
110 Virginia ~~Children's Medical Security Insurance~~ Family Access to Medical Insurance Security Plan Trust
111 Fund, hereinafter referred to as the "Fund." The Fund shall be established on the books of the
112 Comptroller and shall be administered by the Director of the Department of Medical Assistance
113 Services. The Fund shall consist of the premium differential, any ~~and all~~ employer contributions which
114 may be solicited or received by the Department of Medical Assistance Services, ~~and all~~ grants,
115 donations, gifts, and bequests, ~~or any and all moneys designated for the Fund~~, from any source, public
116 or private. As used in this section, "premium differential" means an amount equal to the difference
117 between (i) 0.75 percent of the direct gross subscriber fee income derived from eligible contracts and (ii)
118 the amount of license tax revenue generated pursuant to subdivision A 4 of § 58.1-2501 with respect to
119 eligible contracts. As used in this section, "eligible contract" means any subscription contract for any
120 kind of plan classified and defined in § 38.2-4201 or § 38.2-4501 issued other than to (i) an individual
121 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 person or any right or entitlement to participation benefits under the Family Access to Medical Insurance Security Plan 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 to the extent funds are made available. If the funds appropriated or otherwise made available pursuant to the Family Access to Medical Insurance Security Plan are not adequate to cover all eligible children, the Board shall establish an appropriate income-eligibility threshold, within the requirements of this chapter, to allow for enrollment of eligible children to the extent funds are available. 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 not become effective until federal approval from the Health Care Financing Administration in the U.S. Department of Health and Human Services is granted for the Family Access to Medical Insurance Security Plan.

3. 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.

4. That the Board shall promulgate regulations to implement the provisions of this act to be effective within 280 days of the date of enactment.