

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact § 32.1-351 of the Code of Virginia, relating to children's health insurance programs.*

[H 790]

Approved

**Be it enacted by the General Assembly of Virginia:****1. That § 32.1-351 of the Code of Virginia is amended and reenacted as follows:**

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

A. The Department of Medical Assistance Services shall amend the Virginia Children's Medical Security Insurance Plan to 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 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 not eligible for medical assistance services pursuant to Title XIX of the Social Security Act, as amended; (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, and substance abuse services, and 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 Family Access to Medical Insurance Security*

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HB790ER

57 *Plan shall include a provision allowing a child's application to be filed by a parent, legal guardian,*  
 58 *authorized representative or any other adult caretaker relative with whom the child lives.* The  
 59 Department of Medical Assistance Services may contract with third-party administrators to provide any  
 60 additional administrative services. Duties of the third-party administrators may include, but shall not be  
 61 limited to, enrollment, outreach, eligibility determination, data collection, premium payment and  
 62 collection, financial oversight and reporting, and such other services necessary for the administration of  
 63 the Family Access to Medical Insurance Security Plan. Any centralized processing site shall determine a  
 64 child's eligibility for either Title XIX or Title XXI and shall enroll eligible children in Title XIX or Title  
 65 XXI. In the event that an application is denied, the applicant shall be notified of any services available  
 66 in his locality that can be accessed by contacting the local department of social services.

67 H. (Effective until July 1, 2003) The Virginia Plan for Title XXI of the Social Security Act, as  
 68 amended, shall include a provision that, in addition to any centralized processing site, local social  
 69 services agencies shall provide and accept applications for the Family Access to Medical Insurance  
 70 Security Plan and shall assist families in the completion of applications. Contracting health plans,  
 71 providers, and others may also provide applications for the Family Access to Medical Insurance Security  
 72 Plan and may assist families in completion of the applications.

73 The plan shall also include a provision to request the custodial parent's cooperation with the  
 74 Commonwealth in securing medical and child support payments. However, such cooperation shall not be  
 75 a condition of eligibility.

76 H. (Effective July 1, 2003) The Virginia Plan for Title XXI of the Social Security Act, as amended,  
 77 shall include a provision that, in addition to any centralized processing site, local social services  
 78 agencies shall provide and accept applications for the Family Access to Medical Insurance Security Plan  
 79 and shall assist families in the completion of applications. Contracting health plans, providers, and others  
 80 may also provide applications for the Family Access to Medical Insurance Security Plan and may assist  
 81 families in completion of the applications.

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

95 J. Funding for the Family Access to Medical Insurance Security Plan shall be provided through state  
 96 and federal appropriations and shall include appropriations of any funds that may be generated through  
 97 the Virginia Family Access to Medical Insurance Security Plan Trust Fund.

98 K. The Board of Medical Assistance Services, or the Director, as the case may be, shall adopt,  
 99 promulgate, and enforce such regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.)  
 100 as may be necessary for the implementation and administration of the Family Access to Medical  
 101 Insurance Security Plan.

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

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

112 N. In addition, in any case in which any provision set forth in Title 38.2 excludes, exempts or does  
 113 not apply to the Virginia plan for medical assistance services established pursuant to Title XIX of the  
 114 Social Security Act, 42 U.S.C. § 1396 et seq. (Medicaid), such exclusion, exemption or carve out of  
 115 application to Title XIX of the Social Security Act (Medicaid) shall be deemed to subsume and thus to  
 116 include the Family Access to Medical Insurance Security (FAMIS) Plan, established pursuant to Title  
 117 XXI of the Social Security Act, upon approval of FAMIS by the federal Health Care Financing

**118** Administration as Virginia's State Children's Health Insurance Program.

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HB790ER