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**SENATE BILL NO. 266**

Senate Amendments in [ ] — February 11, 2010

*A BILL to amend and reenact § 32.1-351 of the Code of Virginia, relating to FAMIS eligibility.*

Patron Prior to Engrossment—Senator Whipple

Referred to Committee on Education and Health

**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 under the age of 19 when such individuals (i) have family incomes at or below 200 225 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 four 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. Eligible children, residing in Virginia, whose family income does not exceed 200 225 percent of the federal poverty level during the enrollment period shall receive 12 continuous months of coverage as permitted by Title XXI of the Social Security Act.

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 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 at or below 150 percent of the federal poverty level shall not exceed 2.5 percent of the family's gross income. The nominal copayments for all eligible children in a family shall not be less than those in effect on January 1, 2003. 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. The mental health services required herein shall include intensive in-home services, case management services, day treatment, and 24-hour emergency response. The services shall be provided in the same manner and with the same coverage and service limitations as they are provided to children under the State Plan for Medical Assistance Services.

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.

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. All eligible

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60 individuals, insofar as feasible, shall be enrolled in health maintenance organizations.

61 G. The Department of Medical Assistance Services may establish a centralized processing site for the  
62 administration of the program to include responding to inquiries, distributing applications and program  
63 information, and receiving and processing applications. The Family Access to Medical Insurance  
64 Security Plan shall include a provision allowing a child's application to be filed by a parent, legal  
65 guardian, authorized representative or any other adult caretaker relative with whom the child lives. The  
66 Department of Medical Assistance Services may contract with third-party administrators to provide any  
67 additional administrative services. Duties of the third-party administrators may include, but shall not be  
68 limited to, enrollment, outreach, eligibility determination, data collection, premium payment and  
69 collection, financial oversight and reporting, and such other services necessary for the administration of  
70 the Family Access to Medical Insurance Security Plan. Any centralized processing site shall determine a  
71 child's eligibility for either Title XIX or Title XXI and shall enroll eligible children in Title XIX or Title  
72 XXI. A single application form shall be used to determine eligibility for Title XIX or Title XXI of the  
73 Social Security Act, as amended, and outreach, enrollment, re-enrollment and services delivery shall be  
74 coordinated with the FAMIS Plus program pursuant to § 32.1-325. In the event that an application is  
75 denied, the applicant shall be notified of any services available in his locality that can be accessed by  
76 contacting the local department of social services.

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

83 I. The Department of Medical Assistance Services shall develop and submit to the federal Secretary  
84 of Health and Human Services an amended Title XXI plan for the Family Access to Medical Insurance  
85 Security Plan and may revise such plan as may be necessary. Such plan and any subsequent revisions  
86 shall comply with the requirements of federal law, this chapter, and any conditions set forth in the  
87 appropriation act. In addition, the plan shall provide for coordinated implementation of publicity,  
88 enrollment, and service delivery with existing local programs throughout the Commonwealth that  
89 provide health care services, educational services, and case management services to children. In  
90 developing and revising the plan, the Department of Medical Assistance Services shall advise and  
91 consult with the Joint Commission on Health Care.

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

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

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

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

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

116 **[2. That the provisions of this act shall not become effective unless an appropriation of general**  
117 **funds effectuating the purposes of this act is included in a general appropriations act passed by**  
118 **the 2010 Session of the General Assembly, which becomes law. ]**