FLORIDA CENTER FOR FISCAL AND ECONOMIC POLICY

**Issue Brief** **June 2012**

# Medically Needy to Medically Needier:
# Pushing the Medically Needy Into Managed Care Will Push Most Out of Coverage Completely

The Medically Needy component of the Medicaid program provides short-term coverage to Floridians who are over income for regular Medicaid but have catastrophic medical expenses. On April 26, the state requested federal permission to require, for the first time, that all Medically Needy participants enroll in a managed care plan and pay monthly premiums, purportedly to ensure their access to continuous coverage. However, failure to pay those premiums, which could absorb up to 90 percent of a participant's household income, would end their eligibility for Medicaid altogether. Virtually no Medically Needy participants would be able to afford the premiums, and the inevitable result would be loss of access to Medicaid and harm to hundreds of thousands of the most vulnerable Floridians.

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**About the Current Medically Needy Program:**

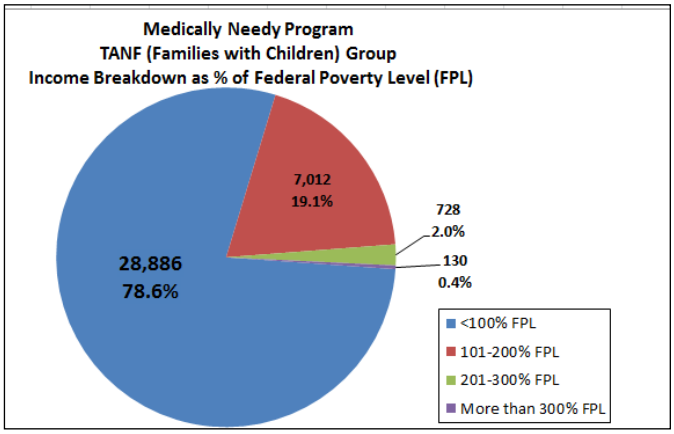
Under the Medically Needy program as it operates currently, participants meet all eligibility criteria for Medicaid coverage except that they have household income or assets above the regular Medicaid limit. As a result, Medically Needy participants do not have regular, ongoing Medicaid coverage. Rather, they are only covered by Medicaid on a short-term basis during months in which they have catastrophic medical expenses. More specifically, participants qualify by meeting what is known as their "Share of Cost." Share of Cost is met by incurring medical expenses that, if paid directly by the participant, would reduce his or her family income to a destitution-level 19 percent of the Federal Poverty Level (FPL).

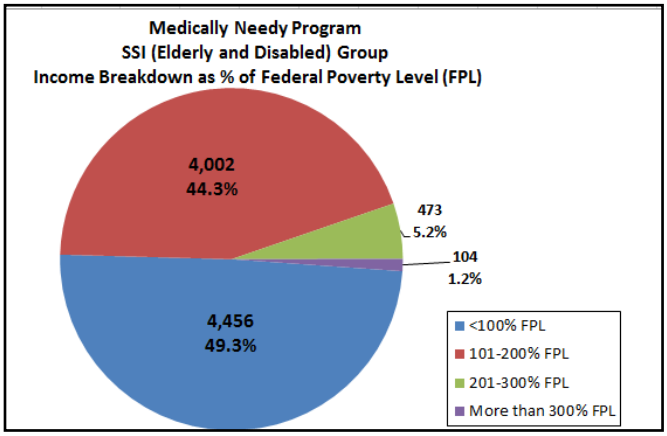
However, an essential characteristic of the current Medically Needy program is that participants are not required to pay the entire Share of Cost directly out of their own pockets. Instead, on the date that a participant can document medical bills for the month – paid or unpaid – that equal or exceed that Share of Cost amount, full Medicaid coverage is activated as of that day and for the remainder of the month.

**About Current Medically Needy Participants:**

***Participants qualify by meeting what is known as their "Share of Cost." Share of Cost is met by incurring medical expenses that, if paid directly by the participant, would reduce his or her family income to a destitution-level 19 percent of the Federal Poverty Level.***

Through the Medically Needy program, more than 546,000 Floridians were covered by Medicaid during at least one month between July 2008 and June 2011.[1] In terms of a snapshot, the average Medically Needy caseload for 2010-2011 was 40,622 individuals.[2] Medically Needy participants fall into two main eligibility categories: 1) children and families (often called the TANF group) and 2) elderly and disabled (often called the SSI group). Because Medicaid income eligibility limits are so stringent in Florida, even though Medically Needy participants have incomes (or assets) above the regular Medicaid income limit, the preponderance are nevertheless low-income, with the majority living in poverty. In fact, only 1 in 40 participants in the TANF group and 1 in 16 in the SSI group had household incomes above 200 percent of the poverty level.[3] The distribution of participants by income level for the two groups is shown in the figures below:




Note: The federal poverty level in 2012 is $11,170 for a single individual and $19,090 for a family of three.

**About the Proposed Medically Needy Program:**

The proposed changes to Florida's Medically Needy program are just one component of the overall Statewide Medicaid Managed Care (SMMC) initiative approved by the Florida Legislature in 2011.[4] Under that legislation, virtually all Florida Medicaid recipients would be required to enroll in capitated, mostly for-profit managed care plans. However, federal Center for Medicaid and Medicare Services (CMS) must first sign off on Florida's plan, most of which was submitted last August. CMS has in fact already rejected two other parts of the initiative calling for punitive measures that could not be granted under federal law. The Medically Needy proposal is the final piece to be submitted, although the proposed amendment is technically not part of the SMMC initiative, and pertains to the Medically Needy program prior to the full implementation of SMMC, in which the Medically Needy population

would be mandatory participants.[5] It follows up on a "concept paper" submitted to CMS earlier that included many of the same ideas.[6]

***The stated aim of the proposal, namely to provide continuous coverage to patients who would otherwise cycle on and off of short-term Medicaid coverage, has significant merit. The problem, however, is that in return for continuous coverage, Medically Needy participants would be required to pay extremely unaffordable premiums – absorbing up to 90 percent of monthly income.***

The stated aim of the proposal, namely to provide continuous coverage to patients who would otherwise cycle on and off of short-term Medicaid coverage, has significant merit. The problem, however, is that in return for continuous coverage, Medically Needy participants would be required to pay extremely unaffordable premiums – absorbing up to 90 percent of monthly income – in order to remain eligible.

For their first month of eligibility, participants would meet their Share of Cost requirement in precisely the same manner as with the current Medically Needy program. As of the first day of the following month, however, he or she would be enrolled in a managed care plan for six months, provided the participant pays the monthly premiums. However, if the full premium amount is not paid after three months, the participant would be disenrolled from the plan and lose Medicaid eligibility altogether, regardless of medical condition or hardship.[7]

Monthly premiums for 2013 would be set as the lesser of the individual participant's Share of Cost and a "per capita capitation benchmark" amount based on the actuarial (i.e., average expected) value of the care provided to participants in the same eligibility category:

| **Monthly "Benchmark" Premiums by Medically Needy Subgroup[8]** | |
|---|---|
| **Medically Needy Eligibility Category** | **Benchmark Premium Amount** |
| Elderly and Disabled (not dually eligible for Medicare) | $1,803 |
| Elderly and Disabled (dually eligible for Medicare) | $168 |
| Children | $139 |
| Adult (must have child in household) | $262 |
| **Overall Average** | **$349** |

**Untenable Burden of Proposed Premium Requirements:**

The actual distribution of premiums to be paid among all Medically Needy participants is difficult to estimate, as many variables are involved.[9] However, we can assess the burden created by these premiums in individual scenarios, such as those shown in the table below:

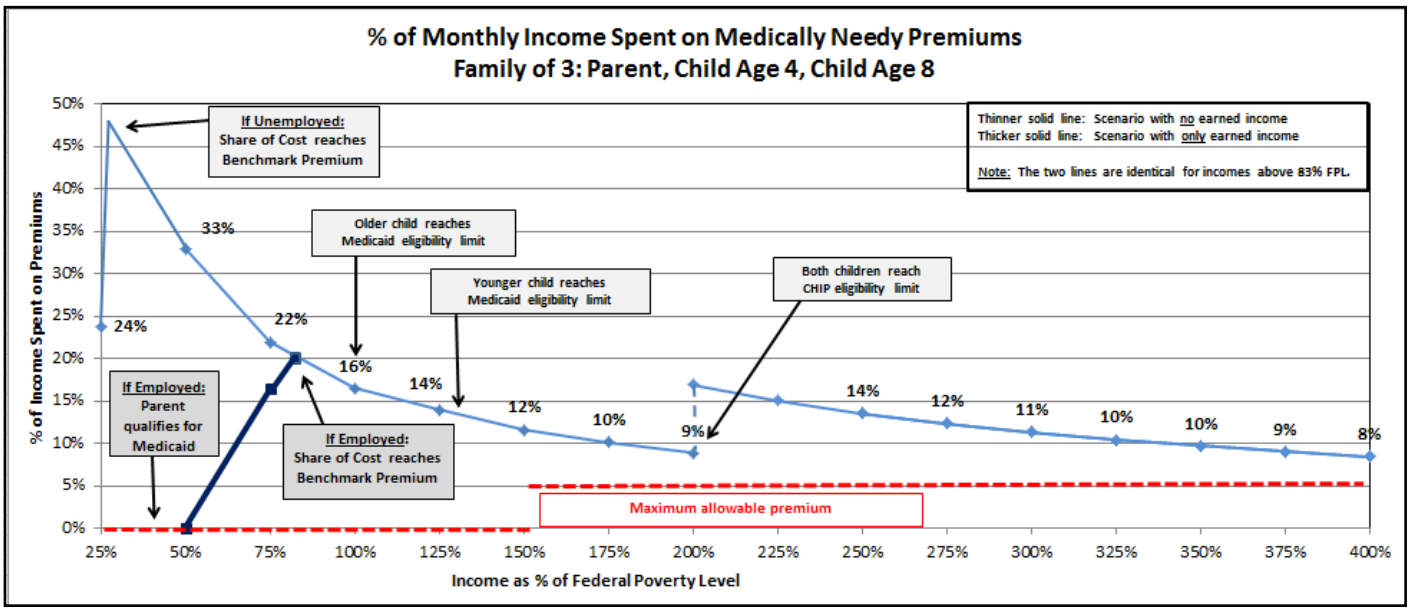
| Burden of Medically Needy Premiums - Selected Examples (Detailed calculations are provided in the Appendix) | | |
|---|---|---|
| **Scenario** | **Total Monthly Premiums** | **Percent of Income Absorbed by Monthly Premiums** |
| Unemployed single parent with two children, ages 4 and 8 (Income at 25% of poverty level) | $95 | 24% |
| Unemployed single parent with two children, ages 4 and 8 (Income at 125% of poverty level) | $277 | 14% |
| Unemployed single parent with two children, ages 4 and 8 (Income at 225% of poverty level) | $538 | 15% |
| Single disabled individual WITH Medicare coverage (Income at 100% of poverty level) | $168 | 18% |
| Single disabled individual WITH Medicare coverage (Income at 200% of poverty level | $308 | 17% |
| Single disabled individual WITHOUT Medicare coverage (Income at 100% of poverty level) | $731 | 79% |
| Single disabled individual WITHOUT Medicare coverage (Income at 200% of poverty level) | $1,662 | 88% |

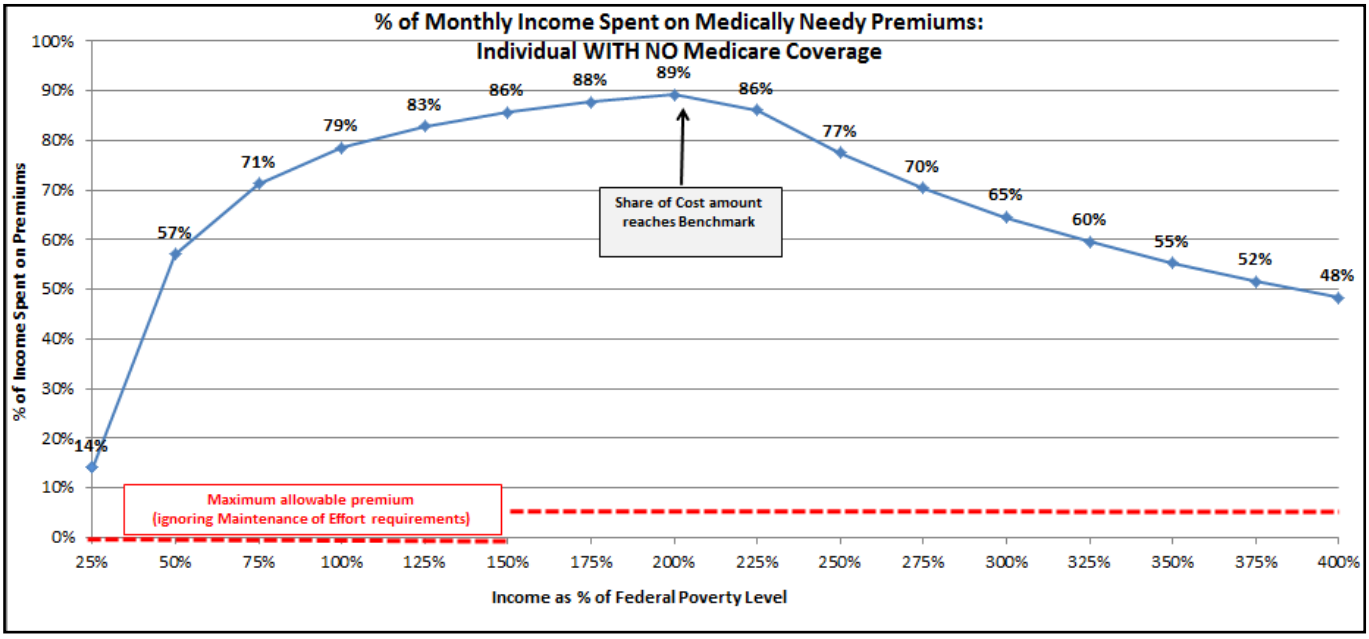
In short, the proposed premium requirements will prove unaffordable to virtually all Medically Needy participants, and pose a significant threat to health and well-being to most.

**Most Basic Problem with Medically Needy Proposal:**

In addition to the devastating impact the proposal would have on Floridians with catastrophic medical needs, an even more fundamental problem with the proposal is that it appears to be in direct conflict with federal law. CMS has the authority to grant waivers from certain federal requirements, but cannot override basic provisions of the Medicaid program set by Congress. In fact, the Medically Needy proposal is far more extreme than Florida's request to charge most recipients $10 monthly premiums throughout Medicaid, which was denied in February.[10]

Congress directly addressed the question of the circumstances under which states may impose premiums and other cost sharing requirements on Medicaid recipients through the Deficit Reduction Act of 2005 (DRA). In particular, states are in general permitted to require recipients with incomes above 150 percent of the federal poverty level (FPL) to pay premiums as a condition of eligibility.[11] More than 9 out of 10 Medically Needy participants have incomes below that level and so would be exempt. However, even for those above 150 percent FPL, the DRA specifies that total premiums and cost sharing may not exceed 5 percent of family income.[12] Expected premiums for fewer than 1 in 100 Medically Needy participants would meet this standard. Most would be expected to pay premiums many times that rate, as illustrated by the examples shown in the figures below:




In addition, the Affordable Care Act's "Maintenance of Effort" requirement prohibits tightening eligibility standards for Medicaid for adults until 2014 and for children until 2019. This specifically includes a ban on any new requirement that recipients pay premiums in order to remain eligible.[13]

**Evasion of Transparency**

Finally, the state's efforts to evade transparency requirements in its submission provide important insight into the nature of the Medically Needy proposal itself. The state submitted the proposal to CMS on April 26. On April 27, the next day, new federal transparency regulations[14] went into effect that likely[15] would have required the state to operate within public view as well as specifically seek and respond to public input. For more than two weeks, until the story was reported in the media, the state neither posted the proposal online nor mentioned it in any public setting.

# Appendix

**Examples with Calculations Illustrating Burden of Proposed Medically Needy Premium Requirements**

**Example 1A: Unemployed single parent with two children, ages 4 and 8 (@ 25% of poverty level)**

At one end of the income spectrum, about one in five Medically Needy recipients in the children and families group lives in such deep poverty that their household incomes fall below 25 percent of the federal poverty level. That amount is just above the level at which an unemployed parent would quality for regular Medicaid, although both children would qualify.

| Description of Amount | Amount | Calculation |
|---|---|---|
| Household Monthly Income (25% FPL) | $398 | A |
| Monthly Income Limit for Regular Medicaid | $303 | B |
| Income Disregarded | $0 | C |
| Share of Cost | $95 | D = A - B - C |
| Benchmark Premium for Parent | $262 | E |
| Benchmark Premium for EACH Child | $138 | F |
| Actual Premium for Parent | $95 | G = Lesser of D & E |
| Actual Premium for Child #1 | N/A (Qualifies for Full Medicaid) | H = Lesser of F & (D-G) |
| Actual Premium for Child #2 | N/A (Qualifies for Full Medicaid) | I = Lesser of F & (D-G-H) |
| **Total Monthly Premiums** | **$95** | J = G + H + I |
| **Premiums as % of Monthly Income** | **24%** | K = J ÷ A |

Although the premiums for those in deepest poverty would be lowest, they would be least able to afford them. In this example, the parent could obtain Medicaid coverage for $95 per month, but that would absorb a massive 24 percent of the total $303 dollars they have available for the month.

**Example 1B: Employed single parent with two children, ages 4 and 8 (@ 125% of poverty level)**

| Description of Amount | Amount | Calculation |
|---|---|---|
| Household Monthly Income (125% FPL) | $1,989 | A |
| Monthly Income Limit for Regular Medicaid | $303 | B |
| Income Disregarded | $90 | C |
| Share of Cost | $1,596 | D = A - B - C |
| Benchmark Premium for Parent | $262 | E |
| Benchmark Premium for EACH Child | $138 | F |
| Actual Premium for Parent | $262 | G = Lesser of D & E |
| Actual Premium for Child #1 | N/A (Qualifies for Full Medicaid) | H = Lesser of F & (D-G) |
| Actual Premium for Child #2 | $15 (Qualifies for FL Healthy Kids[16]) | I = Lesser of F & (D-G-H) |
| **Total Monthly Premiums** | **$277** | J = G + H + I |
| **Premiums as % of Monthly Income** | **14%** | K = J ÷ A |

**Example 1C: Employed single parent with two children, ages 4 and 8 (@ 225% of poverty level)**

| Description of Amount | Amount | Calculation |
|---|---|---|
| Monthly Income (225% FPL) | $3,580 | A |
| Monthly Income Limit for Regular Medicaid | $303 | B |
| Income Disregarded | $90 | C |
| Share of Cost | $3,187 | D = A - B - C |
| Benchmark Premium for Parent | $262 | E |
| Benchmark Premium for EACH Child | $138 | F |
| Actual Premium for Parent | $262 | G = Lesser of D & E |
| Actual Premium for Child #1 | $138 | H = Lesser of F & (D-G) |
| Actual Premium for Child #2 | $138 | I = Lesser of F & (D-G-H) |
| **Total Monthly Premiums** | **$538** | J = G + H + I |
| **Premiums as % of Monthly Income** | **15%** | K = J ÷ A |

The elderly and disabled persons in the SSI group can be divided further into two very different subgroups for the purpose of calculating premiums: those with Medicare coverage and those with no coverage:

**Example 2A: Single disabled individual WITH Medicare coverage (@ 100% of poverty level)**

Most elderly individuals, as well as disabled, non-elderly individuals above the SSI payment level, qualify for Medicare, though disabled individuals generally must wait 29 months after their disability

determination to qualify for coverage. Although the medical needs of this "dually eligible" subgroup are significant, Medicare coverage will address a number of them. In this example, the individual likely qualifies for the Qualified Medicare Beneficiary (QMB) program, which pays applicable Medicare premiums for individuals at or below 100 percent FPL. It is also essential to note that non-elderly individuals with incomes less than 138 percent FPL will qualify for Medicaid with no Share of Cost, effective January 1, 2014.

| Description of Amount | Amount | Calculation |
|---|---|---|
| Monthly Income (100% FPL) | $931 | A |
| Monthly Income Limit for Regular Medicaid | $180 | B |
| Income Disregarded | $20 | C |
| Share of Cost | $731 | D = A - B - C |
| Benchmark Medically Needy Premium | $168 | E |
| Actual Medically Needy Premium | $168 | F = Lesser of D & E |
| Medicare-Related Premiums | $0 | G |
| **Total Monthly Premium** | **$168** | H = F + G |
| **Premiums as % of Monthly Income** | **18%** | I = H ÷ A |

**Example 2B: Single disabled individual WITH Medicare coverage (@ 200% of poverty level)**
In this example, the individual does not qualify for any of the Medicare Savings Programs like QMB, and so must pay all Medicare-related premiums as well. A wide variety of Medicare coverage options exists, and particularly with Part D prescription drug coverage, lower premiums are often offset by higher out-of-pocket costs. Also, non-elderly individuals at this income level should qualify for subsidized coverage through the Health Insurance Exchange as of January 1, 2014, but the extent to which a gap in catastrophic coverage will remain for chronically ill individuals is still unclear.

| Description of Amount | Amount | Calculation |
|---|---|---|
| Monthly Income (200% FPL) | $1,862 | A |
| Monthly Income Limit for Regular Medicaid | $180 | B |
| Income Disregarded | $20 | C |
| Share of Cost | $1,682 | D = A - B - C |
| Benchmark Medically Needy Premium | $168 | E |
| Actual Medically Needy Premium | $168 | F = Lesser of D & E |
| Medicare-Related Premiums | $140 | G |
| **Total Monthly Premium** | **$308** | H = F + G |
| **Premiums as % of Monthly Income** | **17%** | I = H ÷ A |

**Example 3A: Single disabled individual WITHOUT Medicare coverage (@ 100% of poverty level)**
Disabled individuals who do not have access to Medicare or regular Medicaid rely on the Medically Needy program as their sole protection from health-related and financial catastrophe. These are the individuals who will find the premium requirements utterly prohibitive. However, again, it should be

noted that many of these individuals (non-elderly with incomes less than 138 percent FPL) will qualify for some form of regular Medicaid without a Share of Cost, effective January 1, 2014.

| Description of Amount | Amount | Calculation |
|---|---|---|
| Monthly Income (100% FPL) | $931 | A |
| Monthly Income Limit | $180 | B |
| Income Disregarded | $20 | C |
| Share of Cost | $731 | D = A - B - C |
| Benchmark Premium | $1,803 | E |
| **Actual Monthly Premium** | **$731** | F = Lesser of D & E |
| **Premium as % of Monthly Income** | **79%** | G |

**Example 3B: Single disabled individual WITHOUT Medicare coverage (@ 200% of poverty level)**
Increased income would be of no benefit to individuals in this subgroup, but rather only to the managed care plan to which he or she would pay an increasingly higher premium. Specifically, under the state's proposal, every dollar of income above the $200 limit would be owed to the managed care plan, at least until his or her income reached $2,003. In other words, the lowest-income and most vulnerable Floridians would be required turn over all but $200 per month – up to 90 percent of their monthly income – to a managed care plan or lose access to coverage.

| Description of Amount | Amount | Calculation |
|---|---|---|
| Monthly Income (200% FPL) | $1,862 | A |
| Monthly Income Limit | $180 | B |
| Income Disregarded | $20 | C |
| Share of Cost | $1,662 | D = A - B - C |
| Benchmark Premium | $1,803 | E |
| **Actual Monthly Premium** | **$1,662** | F = Lesser of D & E |
| **Premium as % of Monthly Income** | **88%** | G |

This report was researched and written by Greg Mellowe. The report and its findings do not necessarily reflect the views of the FCFEP Board of Directors.

## Endnotes

[1] Florida Agency for Health Care Administration (AHCA), Florida Medically Needy Waiver Demonstration Amendment
to the Florida MEDS AD section 1115 Demonstration (Waiver Amendment), April 2012, p.19

[2] AHCA, Waiver Amendment, p.5

[3] AHCA, Waiver Amendment, pp. 6-7

[4] Part IV, Chapter 409, Florida Statutes (F.S.)

[5] Section 409.9122(20), F.S.

[6] AHCA, Florida Medically Needy Waiver Demonstration Program – Concept Paper, August 2011.

[7] AHCA, Waiver Amendment, p. 9

[8] AHCA, Waiver Amendment, p. 23

[9] In particular, AHCA only provides a breakdown of the January 2011 Medically Needy population, but premiums are based in part on the demographic characteristics of the 2013 Medically Needy population. To maximize the relevance of the income-to-premium comparisons, we chose to use current (2012) federal poverty guidelines.

[10] U.S. Centers for Medicare and Medicaid Services (CMS), Untitled Letter to AHCA, February 2012, p.1

[11] CMS, Deficit Reduction Act (DRA): Important Facts for State Policymakers, February 2008, p.1

[12] DRA, Section 6041(b)(2)(A)

[13] CMS, State Medicaid Director Letter #11-01, pp. 10-11, February 2011

[14] 42 CFR Part 431, Subpart G (77 FR 11696-11699)

[15] The proposal submitted took the form of a proposed amendment to an already federally approved Medicaid waiver that allows Florida to operate the MEDS-AD program, which extends full Medicaid coverage to certain elderly and disabled individuals with incomes below 88 percent of the poverty level but who do not receive SSI. The Medically Needy and MEDS-AD populations and programs are completely different. Thus, the Medically Needy proposal will likely be considered as a new waiver rather than an amendment to an existing one, triggering applicability of the new regulations.

[16] Florida Healthy Kids is a component of Florida KidCare, funded under the federal Children's Health Insurance Program.