

SENATE, No. 2269

STATE OF NEW JERSEY

INTRODUCED NOVEMBER 17, 1997

By Senator DiFRANCESCO

1 AN ACT establishing the Children's Health Care Coverage Program,  
2 amending P.L.1968, c.413 and supplementing Title 30 of the  
3 Revised Statutes.

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

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8 1. (New section) This act shall be known and may be cited as the  
9 "Children's Health Care Coverage Act."

10

11 2. (New section) The Legislature finds and declares that:

12 a. Title XXI of the federal Social Security Act, which was created  
13 by Subtitle J of Title IV of the federal "Balanced Budget Act of 1997,"  
14 Pub.L.105-33, established the State Children's Health Insurance  
15 Program, which allows a state, subject to certain conditions, to  
16 establish a health insurance program for low-income children.

17 b. A substantial number of New Jersey's children who reside in  
18 low-income families lack health care coverage, and this lack of  
19 coverage prevents these children from obtaining needed preventive and  
20 other care on a consistent and managed basis.

21 c. Because of a lack of health insurance coverage, children forgo  
22 care until conditions which were either preventable or treatable at the  
23 outset require more extensive and expensive interventions or  
24 treatment, and providing health care coverage will prevent these  
25 conditions from occurring or deteriorating in these children.

26 d. Children with health care coverage have a significantly greater  
27 opportunity to stay healthy and to realize their full educational and  
28 developmental potential and become productive citizens.

29 e. The Children's Health Care Coverage Program established  
30 pursuant to this act builds on New Jersey's longstanding commitment  
31 to assure access to quality health care provided in an efficient and  
32 effective manner and at a reasonable cost through the Medicaid  
33 program, services provided in certain health care facilities, and limited  
34 subsidized health insurance coverage.

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.**

**Matter underlined thus is new matter.**

1 f. In addition, the Children's Health Care Coverage Program will  
2 utilize the new options permitted under federal law and State and other  
3 resources to establish the foundation for assuring health care coverage  
4 for all of New Jersey's children.

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6 3. (New section) As used in this act:

7 "Commissioner" means the Commissioner of Human Services.

8 "Program" means the Children's Health Care Coverage Program  
9 established pursuant to this act.

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11 4. (New section) a. The Children's Health Care Coverage  
12 Program is established in the Department of Human Services. The  
13 purpose of the program shall be to provide subsidized private health  
14 insurance coverage, and other health care benefits as determined by  
15 the commissioner, to children from birth through 18 years of age  
16 within the limits of funds appropriated or otherwise made available for  
17 the program. The program shall require copayments and a premium  
18 contribution from families with incomes which exceed 150% of the  
19 official poverty level, which shall be based upon a sliding income scale.  
20 The program shall include the provision of well-child and other  
21 preventive services, hospitalization, physician care, laboratory and x-  
22 ray services, prescription drugs, mental health services, and other  
23 services as determined by the commissioner

24 b. The commissioner, in consultation with the Commissioner of  
25 Health and Senior Services, shall take such actions as are necessary to  
26 implement and operate the program in accordance with the provisions  
27 governing the State Children's Health Insurance Program in Title XXI  
28 of the federal Social Security Act, as provided in Subtitle J of Title IV  
29 of the federal "Balanced Budget Act of 1997," Pub.L.105-33.

30 c. The commissioner shall by regulation establish standards for  
31 determining eligibility and other requirements for the program,  
32 including, but not limited to, premium payments and copayments, and  
33 may contract with one or more appropriate entities to assist in  
34 administering the program. The commissioner shall take, or cause to  
35 be taken, any action necessary to secure for the State the maximum  
36 amount of federal financial participation available with respect to the  
37 program, subject to the constraints of fiscal responsibility and within  
38 the limits of available funding in any fiscal year.

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40 5. Section 3 of P.L.1968, c.413 (C.30:4D-3) is amended to read as  
41 follows:

42 3. Definitions. As used in this act, and unless the context  
43 otherwise requires:

44 a. "Applicant" means any person who has made application for  
45 purposes of becoming a "qualified applicant."

46 b. "Commissioner" means the Commissioner of Human Services.

- 1 c. "Department" means the Department of Human Services, which  
2 is herein designated as the single State agency to administer the  
3 provisions of this act.
- 4 d. "Director" means the Director of the Division of Medical  
5 Assistance and Health Services.
- 6 e. "Division" means the Division of Medical Assistance and Health  
7 Services.
- 8 f. "Medicaid" means the New Jersey Medical Assistance and Health  
9 Services Program.
- 10 g. "Medical assistance" means payments on behalf of recipients to  
11 providers for medical care and services authorized under this act.
- 12 h. "Provider" means any person, public or private institution,  
13 agency or business concern approved by the division lawfully  
14 providing medical care, services, goods and supplies authorized under  
15 this act, holding, where applicable, a current valid license to provide  
16 such services or to dispense such goods or supplies.
- 17 i. "Qualified applicant" means a person who is a resident of this  
18 State and is determined to need medical care and services as provided  
19 under this act, and who:
- 20 (1) Is a dependent child or parent or caretaker relative of a  
21 dependent child and a recipient of benefits under the Work First New  
22 Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et  
23 seq.) who would be, except for resources, eligible for the aid to  
24 families with dependent children program under the State Plan for  
25 Title IV-A of the federal Social Security Act as of July 16, 1996 ;
- 26 (2) Is a recipient of Supplemental Security Income for the Aged,  
27 Blind and Disabled under Title XVI of the Social Security Act;
- 28 (3) Is an "ineligible spouse" of a recipient of Supplemental Security  
29 Income for the Aged, Blind and Disabled under Title XVI of the Social  
30 Security Act, as defined by the federal Social Security Administration;
- 31 (4) Would be eligible to receive Supplemental Security Income  
32 under Title XVI of the federal Social Security Act or would be, except  
33 for resources, eligible for the aid to families with dependent children  
34 program under the State Plan for Title IV-A of the federal Social  
35 Security Act as of July 16, 1996, except for failure to meet an  
36 eligibility condition or requirement imposed under such State program  
37 which is prohibited under Title XIX of the federal Social Security Act  
38 such as a durational residency requirement, relative responsibility,  
39 consent to imposition of a lien;
- 40 (5) Is a child between 18 and 21 years of age who would be,  
41 except for resources, eligible for the aid to families with dependent  
42 children program under the State Plan for Title IV-A of the federal  
43 Social Security Act as of July 16, 1996, living in the family group  
44 except for lack of school attendance or pursuit of formalized  
45 vocational or technical training;
- 46 (6) Is an individual under 21 years of age who would be, except for

1 resources or dependent child requirements, eligible for the aid to  
2 families with dependent children program under the State Plan for  
3 Title IV-A of the federal Social Security Act as of July 16, 1996 , or  
4 groups of such individuals, including but not limited to, children in  
5 foster placement under supervision of the Division of Youth and  
6 Family Services whose maintenance is being paid in whole or in part  
7 from public funds, children placed in a foster home or institution by a  
8 private adoption agency in New Jersey or children in intermediate care  
9 facilities, including developmental centers for the developmentally  
10 disabled, or in psychiatric hospitals;

11 (7) Except for resources, would be eligible for the aid to families  
12 with dependent children program under the State Plan for Title IV-A  
13 of the federal Social Security Act in effect as of July 16, 1996 or the  
14 Supplemental Security Income program, but is not receiving such  
15 assistance and applies for medical assistance only;

16 (8) Is determined to be medically needy and meets all the eligibility  
17 requirements described below:

18 (a) The following individuals are eligible for services, if they are  
19 determined to be medically needy:

20 (i) Pregnant women;

21 (ii) Dependent children under the age of 21;

22 (iii) Individuals who are 65 years of age and older; and

23 (iv) Individuals who are blind or disabled pursuant to either  
24 42 C.F.R.435.530 et seq. or 42 C.F.R.435.540 et seq., respectively.

25 (b) The following income standard shall be used to determine  
26 medically needy eligibility:

27 (i) For one person and two person households, the income standard  
28 shall be the maximum allowable under federal law, but shall not exceed  
29 133 1/3% of the State's payment level to two person households under  
30 the aid to families with dependent children program under the State  
31 Plan for Title IV-A of the federal Social Security Act in effect as of  
32 July 16, 1996 ; and

33 (ii) For households of three or more persons, the income standard  
34 shall be set at 133 1/3% of the State's payment level to similar size  
35 households under the aid to families with dependent children program  
36 under the State Plan for Title IV-A of the federal Social Security Act  
37 in effect as of July 16, 1996 .

38 (c) The following resource standard shall be used to determine  
39 medically needy eligibility:

40 (i) For one person households, the resource standard shall be 200%  
41 of the resource standard for recipients of Supplemental Security  
42 Income pursuant to 42 U.S.C. s.1382(1)(B);

43 (ii) For two person households, the resource standard shall be  
44 200% of the resource standard for recipients of Supplemental Security  
45 Income pursuant to 42 U.S.C. s.1382(2)(B);

46 (iii) For households of three or more persons, the resource

1 standard in subparagraph (c)(ii) above shall be increased by \$100.00  
2 for each additional person; and

3 (iv) The resource standards established in (i), (ii), and (iii) are  
4 subject to federal approval and the resource standard may be lower if  
5 required by the federal Department of Health and Human Services.

6 (d) Individuals whose income exceeds those established in  
7 subparagraph (b) of paragraph (8) of this subsection may become  
8 medically needy by incurring medical expenses as defined in  
9 42 C.F.R.435.831(c) which will reduce their income to the applicable  
10 medically needy income established in subparagraph (b) of paragraph  
11 (8) of this subsection.

12 (e) A six-month period shall be used to determine whether an  
13 individual is medically needy.

14 (f) Eligibility determinations for the medically needy program shall  
15 be administered as follows:

16 (i) County welfare agencies and other entities designated by the  
17 commissioner are responsible for determining and certifying the  
18 eligibility of pregnant women and dependent children. The division  
19 shall reimburse county welfare agencies for 100% of the reasonable  
20 costs of administration which are not reimbursed by the federal  
21 government for the first 12 months of this program's operation.  
22 Thereafter, 75% of the administrative costs incurred by county welfare  
23 agencies which are not reimbursed by the federal government shall be  
24 reimbursed by the division;

25 (ii) The division is responsible for certifying the eligibility of  
26 individuals who are 65 years of age and older and individuals who are  
27 blind or disabled. The division may enter into contracts with county  
28 welfare agencies to determine certain aspects of eligibility. In such  
29 instances the division shall provide county welfare agencies with all  
30 information the division may have available on the individual.

31 The division shall notify all eligible recipients of the Pharmaceutical  
32 Assistance to the Aged and Disabled program, P.L.1975, c.194  
33 (C.30:4D-20 et seq.) on an annual basis of the medically needy  
34 program and the program's general requirements. The division shall  
35 take all reasonable administrative actions to ensure that  
36 Pharmaceutical Assistance to the Aged and Disabled recipients, who  
37 notify the division that they may be eligible for the program, have their  
38 applications processed expeditiously, at times and locations convenient  
39 to the recipients; and

40 (iii) The division is responsible for certifying incurred medical  
41 expenses for all eligible persons who attempt to qualify for the  
42 program pursuant to subparagraph (d) of paragraph (8) of this  
43 subsection;

44 (9) (a) Is a child who is at least one year of age and under [six]  
45 19 years of age; and

46 (b) Is a member of a family whose income does not exceed 133%

1 of the poverty level and who meets the federal Medicaid eligibility  
2 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.  
3 s.1396a);

4 (10) Is a pregnant woman who is determined by a provider to be  
5 presumptively eligible for medical assistance based on criteria  
6 established by the commissioner, pursuant to section 9407 of  
7 Pub.L.99-509 (42 U.S.C. s.1396a(a));

8 (11) Is an individual 65 years of age and older, or an individual  
9 who is blind or disabled pursuant to section 301 of Pub.L.92-603  
10 (42 U.S.C. s.1382c), whose income does not exceed 100% of the  
11 poverty level, adjusted for family size, and whose resources do not  
12 exceed 100% of the resource standard used to determine medically  
13 needy eligibility pursuant to paragraph (8) of this subsection;

14 (12) Is a qualified disabled and working individual pursuant to  
15 section 6408 of Pub.L.101-239 (42 U.S.C. s.1396d) whose income  
16 does not exceed 200% of the poverty level and whose resources do  
17 not exceed 200% of the resource standard used to determine eligibility  
18 under the Supplemental Security Income Program, P.L.1973, c.256  
19 (C.44:7-85 et seq.);

20 (13) Is a pregnant woman or is a child who is under one year of  
21 age and is a member of a family whose income does not exceed 185%  
22 of the poverty level and who meets the federal Medicaid eligibility  
23 requirements set forth in section 9401 of Pub.L.99-509 (42 U.S.C.  
24 s.1396a), except that a pregnant woman who is determined to be a  
25 qualified applicant shall, notwithstanding any change in the income of  
26 the family of which she is a member, continue to be deemed a qualified  
27 applicant until the end of the 60-day period beginning on the last day  
28 of her pregnancy;

29 (14) [Is a child born after September 30, 1983 who has attained six  
30 years of age but has not attained 19 years of age and is a member of  
31 a family whose income does not exceed 100% of the poverty level;]  
32 (Deleted by amendment, P.L. \_\_\_\_\_, c. \_\_\_\_\_)(pending before the  
33 Legislature as this bill) or

34 (15) (a) Is a specified low-income [medicare] Medicare beneficiary  
35 pursuant to 42 U.S.C. s.1396a(a)10(E)iii whose resources beginning  
36 January 1, 1993 do not exceed 200% of the resource standard used to  
37 determine eligibility under the Supplemental Security Income program,  
38 P.L.1973, c.256 (C.44:7-85 et seq.) and whose income beginning  
39 January 1, 1993 does not exceed 110% of the poverty level, and  
40 beginning January 1, 1995 does not exceed 120% of the poverty level.

41 (b) An individual who has, within 36 months, or within 60 months  
42 in the case of funds transferred into a trust, of applying to be a  
43 qualified applicant for Medicaid services in a nursing facility or a  
44 medical institution, or for home or community-based services under  
45 section 1915(c) of the federal Social Security Act (42 U.S.C.  
46 s.1396n(c)), disposed of resources or income for less than fair market

1 value shall be ineligible for assistance for nursing facility services, an  
2 equivalent level of services in a medical institution, or home or  
3 community-based services under section 1915(c) of the federal Social  
4 Security Act (42 U.S.C. s.1396n(c)). The period of the ineligibility  
5 shall be the number of months resulting from dividing the  
6 uncompensated value of the transferred resources or income by the  
7 average monthly private payment rate for nursing facility services in  
8 the State as determined annually by the commissioner. In the case of  
9 multiple resource or income transfers, the resulting penalty periods  
10 shall be imposed sequentially. Application of this requirement shall be  
11 governed by 42 U.S.C. s.1396p(c). In accordance with federal law,  
12 this provision is effective for all transfers of resources or income made  
13 on or after August 11, 1993. Notwithstanding the provisions of this  
14 subsection to the contrary, the State eligibility requirements  
15 concerning resource or income transfers shall not be more restrictive  
16 than those enacted pursuant to 42 U.S.C. s.1396p(c).

17 (c) An individual seeking nursing facility services or home or  
18 community-based services and who has a community spouse shall be  
19 required to expend those resources which are not protected for the  
20 needs of the community spouse in accordance with section 1924(c) of  
21 the federal Social Security Act (42 U.S.C. s.1396r-5(c)) on the costs  
22 of long-term care, burial arrangements, and any other expense deemed  
23 appropriate and authorized by the commissioner. An individual shall  
24 be ineligible for Medicaid services in a nursing facility or for home or  
25 community-based services under section 1915(c) of the federal Social  
26 Security Act (42 U.S.C. s.1396n(c)) if the individual expends funds in  
27 violation of this subparagraph. The period of ineligibility shall be the  
28 number of months resulting from dividing the uncompensated value of  
29 transferred resources and income by the average monthly private  
30 payment rate for nursing facility services in the State as determined by  
31 the commissioner. The period of ineligibility shall begin with the  
32 month that the individual would otherwise be eligible for Medicaid  
33 coverage for nursing facility services or home or community-based  
34 services.

35 This subparagraph shall be operative only if all necessary approvals  
36 are received from the federal government including, but not limited to,  
37 approval of necessary State plan amendments and approval of any  
38 waivers.

39 j. "Recipient" means any qualified applicant receiving benefits  
40 under this act.

41 k. "Resident" means a person who is living in the State voluntarily  
42 with the intention of making his home here and not for a temporary  
43 purpose. Temporary absences from the State, with subsequent returns  
44 to the State or intent to return when the purposes of the absences have  
45 been accomplished, do not interrupt continuity of residence.

46 l. "State Medicaid Commission" means the Governor, the

1 Commissioner of Human Services, the President of the Senate and the  
2 Speaker of the General Assembly, hereby constituted a commission to  
3 approve and direct the means and method for the payment of claims  
4 pursuant to this act.

5 m. "Third party" means any person, institution, corporation,  
6 insurance company, group health plan as defined in section 607(1) of  
7 the federal "Employee Retirement and Income Security Act of 1974,"  
8 29 U.S.C. s.1167(1), service benefit plan, health maintenance  
9 organization, or other prepaid health plan, or public, private or  
10 governmental entity who is or may be liable in contract, tort, or  
11 otherwise by law or equity to pay all or part of the medical cost of  
12 injury, disease or disability of an applicant for or recipient of medical  
13 assistance payable under this act.

14 n. "Governmental peer grouping system" means a separate class of  
15 skilled nursing and intermediate care facilities administered by the  
16 State or county governments, established for the purpose of screening  
17 their reported costs and setting reimbursement rates under the  
18 Medicaid program that are reasonable and adequate to meet the costs  
19 that must be incurred by efficiently and economically operated State  
20 or county skilled nursing and intermediate care facilities.

21 o. "Comprehensive maternity or pediatric care provider" means any  
22 person or public or private health care facility that is a provider and  
23 that is approved by the commissioner to provide comprehensive  
24 maternity care or comprehensive pediatric care as defined in  
25 subsection b. (18) and (19) of section 6 of P.L.1968, c.413  
26 (C.30:4D-6).

27 p. "Poverty level" means the official poverty level based on family  
28 size established and adjusted under Section 673(2) of Subtitle B, the  
29 "Community Services Block Grant Act," of Pub.L.97-35 (42 U.S.C.  
30 s.9902(2)).  
31 (cf: P.L.1997, c.13, s.10)

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33 6. The commissioner shall adopt rules and regulations pursuant to  
34 the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et  
35 seq.) to effectuate the purposes of this act; except that,  
36 notwithstanding any provision of P.L.1968, c.410 to the contrary, the  
37 commissioner may adopt, immediately upon filing with the Office of  
38 Administrative Law, such regulations as the commissioner deems  
39 necessary to implement the provisions of this act, which shall be  
40 effective for a period not to exceed six months and may thereafter be  
41 amended, adopted or readopted by the commissioner in accordance  
42 with the requirements of P.L.1968, c.410.

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44 7. This act shall take effect immediately.



## STATEMENT

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This bill establishes the Children's Health Care Coverage Program in the Department of Human Services pursuant to Title XXI of the federal Social Security Act, which was created by Subtitle J of Title IV of the federal "Balanced Budget Act of 1997," Pub.L.105-33. The program will provide subsidized private health insurance coverage, and other health care benefits as determined by the Commissioner of Human Services, for children from birth through 18 years of age within the limits of funds appropriated or otherwise made available for the program.

The Children's Health Care Coverage Program will require copayments and a premium contribution from families with incomes that exceed 150% of the official poverty level, which will be based upon a sliding income scale. The program will provide well-child and other preventive services, hospitalization, physician care, laboratory and x-ray services, prescription drugs, mental health services, and other services as determined by the commissioner.

The bill also increases the Medicaid income eligibility limit for children ages 6 through 18 to 133% of the federal poverty level (i.e., up to \$17,729 for a family of three and \$21,347 for a family of four).

In New Jersey, under current law, children up to age 1 and those aged 1 through 5 are eligible for Medicaid if their family incomes do not exceed 185% and 133% of the federal poverty level, respectively; however, the Medicaid income eligibility limit for older children up to age 14 (as of October 1, 1997) is only 100% of the federal poverty level, and for children aged 15 to 18 is the regular Medicaid income eligibility standard.

The implementation of the Children's Health Care Coverage Program and the expansion of Medicaid eligibility are expected to provide health insurance coverage for approximately 102,000 children and in the immediate future reduce the number of children without health care coverage in New Jersey by approximately 40%.

Beginning January 1, 1998, New Jersey will invest \$136 million (\$88 million in federal funds and \$48 million in State funds) to implement the Children's Health Care Coverage Program. It is anticipated that New Jersey will expand this effort to cover the remaining uninsured children in the State as public or private resources become available for this purpose, and utilizing federal government waivers as appropriate.

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"Children's Health Care Coverage Act."