

SENATE BILL NO. 682 (Substitute of Senate Bill No. 107 by Senator Nevers)

BY SENATORS NEVERS, MILLS AND THOMPSON AND REPRESENTATIVES
WESLEY BISHOP, HENRY BURNS, COX, HUNTER, LEGER,
ORTEGO, RICHARD, RITCHIE, ST. GERMAIN, PATRICK
WILLIAMS AND WILLMOTT

1 AN ACT

2 To enact Chapter 8-B of Title 46 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 46:979.1 through 979.6, relative to the Louisiana First America Next
4 Freedom and Empowerment Act; to provide for the creation, implementation and
5 administration of the Louisiana First America Next Freedom and Empowerment
6 Plan; to provide for access to basic health insurance coverage for Louisiana citizens;
7 to provide for legislative findings and intent; to provide for application for certain
8 federal funds; to provide relative to funding and legislative oversight; to provide for
9 certain eligibility factors and reports; to provide relative to termination of the plan;
10 to provide certain terms, definitions, conditions and procedures; and to provide for
11 related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. Chapter 8-B of Title 46 of the Louisiana Revised Statutes of 1950,
14 comprised of R.S. 46:979.1 through 979.6, is hereby enacted to read as follows:

15 **CHAPTER 8-B. LOUISIANA FIRST AMERICA NEXT**

16 **FREEDOM AND EMPOWERMENT PLAN**

17 **§979.1. Title**

18 **This Chapter shall be known and may be cited as the "Louisiana First**
19 **America Next Freedom and Empowerment Act".**

20 **§979.2. Definitions**

21 **As used in this Chapter, the following terms shall have the following**
22 **definitions, unless the context clearly indicates otherwise:**

1 (1) "Cost-sharing" means the portion of the cost of a covered medical
 2 service that must be paid by or on behalf of eligible individuals, consisting of
 3 copayments or coinsurance, but not deductibles.

4 (2) "Department" means the Department of Health and Hospitals.

5 (3) "Medicaid" means the medical assistance program provided for in
 6 Title XIX of the Social Security Act.

7 (4) "Plan" means the Louisiana First America Next Freedom and
 8 Empowerment Plan established by this Chapter.

9 (5) "Secretary" means the secretary of the Department of Health and
 10 Hospitals.

11 §979.3. Legislative findings; purpose

12 A. The Legislature of Louisiana does hereby find and declare that, due
 13 to compelling moral and economic reasons, Louisiana must enact positive
 14 reforms to move the state's health care system in the right direction.

15 B. The Legislature of Louisiana does hereby find and declare that
 16 Louisiana should expand access to affordable high quality health care. Our
 17 state must create a solid safety net for the poorest of the poor and the sickest of
 18 the sick. Louisiana must seek to offer to its citizens a health care system that
 19 allows the patient to be in control, working with his own doctor and other health
 20 care providers. Louisiana must work on reducing health care costs, since many
 21 of Louisiana's citizens struggle to afford health care. Louisiana must work to
 22 preserve and strengthen the safety net for the most vulnerable in our state,
 23 including those with pre-existing conditions. Louisiana must focus on
 24 enhancing patient choice, removing obstacles to portability, and promoting
 25 consumer selection.

26 C. The Legislature of Louisiana does hereby find and declare that true
 27 health reform puts doctors and patients, not government bureaucrats, at the
 28 heart of all health policy decisions.

29 D. The purposes of this state in implementing the Louisiana First
 30 America Next Freedom and Empowerment Plan are as follows:

1 (1) To lower health care costs by providing incentives for Louisiana
 2 consumers to serve as smart health care shoppers, to save money by engaging
 3 in healthy behaviors, and to take control of their health care choices.

4 (2) To protect the most vulnerable Louisiana citizens by targeting
 5 government resources to those most at risk in our state and by enacting reforms
 6 that would guarantee health care access to individuals with pre-existing
 7 conditions, senior citizens, individuals with disabilities, and the unborn.

8 (3) To provide portability and choice to Louisiana consumers by offering
 9 personalized choices so that consumers can buy the health care coverage plan
 10 they want, not the plan a government bureaucrat tells them to purchase.

11 §979.4. Administration of the Louisiana First America Next Freedom and
 12 Empowerment Plan

13 A. The Department of Health and Hospitals shall create and administer
 14 the plan within the department. The department shall promulgate rules to
 15 implement this Chapter in accordance with the Administrative Procedure Act.

16 B. In keeping with the plan's purposes set forth in R.S. 46:979.3, the
 17 department shall on or before September 1, 2014, submit to the House and
 18 Senate committees on health and welfare and to the governor an outline
 19 specifying how it will seek to implement the following health care access reforms
 20 in Louisiana beginning January 1, 2015:

21 (1) Lowering the cost of health care in Louisiana, including but not
 22 limited to actions furthering the following goals:

23 (a) Tax equity: Giving all Louisiana consumers the same standard
 24 deduction for health insurance, regardless of whether they obtain that health
 25 insurance from an employer or on their own, and without raising taxes.

26 (b) A Louisiana health insurance program: Seeking any available
 27 federal funds, including but not limited to the use of federal waivers or
 28 Medicaid state plan amendments, so as to create an innovative and cost-effective
 29 state health insurance program that would reduce health insurance premiums
 30 to make coverage more affordable, guarantee access for individuals with pre-

1 existing conditions, and allow the state the option of using such funds to
2 subsidize health insurance coverage for individuals with pre-existing conditions
3 and low-income individuals who may not receive tax savings from a health
4 insurance deduction.

5 (c) Health savings accounts: Further increasing participation in the
6 plan's innovative insurance model and enhancing the ability to contain the
7 growth of health costs by allowing individuals to create personal health savings
8 accounts and use those funds to pay health insurance premiums, allowing for
9 additional flexibility in benefit design.

10 (d) Greater incentives for wellness: Providing insurers and employers
11 with additional flexibility to offer incentives for healthy behaviors, and the
12 ability to provide those incentives on a tax-free basis, in order to accelerate
13 efforts at changing behaviors in a way that can slow health cost growth.

14 (e) Focus on eliminating fraud: Moving away from the existing "pay
15 and chase" model of eliminating fraud, and seeking to target those who profit
16 from trafficking in personal health information.

17 (f) Price and quality transparency: Increasing online posting of health
18 care services price and quality data in order to empower Louisiana patients
19 with trusted information and provide Louisiana health care providers with a
20 greater incentive to improve their quality practices.

21 (2) Protecting the most vulnerable Louisiana citizens, including but not
22 limited to actions furthering the following goals:

23 (a) Guaranteed access for pre-existing conditions: Demonstrating in
24 requests to federal funding sources that, as a condition of participation in the
25 plan, Louisiana will guarantee access for individuals with pre-existing
26 conditions through a high-risk pool, reinsurance, or some other method
27 ensuring those with chronic conditions can obtain needed care.

28 (b) Premium support: Providing cost subsidies or premium assistance
29 so that Louisiana's senior citizens are offered more health insurance choices,
30 while seeking to make Medicare more financially solvent and sustainable for

1 future generations.

2 (c) Medicaid reforms: Seeking to work with the federal government
3 through existing or new grant programs to demonstrate that, in exchange for
4 a fixed funding allotment from the federal government and accountability
5 standards, Louisiana will demonstrate flexibility in designing solutions to meet
6 the health care needs of Louisiana citizens.

7 (d) Life protections: Seeking to strengthen conscience protections for
8 businesses and medical providers.

9 (3) Portability and choice, including but not limited to actions furthering
10 the following goals:

11 (a) Louisiana-based reforms to expand access: Reforming laws that
12 govern medical licensure and construction of new medical facilities, in order to
13 increase the supply of medical providers, including new options that may lower
14 health care costs.

15 (b) Better access for individuals changing employers: Ending the
16 requirement that individuals leaving their employer must exhaust COBRA
17 continuation coverage before gaining access to the individual health insurance
18 market, in order to alleviate a costly mandate on businesses and ease the
19 transition into individual health coverage for those changing jobs.

20 (c) Pooling mechanisms: Allowing small businesses, fraternal
21 organizations, civic groups, alumni associations, and other similar organizations
22 to band together and offer health insurance to their members in order to
23 provide new options for individuals to purchase coverage that travels with them
24 from job to job.

25 (d) Cross-state insurance purchasing: Seeking to work with the federal
26 government and other state governments to allow purchasing of health
27 insurance across state lines, so as to allow Louisianians to buy the customized
28 health insurance plan that best meets their needs.

29 (e) Lawsuit reform: Enacting common sense reforms to crack down on
30 frivolous lawsuits in seeking to expand patient access and lower costs.

1 (f) Freedom for senior citizens to choose: Enhancing choice and
2 competition by eliminating the arbitrary restrictions on senior citizens' choice
3 of medical providers imposed by bureaucratic mandates, and seeking to restore
4 the doctor-patient relationship by working with the federal government to see
5 those onerous requirements repealed.

6 C. The department may work with any other state department in order
7 to seek to effect the plan's purposes, and shall do so with all deliberate speed so
8 as to effect these health care reforms in a timely manner.

9 D.(1) The department may utilize any federal or state funding, or any
10 other source of revenue, available to implement this plan.

11 (2) Prior to implementation, the department shall develop the plan,
12 including a determination of the cost, and submit the plan with the cost estimate
13 to the Joint Legislative Committee on the Budget for approval.

14 E. The plan may include premium support or insurance premium
15 subsidies for eligible individuals to enable their enrollment in a health insurance
16 plan.

17 F. The department shall be specifically authorized to pay supplemental
18 cost-sharing subsidies directly to health insurance plans or health savings
19 accounts for participants in the plan.

20 G. An eligible individual offered health insurance access, enrolled in
21 health insurance coverage or allowed to create a health savings account, shall
22 affirmatively acknowledge the existence of all of the following facts:

23 (1) The plan shall not be a perpetual federal or state right or guaranteed
24 entitlement.

25 (2) The plan shall be subject to cancellation upon appropriate notice.

26 (3) The plan shall not be an entitlement program.

27 H. The state may implement cost-sharing and copays, as a condition of
28 participation in the plan, for plan participants whose earning shall exceed fifty
29 percent of the applicable federal poverty level.

30 I. The department shall recommend appropriate adjustments in funding

1 to the legislature. Adjustments shall be made by the legislature as appropriate.

2 J. On a quarterly basis, the department shall report to the Joint
3 Legislative Committee on the Budget, within two weeks of the end of each
4 quarter, information regarding the following aspects of the plan:

5 (1) Plan enrollment.

6 (2) Patient experience.

7 (3) Economic impact.

8 (4) Carrier competition.

9 (5) Success in avoiding uncompensated care.

10 §979.5. Plan outcomes; reporting requirements

11 A. On or before July 1, 2015, and annually thereafter, the secretary of
12 the department shall provide to the House and Senate committees on health and
13 welfare and to the governor a written report covering the most recent one-year
14 period which includes at a minimum all of the items required hereafter in this
15 Section.

16 B. The secretary shall make the report provided for in this Section
17 publicly available on its Internet website.

18 C. The report shall include but shall not be limited to the following
19 items:

20 (1) Evaluation of major barriers to access to health care by participants
21 in the Louisiana First America Next Freedom and Empowerment Plan, and
22 recommendations for policy changes to eliminate such barriers.

23 (2) Summary of successful initiatives in this state for disease prevention
24 and early diagnosis and management of chronic conditions among participants
25 in the plan.

26 (3) Such other information as the secretary deems appropriate to convey
27 a clear and sufficiently complete assessment of the impact of the plan.

28 §979.6. Termination

29 Annually during each regular session of the legislature, the legislature
30 shall have the authority to decide whether to continue the program.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____