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IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY,
FLORIDA

CIVIL DIVISION

CASE NO.

D.D. & J.D., by and through
their Next Friend, Jocelyn Durrant;
D.M., by and through his Next Friend,
Rebbeca Morris,

Plaintiffs,

v.

Florida Healthy Kids Corporation
and Florida Agency for Health Care
Administration,

Defendants.
_____/

COMPLAINT FOR WRIT OF MANDAMUS

Pursuant to Rule 1.630 of the Florida Rules of Civil Procedure, Plaintiffs D.D. and J.D., by and through their mother and Next Friend, Jocelyn Durrant, and D.M., by and through his mother and Next Friend, Rebbeca Morris, file this Complaint for Writ of Mandamus against Defendants, the Florida Healthy Kids Corporation and the Florida Agency for Health Care Administration, and as grounds therefore state:

PRELIMINARY STATEMENT

1. In 2023, the Florida legislature passed a law that raised the income eligibility limit for the state's Children's Health Insurance Program (CHIP), which is a component of the Florida KidCare program. CHIP is a joint federal-state insurance program that provides health coverage for children at affordable premiums. The legislature made the increase in the CHIP income limit contingent on approval from the federal government, which occurred in December 2024.

2. Over a year later, the Agency for Health Care Administration and the Florida Healthy Kids Corporation have refused to implement the higher income limit, despite a clear legal duty to do so. Plaintiffs therefore file this complaint for a writ of mandamus and ask this Court to order Defendants to comply with their ministerial duty to carry out the requirements of Florida law and evaluate Plaintiffs' eligibility for the Florida KidCare program based on the higher income limit set forth in statute.

JURISDICTION AND VENUE

3. Art. V, § 4(b)(3) of the Florida Constitution provides that circuit courts share concurrent jurisdiction with district courts of appeal and the Florida Supreme Court to issue writs of mandamus. "'[A]s a general rule, unless there is a compelling reason for invoking the original jurisdiction of a higher court,' writ proceedings should be commenced in a circuit court." *See Dortch v. Alachua Cnty.*

Sch. Bd., 330 So. 3d 976, 979-80 (Fla. 1st DCA 2021) (quoting *Whiley v. Scott*, 79 So. 3d 702, 707 (Fla. 2011)).

4. Venue is proper in Leon County because it is the county where Defendants maintain their principal headquarters.

PARTIES

5. Plaintiff D.D is a four-year-old child. He resides in Indian River County, Florida with his parents and J.D., his younger brother. Pursuant to Fla. R. Civ. P. 1.210(b), he brings this case by and through his mother and Next Friend, Jocelyn Durrant, and proceeds by his initials only pursuant to Fla. R. Jud. Admin. 2.425(a)(1).

6. Plaintiff J.D. is a one-year-old child and is the younger sibling of D.D. He resides in Indian River County, Florida with his family. Pursuant to Fla. R. Civ. P. 1.210(b), he brings this case by and through his mother and Next Friend, Jocelyn Durrant, and proceeds by his initials only pursuant to Fla. R. Jud. Admin. 2.425(a)(1).

7. Plaintiff D.M. is a seven-year-old child. He resides in Broward County, Florida with his mother. Pursuant to Fla. R. Civ. P. 1.210(b), he brings this case by and through his mother and Next Friend, Rebbeca Morris, and proceeds by his initials only pursuant to Fla. R. Jud. Admin. 2.425(a)(1).

8. Defendant, the Agency for Health Care Administration (AHCA), is the chief health policy and planning entity for the state of Florida and is responsible for the administration of state contracts with the Florida Healthy Kids Corporation. *See* Fla. Stat. § 20.42.[1] AHCA is the lead agency for Florida's CHIP program. *See* Fla. Stat. § 409.818(3)(f).

9. Defendant, the Florida Healthy Kids Corporation (FHKC), is a not-for-profit corporation established by the State of Florida to facilitate health insurance coverage for children. *See* Fla. Stat. § 624.91. FHKC is charged with carrying out the duties set forth in Fla. Stat. § 624.91(5)(b), including determining eligibility for the Florida KidCare program. *See* Fla. Stat. § 624.91(5)(b)(6). FHKC administers the Florida KidCare program, including its CHIP component, through a contract with AHCA. FHKC operates subject to the supervision and approval of a board of directors composed of twelve members who are either state officials or appointed by state officials. *See* Fla. Stat. § 624.91(6).

10. Defendants are responsible for the implementation of chapter 2023-277, Laws of Florida, which is the subject of this complaint. *See* Fla. Stat. § 409.814, n. 1 (stating that "[i]implementation of chapter 2023-277, Laws of Florida, by the Agency for Health Care Administration and the Florida Healthy

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[1] Unless otherwise specified, all references to Florida Statutes are to the statutory version in effect at the time of the filing of this complaint, *i.e.*, Florida Statutes (2025).

Kids Corporation is contingent upon federal approval through a Medicaid waiver or a state plan amendment").

FACTS

I. Florida KidCare & Increase in Income Limit

A. Overview of Florida's CHIP Program

11. Established by Title XXI of the Social Security Act, CHIP is a child health insurance program jointly funded by the federal government and the states. *See* 42 U.S.C. §§ 1397aa to 1397mm. It provides coverage to uninsured children in families with income above the limit for the Medicaid program.

12. The U.S. Department of Health & Human Services, Centers for Medicare & Medicaid Services (CMS) administers the CHIP program at the federal level.

13. Florida's CHIP program, which is a part of the Florida KidCare program, is administered through a partnership between AHCA and FHKC.

14. The CHIP portion of the Florida KidCare program (hereinafter, CHIP KidCare) is itself comprised of three separate components: Medikids (for children ages one through four), Florida Healthy Kids (for children ages five through eighteen), and Children's Medical Services (a specialty health insurance plan for Medicaid- and CHIP-enrolled children who have serious special health care needs). *See generally* Fla. Stat. §§ 409.810-409.821.

15. Families with children enrolled in CHIP KidCare are charged monthly premiums; the amount varies based on household income. *See id*. § 409.816(3).

16. Children in families with household income above the limit for CHIP KidCare remain eligible to participate in KidCare, but they must pay higher premiums. *Id*. § 409.814(7)(a). FHKC refers to this program as the Full-Pay KidCare program. *See* Ex. 1.

17. Full-Pay KidCare is not part of the CHIP program; it is fully funded by the state.

18. The current premiums for children who are enrolled in Full-Pay KidCare are $248.00 or $276.00 per month per child, depending upon the age of the child and whether dental and vision coverage are included. *See id.*

19. Households eligible for CHIP KidCare are only required to pay a single premium to cover all children in the household. *See* Ex. 2 at 6 ("The [CHIP KidCare] premium does not vary by the number of children in the household."); *see also* Ex. 3 at 9 (for CHIP KidCare, "[p]arents pay a small monthly premium that covers all eligible children in the household.").

20. Families with children enrolled in Full-Pay KidCare must pay a separate premium for each child in the household. *See* Ex. 3 at 9 (for Full-Pay KidCare, "[p]arents pay a per-child monthly premium...").

21. Children in Full-Pay KidCare are ineligible to enroll in the Children's Medical Services program, regardless of whether they have serious special health care needs. *See* Fla. Sta. § 391.029(2)(b)-(c) (limiting eligibility for the Children's Medical Services program to children and youth enrolled in Medicaid and CHIP).

B. Legislative History of CHIP KidCare Income Limit Increase

22. On May 4, 2023, the Florida legislature unanimously passed an amendment to Florida law expanding the income eligibility limit for the CHIP KidCare program. *See* H.B. 121, 2023 H.R., Reg. Sess. (Fla. 2023) (enacted) (hereinafter, H.B. 121). Specifically, the law raised the CHIP KidCare income limit from 200% of the federal poverty level (FPL) to 300% of FPL.[2] *Id.* at 2 (amending Fla. Stat. §§ 409.8132 and 409.814). Based on the 2026 FPL guidelines, this means that the law raised the annual household income limit for a family of four to qualify for CHIP KidCare from $66,000 to $99,000. *See* Ex. 4.

23. For those families that fall between 200% and 300% of FPL, the legislation requires that premiums increase with household income level. *See* H.B. 121 at 10 (requiring three to six tiers of uniform premiums).

[2] In various documents, AHCA or CMS refers to an income limit of 210% of FPL, rather than 200% of FPL. *See, e.g.*, Ex. 5 at 4. This difference stems from a change in federal law that required Florida to use a Modified Adjusted Gross Income (MAGI) methodology to determine CHIP eligibility.

24. The law also amended the "Legislative Intent" section of the Act to make clear that "the Legislature intends the primary recipients of services provided through the corporation be school-age children with a family income equal to or below 300 percent of the federal poverty level." *Id.* (amending Fla. Stat. § 624.91(2)(b)). The Governor signed the bill into law on June 22, 2023.

25. The legislature allocated over $20 million "to increase the income eligibility threshold for coverage under the Florida [CHIP] KidCare program" and directed that the "Agency for Health Care Administration shall seek a state plan amendment to implement changes to the program." *See* S.B. 2500, 2023 Sen., Reg. Sess. (Fla. 2023) (enacted) at 60-61.

26. In October 2023, AHCA and FHKC presented their H.B. 121 implementation plan to the legislature. AHCA and FHKC informed the legislature that the income limit increase would go into effect on January 1, 2024. *See* Ex. 6 at 15:24-16:1; Ex. 7 at 8:14-16.

27. AHCA estimated that the income limit increase would result in approximately 68,000 more children becoming eligible for CHIP KidCare. Ex. 6 at 5:18-22; Ex. 7 at 9:17-23.

28. FHKC detailed a community outreach plan that would make Floridians aware of the increase so that these 68,000 children could apply for CHIP KidCare. *See* Ex. 6 at 11:21-13:4; Ex. 7 at 16:1-17:11.

29. The income limit increase did not go into effect on January 1, 2024. On March 8, 2024, the legislature amended Fla. Stat. § 409.814 to make implementation of the increased income limit "contingent upon federal approval through a Medicaid waiver or a state plan amendment." *See* S.B. 2518, 2024 Sen., Reg. Sess. (Fla. 2024) (enacted) (hereinafter, "S.B. 2518") at 5.

C. History of CMS's Waiver Approval

30. At the time the legislature passed S.B. 2518, AHCA had already filed a Medicaid waiver application with CMS to request federal approval of the CHIP KidCare income limit increase. *See* Ex. 2.

31. On March 8, 2024, CMS responded to AHCA that its waiver application was incomplete and provided instructions about how to submit a revised application. *See* Ex. 8.

32. On March 20, 2024, AHCA submitted a revised Medicaid waiver application. *See* Ex. 9 (noting a resubmission date of March 20, 2024).

33. On March 28, 2024, CMS sent a "completeness letter" informing AHCA that CMS had deemed its application complete and was posting the application for a 30-day federal comment period as required by 42 C.F.R. § 431.416(b). *See id.*

34. On December 2, 2024, CMS approved AHCA's Medicaid waiver application, stating that the approval:

> will allow the state to increase the income eligibility threshold of its separate title XXI Children's Health Insurance Program (CHIP) (known in the state as the Florida KidCare program or KidCare) from 210 percent of the federal poverty level (FPL) to up to, and including, 300 percent of the FPL. This threshold increase specifically applies to children aged 1 through 18 who qualify for these components of Florida's separate CHIP: MediKids, Florida Healthy Kids, and Children's Medical Services. The demonstration is effective as of the date of this letter and will expire on September 30, 2029.

See Ex. 10 at 1.

35. CMS's approval did not waive the federal requirement that states continue enrollment of all children in CHIP for 12 months regardless of whether their family missed a premium payment. *Id*. This requirement is often referred to as "continuous eligibility."

36. The approval included the premium tiers (reproduced below) to be applied to children eligible for CHIP KidCare whose household income is between 210% to 300% of FPL.

Table 1. CHIP Monthly Premiums for the Florida KidCare Expansion Population

210.01 – 235.00% FPL	235.01 – 255.00% FPL	255.01 – 275.00% FPL	275.01 – 300.00% FPL
$60	$95	$145	$195; $145 for a household size of 1*

*Individuals with income between 275.01 – 300.00 percent of the FPL and with a household size of 1 are subject to a lower premium to ensure the 5 percent cost sharing cap will not be exceeded.

See id. at 2.

37. As part of the December 2, 2024, approval, CMS directed AHCA to provide written acknowledgement of the award and acceptance of the waiver's special terms and conditions (STCs) within 30 days. *Id.* at 4.

38. On December 30, 2024, AHCA requested an extension of the 30-day deadline to respond to CMS. *See* Ex. 11 at 2.

39. On December 31, 2024, CMS responded to AHCA, indicating that it understood AHCA's request to be a request for CMS to reconsider the continuous eligibility requirement. CMS indicated that it saw no basis to reconsider that issue. However, CMS granted an extension to January 15, 2025, to allow the State to raise any other issues. *Id.* at 1-2.

40. On January 15, 2025, AHCA responded that it was pleased to accept CMS's proposal with "only minor edits to ensure compliance with Florida law." *Id.* at 1. The only edit AHCA made was to again request waiver of the CHIP continuous eligibility requirement.

41. On January 17, 2025, CMS responded that it acknowledged Florida's acceptance of the STCs. While CMS was unable to accept AHCA's proposed edit, the waiver application was nevertheless approved and the state could "now implement the demonstration" consistent with the December 2, 2024, approval. *See* Ex. 12.

42. The federal government views AHCA's waiver to increase the CHIP KidCare income limit as "approved," effective December 2, 2024, through September 30, 2029. *See* Ex. 13.

43. On June 25, 2025, CMS sent a letter to AHCA to inform AHCA that CMS was "updating the section 1115 demonstration monitoring approach." CMS repeatedly refers to the waiver at issue in this matter as the "approved demonstration." *See* Ex. 14.

44. As of the date of this complaint and as demonstrated by the facts set forth below, Defendants have not implemented the approved waiver and have not increased the CHIP KidCare income limit from 200% of FPL to 300% of FPL as required by Fla. Stat. §§ 409.814 and 409.8132(6)(a), despite the fact that federal approval occurred on December 2, 2024.

45. Pursuant to Fla. Stat. § 624.91(b)(6), FHKC "shall…determine eligibility for children seeking to participate in the Title XXI-funded components of the Florida KidCare program consistent with the requirements specified in s. 409.814…."

46. While Fla. Stat. §§ 409.814 and 409.8132(6)(a) state that a child under age 19 "whose family income is equal to or below 300 percent of the federal poverty level is eligible for the Florida KidCare program," FHKC continues to apply the 200% of FPL limit.

D. Defendants' Failure to Implement the Approved Waiver

47. On October 7, 2025, AHCA Deputy Director of Medicaid, Brian Meyer, gave a presentation to the Florida legislature about why AHCA and FHKC had not implemented the CHIP KidCare income limit increase.

48. During that presentation, Mr. Meyer stated that, on December 2, 2024, the federal government approved AHCA's Medicaid waiver application. *See* Ex. 15 at 6:20-21.

49. He further stated that CMS had given AHCA a deadline of January 14, 2025 to respond to CMS's STCs, but that "the timeline expired on the waiver approval" without AHCA's response. *Id.* at 7:10-16.

50. In response to questions from state senators, Mr. Meyer stated that AHCA officials "are certainly proponents" of H.B. 121 and "would have implemented it long ago if, if we could." *Id.* at 14:10-3. Mr. Meyer attributed the decision to stall implementation solely to AHCA's dispute with the federal government over continuous eligibility. *See id.* at 10:15-11:18 (indicating that the dispute was "precisely why the legislation hasn't been implemented").

51. Mr. Meyer's representation to the legislature that the timeline on CMS's waiver approval expired without a response from AHCA was inaccurate. Correspondence demonstrates that CMS gave AHCA until January 15, 2025, to

respond to the STCs. *See* Ex. 11. AHCA responded to CMS by that deadline and accepted the STCs, with a single proposed modification. *See id.* at 1.

52. CMS then reaffirmed that the waiver application was approved and that Florida could implement the income limit change for CHIP KidCare eligibility. *See* Ex. 12.

53. Separate and apart from AHCA and CMS's communications about the waiver approval, CMS has informed AHCA that it is non-compliant with the continuous CHIP eligibility requirement in its existing CHIP KidCare program (for children with household income below 200% of FPL). *See* Ex. 16. AHCA remains non-compliant as of the date of this complaint.

II. Plaintiffs' Facts

A. Facts of Plaintiffs D.D. and J.D.

54. Plaintiff D.D. and Plaintiff J.D. are brothers who live at home with their mother and Next Friend, Jocelyn Durrant, and their father. *See* Ex. 17 (Declaration of Jocelyn Durrant) at ¶ 3. D.D. is four years old, and J.D. is one year old. *Id.*

55. D.D. is diagnosed with Autism, has developmental delays, and is non-verbal. *Id.* at ¶ 5.

56. Due in part to D.D.'s disabilities, Ms. Durrant cannot work and must stay at home to care for him and J.D. *Id.* at ¶ 7.

57. D.D.'s and J.D.'s FHKC accounts reflect that their father earns a total of $3,470.83 semi-monthly. The family has no other income. Thus, the current taxable income of D.D. and J.D.'s household is $6,942.00 per month. *See also* ¶ 4. In a household of four, this puts D.D. and J.D.'s countable income for determining CHIP KidCare eligibility (which includes a 5% standard disregard) at approximately 246% of FPL.

58. In early November 2025, D.D.'s family applied to have his eligibility determined for the KidCare program. *Id.* at ¶ 15.

59. On November 18, 2025, D.D.'s family received a notice from FHKC that he "did not qualify for lower cost health coverage" through CHIP KidCare because their household income was too high. FHKC further informed D.D.'s family that D.D. was eligible for Full-Pay KidCare and could enroll in that program if they paid a $248.21 monthly premium. *Id.* at ¶ 16.

60. D.D.'s family paid the $248.21 monthly premium and D.D. was enrolled in Full-Pay KidCare. *Id.* They continue to pay the $248.21 premium for D.D. every month. *Id.* at ¶ 18.

61. Prior to his first birthday in late January 2026, J.D. did not qualify for any component of Florida KidCare because of the program's minimum age limit. *Id.* at ¶ 20.

62. J.D.'s family initially enrolled J.D. in a health insurance plan through the federally facilitated marketplace. *Id.* at ¶ 19. However, due to the lack of premium assistance, his family could not afford to renew that health insurance, so J.D. was disenrolled from coverage. *Id.*

63. After J.D.'s first birthday, Ms. Durrant filed an application with Florida KidCare. *Id.* at ¶ 21.

64. On February 5, 2026, FHKC sent a notice stating that J.D. "did not qualify for lower cost health coverage" through CHIP KidCare because J.D.'s household income was too high. *Id.* at ¶ 22.

65. FHKC further informed J.D.'s family that both J.D. and D.D. were eligible for Full-Pay KidCare and that J.D. could enroll in that program beginning in March 2026 if they paid an additional $248.21 monthly premium. *Id.* at ¶ 23.

66. On February 5, 2025, J.D.'s family paid the additional $248.21 to enroll J.D. in Full-Pay KidCare for March 2026. *Id.* at ¶ 24. The family's total monthly premium for Full-Pay KidCare for J.D. and D.D. is $496.42. *Id.* at ¶ 23.

67. If Defendants applied the 300% of FPL income limit to D.D. and J.D.'s household income as required by Fla. Stat. § 409.8132(6)(a) (CHIP KidCare eligibility for children ages 1 through 5 years old), D.D. and J.D.'s monthly premium would be significantly reduced.

68. Because households that are eligible for CHIP KidCare only need to pay one premium for all eligible members of that household, J.D. and D.D.'s total monthly premium would be $95.00 per month. This would save J.D. and D.D.'s family over $400 per month.

69. Since the family lives on a fixed income, they could allocate these savings to pay for certain medical specialists for D.D. that the family has been told are not covered by his Full-Pay KidCare plan. *Id.* at ¶ 26.

B. Facts of Plaintiff D.M.

70. D.M. is an 8-year-old child who lives with his mother, Rebbeca Morris, in Broward County, Florida. *See* Ex. 18 (Declaration of Rebbeca Morris) at ¶ 3.

71. D.M. is diagnosed with Autism, Disruptive Mood Dysregulation Disorder, Oppositional Defiant Disorder, and Attention-Deficit/Hyperactivity Disorder. He has been found disabled under the Social Security Administration standards. *Id.* at ¶ 5.

72. D.M. was eligible for Medicaid most of his life and was enrolled in the Children's Medical Services plan due to his special health care needs. *Id.* at ¶ 6.

73. At some point, Ms. Morris's income became too high, and D.M. lost his eligibility for Medicaid. *Id.* at ¶ 7.

74. Ms. Morris enrolled D.M. in her employer-sponsored health insurance program for some time, but that insurance became unaffordable due to significant increases in monthly premiums and co-payments for health services. *Id.* at ¶ 8.

75. In August 2025, Ms. Morris applied for and enrolled D.M. in the Full-Pay KidCare program after being informed by Defendants that D.M. did "not qualify for lower cost health coverage" due to her income. *Id.* at ¶¶ 10-11.

76. Since that time, Ms. Morris has paid a $276.00 premium each month to cover D.M.'s medical and dental needs through Full-Pay KidCare. *Id.* at ¶ 14.

77. Ms. Morris's sole income is her monthly salary of $4,492.00, which is also reflected in her online account with FHKC. *Id.* at ¶ 4. In a household of two, this income (with a 5% standard disregard) is approximately 242% of FPL.

78. If Defendants were to apply the 300% of FPL income limit required by Fla. Stat. § 409.814 to determine D.M.'s eligibility, then D.M. would qualify for CHIP KidCare based on his family's household income.

79. If D.M. were to qualify for CHIP KidCare, his monthly premium would be $95.00 per month, which would save his family approximately $180.00 per month. This $180.00 per month could be allocated toward other essential household expenses, groceries, clothes, and tutoring for D.M., who is not meeting the benchmarks for his grade level. *Id.* at ¶ 12.

80. If D.M. were to qualify for CHIP KidCare, he would be able to access the Children's Medical Services health plan, which provides coverage for additional services, including applied behavior analysis and special case management services. When D.M. was previously enrolled in the Children's Medical Services health plan, he benefitted from those additional services. ¶¶ 6-7.

COUNT FOR WRIT OF MANDAMUS

81. Paragraphs 1 through 80 are realleged as if fully set forth herein.

82. Plaintiffs have a clear legal right to have their CHIP KidCare eligibility evaluated in accordance with the 300% of FPL income limit.

83. AHCA and FHKC have an indisputable legal duty to implement and apply the 300% of FPL income limit to evaluate Plaintiffs' CHIP KidCare eligibility.

84. Plaintiffs have no other adequate remedy at law.

REQUESTED RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court grant the following relief:

A. Issue an alternative writ in mandamus requiring Defendants to show cause why a writ of mandamus should not be issued;

B. Set an accelerated hearing;

C. Issue a writ of mandamus requiring AHCA and FHKC to implement the increase in the CHIP KidCare income limit to 300% of FPL, pursuant to Fla. Stat. § 409.814 & 409.8132(6)(a), and evaluate Plaintiffs' income eligibility for the CHIP KidCare program based on 300% of FPL pursuant to Fla. Stat. § 624.91(b)(6); and

D. Grant such other relief the Court deems appropriate.

ARGUMENT

I. Plaintiffs Are Entitled to a Writ of Mandamus Directing Defendants to Apply the 300% of FPL Income Eligibility Limit to their Applications for CHIP KidCare.

A. Plaintiffs have a clear legal right to have their CHIP KidCare eligibility evaluated under the 300% of FPL income limit.

To be entitled to a writ of mandamus, Plaintiffs must show they have "a clear legal right to the requested relief, the Defendant [has] an indisputable legal duty to perform the requested action, and the Plaintiff [has] no other adequate remedy available." *Mayfield v. Sec'y, Fla. Dep't of State*, 402 So. 3d 1002, 1005 (Fla. 2025). The first two elements of mandamus "operate in concert, creating a legal duty to perform tasks that are expressly ministerial in nature, and which do not involve the exercise of judgment, factfinding, or discretion." *Mayfield*, 402 So. 3d at 1006.

Florida law establishes that children have a clear legal right to have their eligibility for CHIP KidCare evaluated according to the 300% of FPL income limit.

Specifically, Fla. Stat. § 409.814 provides that "a child who has not reached 19 years of age whose family income is equal to or below 300 percent of the federal poverty level ***is*** eligible for the Florida KidCare program as provided in this section." (emphasis added); *see also* Fla. Stat. § 409.8132(6)(a) ("A child who has attained the age of 1 year but who is under the age of 5 years ***is*** eligible to enroll in the Medikids program component of the Florida KidCare program, if the child…has a family income …which is equal to or below 300 percent of the current federal poverty level.") (emphasis added). Florida Statutes further provide that "[t]he Florida Healthy Kids Corporation ***shall*** . . . determine eligibility for children seeking to participate in the Title XXI-funded components of the Florida Kidcare program ***consistent with*** the requirements specified in s. 409.814…." *See* Fla. Stat. § 624.91(5)(B)(6) (emphasis added).

Under the above statutory provisions, neither AHCA nor FHKC are granted any discretion, means to exercise judgment, or other flexibility to disregard the 300% of FPL limit; if a child's income is at or below 300% of FPL (but not so low as to qualify them for Medicaid), then they meet the CHIP KidCare income eligibility criterion. Consequently, Plaintiffs have a clear legal right to have their eligibility for CHIP KidCare evaluated according to the 300% of FPL income limit. *Cf. Mayfield*, 402 So. 3d at 1006 (holding that a candidate for office who complied with the paperwork requirements mandated by law had a clear legal right to appear

on the primary ballot); *Pleus v. Crist*, 14 So. 3d 941, 945 (Fla. 2009) (holding that the Petitioner had a "clear legal right to request that the Governor carry out" a non-discretionary legal duty).

In fact, the only contingency for application of the increased income limit is found in footnote 1 of Fla. Stat. §§ 409.814 and 409.8132. Those footnotes require that prior to implementation, the federal government must approve the increase through waiver or a state plan amendment. *See* Fla. Stat. § 409.814, n.1 ("[I]mplementation of chapter 2023-277, Laws of Florida, by the Agency for Health Care Administration and the Florida Healthy Kids Corporation is contingent upon federal approval through a Medicaid waiver or a state plan amendment."); Fla. Stat. § 409.8132 n.1 (same). Multiple government documents show that singular event – federal approval through a Medicaid waiver or a state plan amendment – occurred on December 2, 2024. *See* Exs. 10, 13. On January 17, 2025, CMS repeated its position, stating that it had granted approval and that Florida may "implement the demonstration." Ex. 12.

Given that the only condition precedent necessary to trigger the change in the CHIP KidCare income limit from 200% to 300% of FPL has occurred, Plaintiffs have a clear legal right to have that non-discretionary income standard apply. *See King v. Fla. Parole Comm'n*, 614 So. 2d 1183, 1184 (Fla. 1st DCA 1993) (holding that where a statute's language establishes a program's eligibility

criteria, Plaintiff has a clear legal right under mandamus "to ask[ ] for proper consideration of his eligibility for the program"); *McKire v. Tucker*, 97 So. 3d 906, 907 (Fla. 1st DCA 2012) (recognizing that where a Plaintiff makes a proper factual showing that he meets the legal conditions for a particular act to occur, then "mandamus would be an appropriate remedy where an agency has a non-discretionary duty imposed by law to [act] and has failed to do so"); *see also Krielow v. La. Dep't of Agric. & Forestry*, 125 So. 3d 384, 391–92 (La. 2013) (holding that if a statute is conditional upon a subsequent event, "[w]hen that event happens, the statute takes effect and becomes the law").

B. Defendants have an indisputable legal duty to implement and apply the 300% of FPL income limit to determine Plaintiffs' CHIP KidCare eligibility.

An official has an indisputable legal duty, ministerial in nature, when "there is no room for the exercise of discretion, and the performance being required is directed by law." *Fla. Agency for Healthcare Admin. v. Zuckerman Spaeder, LLP*, 221 So. 3d 1260, 1263 (Fla. 1st DCA 2017) (citing *Town of Malapan v. Rechler*, 674 So. 2d 789, 790 (Fla. 4th DCA 1996)). A ministerial duty is one "positively imposed by law to be performed at a time and in a manner or upon conditions which are specifically designated by the law itself absent any authorization of discretion to the agency." *Solomon v. Sanitarians' Registration Bd.*, 155 So. 2d 353, 356 (Fla. 1963); *see also City of Tarpon Springs v. Planes*, 30 So. 3d 693, 695

(Fla. 2d DCA 2010) ("A ministerial duty is some duty imposed expressly by law, not by contract or arising necessarily as an incident to the office, involving no discretion in its exercise, but mandatory and imperative." (cleaned up)).

If a statute spells out clear and unambiguous criteria that, when met, would potentially trigger access to a benefit, then an official or agency has a ministerial duty to undertake that evaluation using the statutory criteria. *See Solomon*, 155 So. 2d at 355 (Fla. 1963) (holding that mandamus is proper where the "Legislature itself has stipulated the specific circumstances which would entitle one to the benefit [conferred by statute]"); *see also Williams v. James*, 684 So. 2d 868, 869 (Fla. 2d DCA 1996) (noting that although a writ of mandamus "cannot be used to compel a public agency to exercise its discretionary powers in a given manner, it may be used to compel the agency to follow its own rules" and citing *Turner v. Singletary*, 623 So. 2d 537 (Fla. 1st DCA 1993)).

Multiple Florida courts have recognized mandamus is appropriate where government entities refuse to apply legally binding criteria. For example, in *Turner*, the Plaintiff sought a writ of mandamus requiring the Department of Corrections to apply the procedures set forth in its administrative rule to determine his potential eligibility for gain time. 623 So. 2d at 538-39. The court determined mandamus was a "proper remedy," and the Department was required to apply its own rules in calculating Plaintiff's gain time. *Id.* Similarly, in *State ex rel.*

Greenberg v. Dade Cnty., 120 So. 2d 625 (Fla. 3d DCA 1960), an electrician sought a writ of mandamus because Dade County refused to apply an ordinance that exempted him from an exam needed to receive a certificate of competency. The court granted the electrician's mandamus complaint, finding that the examination board–the entity responsible for the implementation and application of that county ordinance–had a ministerial duty to grant such eligibility upon Plaintiff's showing he met the ordinance's criteria. *Id.* at 628.

Furthermore, in a statute, "[t]he verb form 'shall' generally connotes a mandate to do something, and gives the person so directed *no discretion* to refrain from compliance." *Pridgen v. Bd. of Cnty. Comm'rs of Orange Cnty.*, 389 So. 2d 259, 260 (Fla. 5th DCA 1980) (emphasis added); *see also Greenbriar Condo. Ass'n, Inc. v. Padgett*, 583 So. 2d 1100, 1102 (Fla. 4th DCA 1991) ("The use of the word 'shall' seems to indicate no discretion."); *Cmty./Condotte/De Moya JV v. Cir. Ct. Judge*, 325 So. 3d 218, 220 (Fla. 3d DCA 2021) (finding statute that used the word "shall" "creates a nondiscretionary duty"). Moreover, the phrase "consistent with" means "marked by agreement with." *Consistent*, *Meriam-Webster Online Dictionary*, https://www.merriam-webster.com/dictionary/constituent (last visited Feb. 26, 2026); *see also Wilkes v. Deerfield-Bannockburn Fire Prot. Dist.*, 399 N.E. 2d 617, 622 (Ill. 2d Dist.1979) ("It has been held that 'consistent with' means in harmony with.").

In this instance, AHCA and FHKC are charged with the administration of the CHIP KidCare program. *See* Fla. Stat. §§ 409.818(3)(f) and 624.91. In that administration, they must abide by the program's criteria, which clearly and unambiguously convey eligibility for any "child who has not reached 19 years of age [and] whose family income is equal to or below 300 percent of the federal poverty level." Fla. Stat. § 409.814; *see also id*. § 409.8132(6)(a). Defendants shirk their indisputable legal duty by continuing to apply the 200% of FPL income limit even after federal approval was obtained. *See* Fla. Stat. § 409.914, n. 1. ("[I]mplementation of chapter 2023-277, Laws of Florida, by the Agency for Health Care Administration and the Florida Healthy Kids Corporation is contingent upon federal approval through a Medicaid waiver or a state plan amendment."). Thus, mandamus is appropriate to compel the agencies to follow their own rules and apply the 300% of FPL income limit to Plaintiffs' applications for CHIP KidCare. *Williams*, 684 So. 2d at 868, 869 (Fla. 2d DCA 1996); *see also Turner*, 623 So. 2d at 538-39; *Greenberg*, 120 So. 2d at 625, 628.

In addition, Fla. Stat. § 624.91(5)(B)(6) provides that "[t]he Florida Healthy Kids Corporation *shall* . . . determine eligibility for children seeking to participate in the Title XXI-funded components of the Florida KidCare program consistent with the requirements specified in s. 409.814, as well as the non-Title-XXI-eligible children as provided in subsection (3)." Fla. Stat. § 624.91(5)(B)(6) (emphasis

added). To determine eligibility "consistent with" Fla. Stat. § 409.814, FHKC must determine eligibility based on the 300% of FPL income limit set forth therein. And, because Fla. Stat. § 624.91(5)(B)(6) contains the word "shall," the application of the 300% of FPL income limit in evaluating eligibility imposes a non-discretionary, ministerial duty on FHKC. *See Pridgen*, 389 So. 2d at 260; *see also Greenbriar Condo. Ass'n, Inc.*, 583 So. 2d at 1102; *Cmty./Condotte/De Moya JV*, 325 So. 3d at 220. As such, this element of mandamus is met.

II. Plaintiffs Have No Other Adequate Remedy at Law.

"It is well settled that mandamus will lie where the Plaintiff . . . has no other legal method for obtaining relief." *Caldwell v. Est. of McDowell*, 507 So. 2d 607, 608 (Fla. 1987); *see also Bd. of Cnty. Comm'rs, Collier Cnty. v. Hendry*, 301 So. 2d 483, 484 (Fla. 2d DCA 1974) ("[M]andamus does not lie where there is another adequate remedy."). For an alternative remedy to preclude mandamus, it must be clear and complete to "effectively afford relief upon the very subject matter involved and enforce the right or performance of the duty in question." 35 Fla. Jur. 2d Mandamus and Prohibition § 18; *see also* 55 C.J.S. Mandamus § 23 (May 2025) ("To be an adequate alternate remedy, the available relief must be complete, beneficial, and speedy, as well as effective"); *Howell v. McAuliffe*, 788 S.E. 2d 706, 724, n. 17 (Va. 2016) (collecting cases) ("An adequate remedy 'must reach the whole mischief, and secure the whole right of the party in a perfect manner, at the

present time and in the future.'" (cleaned up)); *Ex part Locklear Chrysler Jeep Dodge, Ltd. Liab. Corp.*, 251 So. 3d 40, 46 (Ala. 2017) (finding that where appeal of trial court order was available but would not afford the relief sought by mandamus, Plaintiff had no adequate remedy by ordinary appeal).

In this instance, Plaintiffs do not have another adequate remedy at law. While FHKC and AHCA offer a dispute resolution process under Fla. Admin. Code R. 59G-14.001, that process is informal and non-adversarial. More importantly, it would not remedy the issue Plaintiffs challenge here; namely, that FHKC and AHCA have failed to implement the statutory increase in the income limit for CHIP KidCare.

Specifically, FHKC and AHCA have indisputably taken the position, through numerous public presentations, that they have not effectuated the increase in the CHIP KidCare income limit and there is no date certain by which they intend to do so. Furthermore, under the dispute resolution process, AHCA is the final decision maker with respect to any grievance. *See* Fla. Admin. Code R. 59G-14.001(4)(c).

Consequently, any attempt to dispute eligibility determinations with the same Defendants who have publicly acknowledged they will not and do not currently apply the 300% of FPL income limit would be futile, leaving Plaintiffs without enforcement "of the duty in question." 35 Fla. Jur. 2d Mandamus and Prohibition § 18; 55 C.J.S. Mandamus § 23; *see also Hoshaw v. State,* 533 So. 2d

886, 887 (Fla. 3rd DCA 1988) ("The law does not require futile acts."). Plaintiffs therefore have no adequate remedy at law to enforce the Defendants' obligation to apply the correct income eligibility criterion in determining Plaintiffs' eligibility for CHIP KidCare. 35 Fla. Jur. 2d Mandamus and Prohibition § 18; 55 C.J.S. Mandamus § 23; *Howell*, 788 S.E. 2d at 724, n. 17; *Ex part Locklear Chrysler Jeep Dodge, Ltd. Liab. Corp.*, 251 So. 3d at 46.

CONCLUSION

For the foregoing reasons, Plaintiffs meet the requirements for mandamus relief and ask the Court to grant their complaint for a writ of mandamus.

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Respectfully Submitted,

/s/Lynn Hearn

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