The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Health and Human Services

BILL:	CS/SB 430
INTRODUCER:	Banking and Insurance Committee and Senator Bean and others
SUBJECT:	Discount Plan Organizations
DATE:	March 20, 2017 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	**Fav/CS**
2.	Sanders/Forbes	Williams	AHS	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 430 amends part II of ch. 636, F.S., relating to Discount Medical Plan Organization. The bill:

- Changes the term "discount medical plan" to "discount plan," changes the title of Part II of chapter 636 from "discount medical plan organizations" to "discount plan organizations, and also changes the terms and allows old terms to be used until June 30, 2018;
- Exempts from licensure requirements those plans that do not charge a fee to plan members;
- Requires third party providers that assist medical providers in offering discounts to their own patients in exchange for consideration to be licensed as a discount plan organization;
- Adds a five year retention of member records requirement and subjects such records to inspection by the Office of Insurance Regulation (OIR) at any time;
- Requires a member to receive a reimbursement of charges if the member cancels a plan in compliance with the rules of an open enrollment period or at any time within 30 days of written notice;
- Allows for an alternate method of providing disclosures and provides disclosure requirements when initial contact is made electronically or by telephone;
- Removes requirements that all discount plan charges must be submitted to the OIR, and that charges greater than $30 per month and $360 per year may only be charged if approved by OIR;
- Removes a standard that charges bear a reasonable relation to the benefits received;
- Removes the requirement that forms must be submitted to the OIR for approval;

- Allows a discount plan organization to delegate functions to its marketers;
- Allows a marketer or discount plan organization to commingle medical services and other services on a single page of forms, advertisements, marketing materials or brochures; and
- Removes the requirement that the fees for the discount medical plan must be provided in writing to the member when a marketer or discount plan organization sells a discount medical plan together with any other product and the fees exceed $30.

The OIR has not identified any fiscal impact on state revenues or expenditures.

The bill is effective upon becoming a law.

II. Present Situation:

Discount medical plans are agreements where membership fees are charged in exchange for the right of the member to receive discounts on certain medical services. Such plans are regulated under part II of ch. 636, F.S., and are not considered insurance. A medical provider who provides discount medical services to his or her own patients is exempt, regardless if a fee is charged.

Under part II, all forms used must first be filed and approved by the OIR. Any amendments to a previously approved form constitute a new form that is subject to OIR approval. Disclosures are required to be made on the first page of advertisements, marketing materials, or brochures. When the initial contract with a prospective member is by telephone, the disclosures are required to be made orally and provided in the initial written materials that describe the benefits under the plan provided to the prospective or new member.

All charges to members are required to be filed with the Office of Insurance Regulation (OIR), any charges greater than $30 per month or $360 per year must be approved by the OIR before the charges can be used. Plan members are guaranteed a refund of periodic charges if cancellation occurs within the first 30 days after the effective date of enrollment. An annual report is required to be filed with the OIR within three months after the end of each organization's fiscal year. Each discount medical plan organization is required to maintain a net worth of at least $150,000 to become or remain eligible for licensure.

III. Effect of Proposed Changes:

CS/SB 430 substantially revises part II of ch. 636, F.S., governing discount medical plans.

Sections 1 and 2 make conforming changes relating to the revised terms in section 3, revising the title to ch. 636, F.S., and the title to part II of ch. 636, F.S.

Section 3 amends s. 636.202, F.S. to change the terms "discount medical plan" to "discount plan" and "discount medical plan organization" to "discount plan organization" within ch. 636, F.S. The old terms will continue to be used until June 30, 2018, allowing time to transition to the new terminology. Furthermore, discount plans that do not charge a fee will be exempt from part II of ch. 636, F.S. Each section of the bill incorporates the new terms.

Section 4 amends s. 636.204, F.S., to require a third party provider that assists medical providers in establishing discounts for medical services to their own patients in exchange for consideration to obtain licensure as a discount plan organization. Providers who provide their patients discounts without a third party remain exempt from Part II of ch. 636, F.S.

Section 5 amends s. 636.206, F.S., to require a discount plan organization to maintain member records for the duration of the agreement and five years thereafter, subject to inspection by the OIR at any time. Records required to be retained include an accurate record of each member, the membership materials provided to each member, the discount plan issued to the members, and the charges billed and paid by the members.

Section 6 amends s. 636.208, F.S., to revise the circumstances under which a member can receive reimbursement for canceling a discount plan. Currently, a member may cancel a discount medical plan within the first 30 days of enrollment, and upon returning the discount card, must be reimbursed all periodic charges. The bill requires the reimbursement if the cancellation is consistent with the open enrollment rules established for such plans and also allows for cancelation in writing at any time within 30 days of notice by the member.

Section 7 amends s. 636.212, F.S., to establish disclosure requirements for written materials, online materials and solicitations over the phone. For written materials, the disclosures must be printed in 12-point font on all advertisements, marketing materials, or brochures relating to the discount plan. For online materials, the disclosures must be printed in a readable size and font on all advertisements, marketing materials, or brochures relating to the discount plan. For telephone solicitations, the disclosure must be given over the phone and must also be sent in writing with any membership or signup materials.

Section 8 amends s. 636.214, F.S., to clarify that an agreement between a discount plan organization and a provider must contain a statement that the provider will not charge members more than the discounted rate.

Section 9 amends s. 636.216, F.S., to remove the requirements that all charges for a discount plan be submitted to the OIR and that charges above $30 per month or $360 per year be approved by the OIR. Also, section 9 removes the requirement that the OIR approve all forms and advertisements. Additionally, this section removes a requirement that a discount plan organization has the burden of proof that the charges bear a reasonable relation to the benefits received by a member.

Section 10 amends s. 636.228, F.S., to allow a discount plan organization to delegate functions to a marketer, but binds the organization for any acts of its marketers within the scope of the delegation.

Sections 11 amends s. 636.230, F.S. to allow a marketer or discount plan organization to commingle medical services and other services on a single page of forms, advertisements, marketing materials, or brochures. This section also deletes the requirement that the fees for the discount medical plan must be provided in writing to the member if the discount medical plan is bundled together with any other product and the fees exceed $30.

Sections 12 amends s. 636.232, F.S., to make a technical change conforming to a change in section 9 and removes the OIR's need to develop rules for form regulation and approval.

Sections 13 – 30 amends ss. 408.9091, 408.910, 627.64731, 636.003, 636.205, 636.207, 636.210, 636.218, 636.220, 636.222, 636.223, 636.224, 636.226, 636.234, 636.236, 636.238, 636.240, and 636.244, F.S., respectively, to make conforming changes relating to the revised terms in section 3.

Section 31 provides the effective date of the bill as becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Providers currently exempt from licensure but subject to licensure under this bill will be required to pay new fees associated with such licensure.

B. Private Sector Impact:

Providers who are currently exempt from licensure would incur administrative costs of licensing.

C. Government Sector Impact:

The Office of Insurance Regulation has not identified any impact on state revenues or expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 636.202, 636.204, 636.208, 636.212, 636.214, 636.216, 636.228, 636.230, 408.9091, 408.910, 627.64731, 636.003, 636.205, 636.206, 636.207, 636.210, 636.218, 636.220, 636.222, 636.223, 636.224, 636.226, 636.232, 636.234, 636.236, 636.238, 636.240, and 636.244

IX. Additional Information:

A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on March 6, 2017:
The CS clarifies that when a provider pays a third party vendor to provide discounts to their own patients, the third party vendor must be licensed as a discount plan organization. Discount plan organizations must maintain records for five years and such records are subject to examination by the OIR at any time. The CS allows discount plan cancelations outside of an open enrollment plan to occur at any time within 30 days' of written notice. The CS also clarifies how disclosures must be given depending on the type of solicitation.

B. Amendments:

None.