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DATE: April 17, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON
HEALTH CARE SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 1035

RELATING TO: Prepaid Limited Health Service Organizations

SPONSOR(S): Rep. Crist and others

STATUTE(S) AFFECTED: ss. 636.0155, 636.016, 636, 035, F.S.

COMPANION BILL(S): CS/SB 936 (similar)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) HEALTH CARE SERVICES YEAS 10 NAYS 0
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I. SUMMARY:

This bill requires a prepaid limited health service organization's (PLHSO) contracts, marketing materials, and literature to disclose the name of the organization and that the entity is licensed, as a prepaid limited health service organization, under chapter 636, F.S. Also, a PLHSO is required to provide prospective enrollees with written information about the terms and conditions of the plan.

Every provider contract executed after October 1, 1997, and, for contracts in existence on that date within 180 days after October 1, 1997, and all contracts in existence on October 1, 1997, must contain a provision that the PLHSO will give 90 days' advance written notice to the provider and the Department of Insurance (department) before canceling, without cause, the contract with the provider. Exceptions are provided.

Finally, any provider contract which violates the provider's practice act, chapter 455, F.S., or a rule adopted by a licensing board under the Division of Medical Quality Assurance, will be unenforceable.

This bill has no fiscal impact on state or local governments.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 636, F.S., created by chapter 93-148, Laws of Florida, provides for the Department of Insurance (DOI) to license and regulate prepaid limited health service organizations. These organizations are similar to health maintenance organizations, but are limited to the provision of the following services: ambulance, dental care, vision care, mental health, substance abuse, chiropractic care, podiatric care, and pharmaceutical. Prepaid limited health service organizations may not offer inpatient or surgical hospital services or emergency services, except as such services are incidental to a limited health service. Through a PLHSO, subscribers receive services from providers such as physicians, dentists, health facilities, or other persons or institutions which are licensed in Florida to deliver limited health services, as defined in subsection 636.003(7), F.S.

As provided under s. 636.005, F.S., prepaid limited health service organizations must be incorporated, and they may be either a for-profit or not-for-profit corporation. Such an organization may be incorporated in a state other than Florida, if it maintains a certificate of authority or license in that state to provide the same services which it intends to provide in Florida at the time it applies for a certificate of authority from DOI. Optometrists, who are licensed under chapter 463, F.S., and any other health care professionals for whom authority to practice is limited or restricted to only those persons meeting licensure or certification requirements under law, such as provided under subsections 463.002(3) and 463.014(1), F.S., are exempt from licensure as a PLHSO. Section 636.006, F.S., prohibits PLHSOs from engaging in the insurance business.

Subsection 636.016(2), F.S., requires PLHSOs to provide each subscriber with a contract, certificate, membership card, or member handbook which must clearly state all of the services to which a subscriber is entitled under the contract and must include a clear and understandable statement regarding any limitations on the services or kinds of services to be provided. Section 636.018, F.S., provides for changes in rates and benefits, material modifications, and the addition of limited health services. Paragraph 636.018(1)(a), F.S., provides that a PLHSO contract, certificate of coverage, or application may not be delivered in Florida unless the forms and rates have been filed with DOI by or on behalf of the PLHSO and have been approved by the department. To change contract terms or any documents that are made part of the contract and provided to subscribers, a PLHSO must file a notice of the change with DOI at least 30 days prior to its effective date and provide at least 30 days' written notice to subscribers before implementing any approved change.

Section 636.035, F.S., expressly allocates financial liability to the PLHSO for services rendered to a PLHSO subscriber by a provider under contract with the PLHSO, and requires that such contracts state so explicitly. Under this provision a physician, dentist, health care institution, or other provider is prohibited from collecting or attempting to collect money for services covered by a PLHSO from a subscriber in good standing, except for copayments or deductibles. Additionally, certain notification requirements must be included in provider contracts relating to contract cancellation. **Providers** must give at least 90 days' advance written notice **to the PLHSO** before unilaterally canceling, for any reason, the contract with the PLHSO; non-payment for services rendered is not a valid reason for shortened notice of cancellation. However, upon

receipt of 90 days' advance written notice, a PLHSO that is not financially impaired or insolvent may terminate the contract in less than 90 days, if requested by the provider. Currently, there is no requirement that the PLHSO provide notice to a provider prior to canceling a contract.

B. EFFECT OF PROPOSED CHANGES:

Health care providers and consumers will be given written notice prior to entering into contract with a PLHSO the name of the organization and the fact that the organization is a PLHSO. Prospective enrollees in a PLHSO will have access to written information about the terms and conditions of the plan. A PLHSO will be required to give a health care provider 90 days' written notice prior to canceling a contract, unless a patient's health is subject to imminent danger.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the Department of Insurance will be given rule making authority to enforce the provisions of the bill.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes, all PLHSOs will be required to provide written information about their organization to prospective participants, and will be required to give health care providers under contract 90 days' written notice prior to terminating a contract.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

Yes, through premiums.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No, the bill places additional regulations on PLHSOs.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes, the bill places additional regulations on PLHSOs. For example, if the bill becomes law, a PLHSO will have to give a health care provider under contract 90 days written notice prior to terminating the contract.

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

No.

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION RESEARCH:

Section 1. Creates s. 636.0155, F.S., relating to language used in subscriber contracts and marketing materials, to require all prepaid limited health services contracts, marketing materials, and literature to contain a provision that discloses the name of the organization in boldface type and discloses that the organization is a prepaid limited health service organization, licensed under chapter 636, F.S.

Section 2. Amends s. 636.016, F.S., relating to prepaid limited health service contracts, to add a new subsection (12) that requires each PLHSO to provide prospective enrollees written information about the terms and conditions of the plan, including any copayment feature or schedule of benefits required by the contract or by any insurer or entity which is underwriting any of the services offered and where and in what manner health services may be obtained (upon the request of the subscriber), that will enable prospective enrollees to make informed decisions about accepting a managed care system of limited health care delivery. All marketing information printed by PLHSOs must disclose, in boldface type, that the information required to made available under this subsection is available to prospective enrollees upon request.

Section 3. Amends s. 636.035, F.S., relating to provider arrangements, to add new subsections (8) and (9). Subsection (8) requires that provider contracts contain a provision that states that the PLHSO will provide 90 days' advance written notice to the provider and the department before canceling, without cause, the contract with the provider, except where a patient's health is subject to imminent danger or a provider's ability to practice is effectively impaired by an action by the Board of Dentistry or another governmental entity. This provision is effective for all provider contracts executed after October 1, 1997, and within 180 days after October 1, 1997, for all contracts in existence on October 1, 1997.

Subsection (9) specifies that a contract between a PLHSO and a provider of health care services is unenforceable if it violates the provider's practice act, chapter 455, F.S., or a rule adopted by a licensing board within the Division of Medical Quality Assurance.

Section 4. Provides an effective date of upon becoming a law.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

PLHSOs will be required to provide additional information to health care providers and prospective enrollees.

2. Direct Private Sector Benefits:

Health care providers and consumers will have access to additional information on PLHSOs.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 17, 1997, a strike everything amendment was approved by the Committee on Health Care Services. The amendment does the following:

- Requires that the material disclosed in section 1 of the bill applies only to material printed after October 1, 1997.

- Revises s. 636.016(12), F.S, to require information to be provided to prospective enrollees only upon request of the enrollee, and to specify the provisions of the section relating to marketing materials apply only to materials printed after October 1, 1997.

- Eliminates a requirement that the Department of Insurance be notified when a PLHSO terminates a provider's contract.

- Specifies that if a provision in a contract between a PLHSO and a health care provider is not enforceable because it violates a law or rule, the provision shall have no effect and shall be severable from the rest of the contract.

- Prohibits gag clauses for PLHSOs.

An amendment to the strike everything amendment was adopted to require that the entity contracting with Medicaid to provide comprehensive inpatient and outpatient mental health services in specified counties must be licensed under ch. 636, F.S., by December 1, 1998, and is exempt from several provisions of that chapter.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:	Legislative Research Director:
Michael P. Hansen	Michael P. Hansen