

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: April 21, 1998 Revised: _____

Subject: Health Maintenance Organizations; Provider Contracts

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Deffenbaugh</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>HC</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 2080 increases the time period from 60 days to 90 days when advance written notice must be provided prior to the cancellation of HMO provider contracts by either the provider or the HMO, applicable to all HMO provider contracts executed after October 1, 1998.

The bill increases the maximum time period from 60 days to 1 year as the required period for an HMO to continue care for subscribers with life-threatening or disabling and degenerative conditions who are under the treatment of a physician who is terminated by an HMO, without cause. An HMO would be required to continue care through completion of treatment of a condition for which the subscriber was receiving care at the time of the termination, until the subscriber selects another treating physician, or until the next open enrollment period offered by the HMO, whichever occurs first, but no longer than 1 year after termination of the physician contract. The bill limits the law's application to termination of contracts by HMOs with treating physicians licensed under chapter 458 (physicians), chapter 459 (osteopathic physicians), chapter 460 (chiropractic physicians), or chapter 461 (podiatric physicians), as compared to the current law's application to any "provider."

This bill substantially amends sections 641.315 and 641.51 of the Florida Statutes.

II. Present Situation:

Health maintenance organizations (HMOs) provide a comprehensive range of health care services for a prepaid premium. The Department of Insurance regulates HMO finances, contracting, and marketing activities under part I of chapter 641, F.S. The Agency for Health Care Administration regulates the quality of care provided by HMOs under part III of ch. 641, F.S.

In general, the current law does not restrict the authority of an HMO from terminating the contract of a health care provider. The allowable reasons for termination of the contract by either party would be subject to the terms of the contract itself. However, the current law requires that HMOs provide at least 60 days' written notice prior to canceling a contract with a health care provider, without cause, except in a case in which a patient's health is subject to imminent danger or a physician's ability to practice medicine is effectively impaired by an action by the Board of Medicine or other governmental agency. The law also requires the health care provider to give the HMO at least 60 days' notice prior to canceling the contract, but allows the HMO and the provider to agree to terminate the contract is less than 60 days if the HMO is not financially impaired or insolvent. (s. 641.315, F.S.)

HMO legislation enacted in 1997 requires HMOs to allow subscribers to continue care for 60 days with a terminated treating provider when medically necessary, provided the subscriber has a life-threatening condition or a disabling and degenerative condition. Each HMO must allow a subscriber who is in the third trimester of pregnancy to continue care with a terminated treating provider until completion of postpartum care. The HMO and the provider must continue to be bound by the terms of the contract for such continued care. However, these requirements do not apply to a provider who has been terminated for cause. (ch. 97-159, L.O.F.; s. 641.51(7), F.S.)

The 1997 legislation cited above, also prohibits HMO contracts with health care providers from containing any provision restricting the provider's ability to communicate information to the provider's patient regarding medical care or treatment options for the patient when the provider deems knowledge of such information by the patient to be in the best interest of the health of the patient. (s. 641.315(8), F.S.)

The current HMO law further provides that the professional judgment of a physician licensed under chapter 458, 459, 460, or 461, concerning the proper course of treatment of a subscriber shall not be subject to modification by an HMO, unless the course of treatment prescribed is inconsistent with the prevailing standards of medical practice in the community. (s. 641.51(3), F.S.)

III. Effect of Proposed Changes:

Section 1. Amends s. 641.315, F.S., to increase the time period from 60 days to 90 days when advance written notice must be provided prior to the cancellation of HMO provider contracts by either the provider or the HMO. This would apply to all HMO provider contracts executed after October 1, 1998. As provided in current law for the 60-day notice requirement, the 90-day notice requirement would apply to cancellation of a provider contract by a HMO, without cause, except in a case in which a patient's health is subject to imminent danger or a physician's ability to practice medicine is effectively impaired by an action by the Board of Medicine or other governmental agency. As also provided in current law (for the 60-day notice), an HMO that has received a 90-day cancellation notice from a provider may terminate the contract in less than 90 days if requested by the provider and if the HMO is not financially impaired or insolvent.

Section 2. Amends s. 641.51, F.S.; relating to continuity of care for patients of providers whose contracts are terminated by an HMO without cause. The bill amends the current law to limit its application to termination of contracts with treating physicians licensed under chapter 458 (physicians), chapter 459 (osteopathic physicians), chapter 460 (chiropractic physicians), or chapter 461 (podiatric physicians), as compared to the current law's application to any "provider."

The bill increases the maximum time period from 60 days to 1 year as the required period for a HMO to continue care for subscribers with life-threatening or disabling and degenerative conditions who are under the treatment of a physician who is terminated by an HMO, without cause. The 1-year period is an outside time limit, as the bill requires an HMO to continue care through completion of treatment of a condition for which the subscriber was receiving care at the time of the termination, until the subscriber selects another treating physician, or until the next open enrollment period offered by the HMO, whichever occurs first, but no longer than 1 year after termination of the physician contract. (Current law is essentially unchanged with regard to the requirement to continue care for a subscriber who is in the third trimester of pregnancy until completion of postpartum care.) As provided in current law, the bill requires the HMO and the physician to continue to be bound by the terms of the terminated contract for such continued care.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that an HMO is able to enter into new physician contracts at more favorable terms than contained in existing contracts, the requirement for continuing to be bound by the terms of a terminated contract for up to 1 year for certain subscribers may add costs to the

HMO which would be reflected in higher premiums. Contract physicians and their subscriber patients would have the additional benefit of maintaining coverage under the terms of the HMO contract for such extended period of time.

C. Government Sector Impact:

Governmental plans of health insurance that offer managed care plans to their employee may experience greater costs that are incurred on an HMO due to the cost of continuing care under terminated provider contracts, as described in Private Sector, above.

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Amendments:

None.