

By Senator Forman

32-599-98

1 A bill to be entitled
2 An act relating to health care; creating s.
3 641.555, F.S.; creating the
4 "Managed-Care-Subscriber's Bill of Rights and
5 Responsibilities"; specifying the purpose of
6 the act; requiring an organization that offers
7 a managed-care plan to provide certain
8 information about the plan to a prospective
9 subscriber in the plan; requiring that a
10 health-care provider observe certain standards
11 in providing health care for subscribers in a
12 managed-care plan; providing for privacy;
13 providing for access to health care and medical
14 treatment; providing for grievance procedures;
15 providing for disenrollment; providing
16 limitations on experimental research; providing
17 responsibilities of a subscriber in a
18 managed-care plan; creating s. 641.5551, F.S.;
19 requiring that an organization's handbook
20 include the subscriber's rights and
21 responsibilities; requiring that the handbook
22 be written in plain language; providing an
23 effective date.

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25 Be It Enacted by the Legislature of the State of Florida:

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27 Section 1. Section 641.555, Florida Statutes, is
28 created to read:29 641.555 Managed-Care-Subscriber's Bill of Rights and
30 Responsibilities.--

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1 (1) SHORT TITLE.--This section may be cited as the
2 "Managed-Care-Subscriber's Bill of Rights and
3 Responsibilities."
4 (2) PURPOSE.--The purpose of this section is to
5 clarify for prospective and enrolled consumers and health care
6 providers the minimum set of expectations considered
7 appropriate with respect to the delivery and receipt of health
8 care services through managed-care plans. The purpose of this
9 section is to promote informed consumer decisionmaking and
10 active participation in obtaining health care.
11 (3) RIGHTS OF PROSPECTIVE SUBSCRIBERS.--A prospective
12 subscriber in a managed-care plan has the right to receive the
13 following information about the plan before enrolling in the
14 plan:
15 (a) An explanation of the gatekeeping process,
16 including how care is authorized as it pertains to access to
17 all services offered under the plan.
18 (b) A description of the scope of the benefits and
19 services provided or excluded and how to obtain provided
20 benefits and services. The description must state procedures
21 for obtaining out-of-area coverage and any special benefit
22 requirements, such as copayments or rejection of a claim, that
23 may apply to services obtained outside the coverage of the
24 plan.
25 (c) A description and an explanation of all fees that
26 may be charged to a subscriber, including costs for
27 out-of-plan care.
28 (d) A description and an explanation of the policy and
29 procedures for receiving after-hour care and emergency
30 services and care.
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1 (e) A complete list of the plan's health care
2 providers and the location of each provider.

3 (f) Upon request, a list of all pharmaceuticals
4 covered by the plan and applicable copayments.

5 (g) Performance information with respect to the
6 managed-care plan, including the average waiting time for
7 appointments with primary-care providers and specialists, the
8 results of accreditation organizations or other reports, and
9 the results of consumer-satisfaction surveys.

10 (h) Performance information that represents the number
11 and types of grievances filed, including corresponding
12 information with respect to subscribers' satisfaction with the
13 resolution of grievances.

14 (i) A description and explanation of limitations on
15 services or benefits which apply to a person who has a
16 disability or other long-term prognosis that requires
17 sustained care.

18 (4) RIGHTS OF SUBSCRIBERS.--The organization that
19 offers a managed-care plan shall recognize that each
20 subscriber is an individual who has unique health care needs,
21 and, because of the importance of respecting each subscriber's
22 personal dignity, shall provide considerate, courteous, and
23 respectful care focused on the subscriber's needs. Each
24 provider shall observe the following standards:

25 (a) Individual dignity and privacy.--

26 1. The individual dignity of a subscriber must be
27 respected at all times.

28 2. A subscriber has a right to privacy, which must be
29 respected to the extent consistent with providing necessary
30 health care and without regard to the subscriber's economic
31 status or source of payment for care.

1 3. A disclosure about a subscriber and a disclosure
2 from a subscriber's records may be made only with written
3 authorization from the subscriber, except as otherwise
4 required by law.

5 (b) Access to health care.--

6 1. A subscriber has a right to health care regardless
7 of race, national origin, religion, physical limitation, or
8 source of payment.

9 2. A subscriber must be treated for an emergency
10 medical condition.

11 3. A subscriber must be allowed to select a
12 primary-care provider and specialists from among those offered
13 under the managed-care plan.

14 4. A subscriber must be allowed to change his
15 primary-care provider or specialty-care provider if the
16 provider is replaced by another plan provider.

17 5. A subscriber must be notified of a termination of,
18 or change in, benefits, services, providers, and
19 service-delivery sites.

20 (c) Medical treatment.--

21 1. A subscriber has the right to high-quality,
22 medically necessary, timely, and appropriate health care to
23 the extent that such care is a benefit or service of the
24 managed-care plan and is consistent with the subscriber's
25 diagnosis and recommended course of treatment.

26 2. A subscriber must be given the opportunity to
27 participate in decisions involving health care, except when
28 such participation is medically inadvisable or impossible, in
29 which case the opportunity for participation must be given to
30 the subscriber's guardian or a person designated as the
31 subscriber's representative.

1 3. A subscriber has the right to receive complete
2 information, to the degree known, regarding diagnosis, the
3 planned course of treatment, alternatives, risks, and
4 prognosis, unless it is medically inadvisable or impossible to
5 give such information to the subscriber, in which case the
6 information must be given to the subscriber's guardian or a
7 person designated as the subscriber's representative.

8 4. A subscriber has the right to prompt and thorough
9 responses to all questions regarding the diagnosis or
10 treatment.

11 5. A subscriber has a right to a second medical
12 opinion with regard to surgical procedures or when there is a
13 serious injury or illness.

14 6. A subscriber must be informed of the possible
15 consequences of not complying with recommended treatment
16 regimens.

17 7. A subscriber must be informed of all health care
18 needs that require follow-up care, and how and where to obtain
19 such care, especially as it relates to care following the
20 receipt of emergency services and care.

21 8. A subscriber has the right to refuse any treatment,
22 except as otherwise required by law.

23 (d) Grievance procedures.--

24 1. A subscriber has the right to express a grievance
25 to the organization or to the appropriate state regulatory
26 agency without fear of retaliation by the organization or its
27 providers.

28 2. A subscriber must be given a description of the
29 procedure for expressing a grievance, including timeframes for
30 obtaining a response.

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1 3. A subscriber has the right to appear before a panel
2 in at least one of the levels of review.

3 4. A subscriber has the right to receive a written
4 response to a grievance which states the organization's
5 decision and identifies additional recourses available when
6 the subscriber is unsatisfied with the outcome.

7 (e) Disenrollment.--A subscriber who requests to be
8 disenrolled from a managed-care plan must be promptly
9 disenrolled by the organization in accord with any relevant
10 state or federal requirements.

11 (f) Experimental research.--

12 1. Except as provided under s. 766.103, a subscriber
13 has the right to know whether medical treatment is for the
14 purpose of experimental research and to give consent to
15 participate in the research before the treatment commences.

16 2. A subscriber has the right to have the experimental
17 nature of the treatment communicated to him, his guardian, or
18 his representative in language that is understandable to an
19 average person of normal intelligence, with the aim of
20 ensuring that the person receiving the information can
21 appreciate and understand any of the known risks associated
22 with the treatment.

23 (5) SUBSCRIBER RESPONSIBILITIES.--

24 (a) A subscriber, to the best of his knowledge, is
25 responsible for providing a physician with accurate and
26 complete information about present discomforts, past
27 illnesses, hospitalizations, medications, and other matters
28 relating to the subscriber's health.

29 (b) A subscriber is responsible for reporting
30 unexpected changes in the subscriber's physical or mental
31 condition to a physician.

1 (c) A subscriber is responsible for following the
2 mutually agreed-upon treatment plan.

3 (d) A subscriber is responsible for keeping
4 appointments and, when unable to do so for any reason, for
5 notifying the provider with whom the appointment is scheduled.

6 (e) A subscriber is responsible for assuring that any
7 financial obligations are fulfilled as promptly as possible.

8 Section 2. Section 641.5551, Florida Statutes, is
9 created to read:

10 641.5551 Plain language requirement.--Each
11 organization subject to this chapter shall include in its
12 benefit handbook the rights and responsibilities contained in
13 s. 641.555. The rights and responsibilities, as provided in a
14 benefit handbook, must be written in plain language so that a
15 subscriber or prospective subscriber with a reading
16 comprehension level at the 9th grade level can understand what
17 to expect from a plan and what the plan may reasonably expect
18 from its subscribers. Benefit handbooks must be provided to
19 subscribers. A benefit handbook, or a publication that
20 contains the information required by s. 641.555, must be made
21 available to prospective subscribers.

22 Section 3. This act shall take effect July 1, 1998.
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SENATE SUMMARY

Creates the Managed-Care Subscriber's Bill of Rights and Responsibilities. Provides that a prospective subscriber in a managed-care plan has the right to receive specified information about the plan before enrolling in the plan. Requires an organization that offers a managed-care plan to observe certain standards with respect to the dignity and privacy of a subscriber, the quality of health care, grievance procedures, disenrollment procedures, and experimental research. Provides requirements with respect to a subscriber's responsibilities. Requires that the subscriber's rights and responsibilities be contained in the benefit handbook provided by the organization and written in plain language. (See bill for details.)