

1 A bill to be entitled
2 An act relating to workers' compensation;
3 amending s. 440.09, F.S.; excluding coverage
4 under the Defense Base Act; amending s.
5 440.134, F.S.; providing individually
6 self-insured employers the option to provide
7 medical benefits either through managed care
8 arrangements or without managed care
9 arrangements; amending s. 440.135, F.S.;
10 modifying the requirements of the 24-hour
11 health insurance coverage pilot programs;
12 amending s. 440.38, F.S.; permitting local
13 government participation in 24-hour health
14 insurance coverage; providing an effective
15 date.

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

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19 Section 1. Subsection (2) of section 440.09, Florida
20 Statutes, is amended to read:

21 440.09 Coverage.--

22 (2) Benefits are not payable in respect of the
23 disability or death of any employee covered by the Federal
24 Employer's Liability Act, the Longshoremen's and Harbor
25 Worker's Compensation Act, the Defense Base Act, or the Jones
26 Act.

27 Section 2. Paragraph (b) of subsection (2) of section
28 440.134, Florida Statutes, is amended to read:

29 440.134 Workers' compensation managed care
30 arrangement.--

31 (2)

1 (b) Effective January 1, 1997, the employer shall,
 2 subject to the limitations specified elsewhere in this
 3 chapter, furnish to the employee solely through managed care
 4 arrangements such medically necessary remedial treatment,
 5 care, and attendance for such period as the nature of the
 6 injury or the process of recovery requires pursuant to s.
 7 440.13(2)(a) and (b). An employer that has secured coverage
 8 under s. 440.38(1)(b) as an individual self-insurer or under
 9 s. 440.38(6) shall furnish such medically necessary remedial
 10 treatment, care, and attendance to the employee for such a
 11 period as the nature or process of recovery may require
 12 pursuant to s. 440.13(2)(a) and (b) either through managed
 13 care arrangements or without managed care arrangements. An
 14 individual self-insured employer utilizing a workers'
 15 compensation managed care arrangement otherwise in compliance
 16 with this section may unilaterally elect to be exempt from
 17 obtaining any approval from the agency or making any filing
 18 with the agency required by this section. Nothing in this
 19 subsection shall be construed to prevent an individual
 20 self-insurer from implementing or continuing to use managed
 21 care arrangements in accordance with this section.

22 Section 3. Paragraph (f) of subsection (1) of section
 23 440.135, Florida Statutes, is amended to read:

24 440.135 Pilot programs for medical and remedial care
 25 in workers' compensation.--

26 (1) It is the intent of the Legislature to determine
 27 whether the costs of the workers' compensation system can be
 28 effectively contained by monitoring more closely the medical,
 29 hospital, and remedial care required by s. 440.13, while
 30 providing injured workers with more prompt and effective care
 31 and earlier restoration of earning capacity without diminution

1 of the quality of such care. It is the further intent of the
2 Legislature to determine whether the total cost to an employer
3 that provides a policy or plan of health insurance and a
4 separate policy or plan of workers' compensation and
5 employer's liability insurance for its employees can be
6 reduced by combining both coverages under a policy or plan
7 that provides 24-hour health insurance coverage as set forth
8 in this section. Therefore, the Legislature authorizes the
9 establishment of one or more pilot programs to be administered
10 by the Department of Insurance after consulting with the
11 division. Each pilot program shall terminate 2 years after the
12 first date of operation of the program, unless extended by act
13 of the Legislature. In order to evaluate the feasibility of
14 implementing these pilot programs, the Department of Insurance
15 shall consult with the division regarding:

16 (f) Initiating one or more pilot programs under which
17 participating employers would provide a 24-hour health
18 insurance coverage ~~policy~~ to their employees under a single
19 insurance plan ~~policy~~ or self-insured plan that may contain
20 more than one policy. The ~~policy or plan~~ must provide a level
21 of health insurance benefits which meets criteria established
22 by the Department of Insurance but which provides medical
23 benefits for at least occupational injuries and illnesses
24 comparable to those required by this chapter and which may use
25 deductibles and coinsurance provisions that require the
26 employee to pay a portion of the actual medical care received
27 by the employee, notwithstanding any other provisions of this
28 chapter. The policy or plan may also provide indemnity
29 benefits as specified in s. 440.38(1)(e). The employer shall
30 pay the entire workers' compensation portion of the premium
31 for the 24-hour health insurance policy or self-insured plan.

1 The employee may pay all or part of the nonworkers'
2 compensation portion of the premium and all or part of other
3 ~~than~~ the portion of the premium which relates to dependent
4 coverage.

5 Section 4. Paragraph (e) of subsection (1) of section
6 440.38, Florida Statutes, is amended to read:

7 440.38 Security for compensation; insurance carriers
8 and self-insurers.--

9 (1) Every employer shall secure the payment of
10 compensation under this chapter:

11 (e) In accordance with s. 440.135, an employer, ~~other~~
12 ~~than a local government unit,~~ may elect coverage under the
13 Workers' Compensation Law and retain the benefit of the
14 exclusiveness of liability provided in s. 440.11 by obtaining
15 a 24-hour health insurance policy from an authorized property
16 and casualty insurance carrier or an authorized life and
17 health insurance carrier, or by participating in a fully or
18 partially self-insured 24-hour health plan that is established
19 or maintained by or for two or more employers, so long as the
20 law of this state is not preempted by the Employee Retirement
21 Income Security Act of 1974, Pub. L. No. 93-406, or any
22 amendment to that law, which policy or plan must provide, for
23 at least occupational injuries and illnesses, medical benefits
24 that are comparable to those required by this chapter. ~~A local~~
25 ~~government unit, as a single employer, in accordance with s.~~
26 ~~440.135, may participate in the 24-hour health insurance~~
27 ~~coverage plan referenced in this paragraph.~~ Disputes and
28 remedies arising under policies issued under this section are
29 governed by the terms and conditions of the policies and under
30 the applicable provisions of the Florida Insurance Code and
31 rules adopted under the insurance code and other applicable

1 laws of this state. The 24-hour health insurance policy may
2 provide for health care by a health maintenance organization
3 or a preferred provider organization. The premium for such
4 24-hour health insurance policy shall be paid entirely by the
5 employer. The 24-hour health insurance policy may use
6 deductibles and coinsurance provisions that require the
7 employee to pay a portion of the actual medical care received
8 by the employee. If an employer obtains a 24-hour health
9 insurance policy or self-insured plan to secure payment of
10 compensation as to medical benefits, the employer must also
11 obtain an insurance policy or policies that provide indemnity
12 benefits as follows:

13 1. If indemnity benefits are provided only for
14 occupational-related disability, such benefits must be
15 comparable to those required by this chapter.

16 2. If indemnity benefits are provided for both
17 occupational-related and nonoccupational-related disability,
18 such benefits must be comparable to those required by this
19 chapter, except that they must be based on 60 percent of the
20 average weekly wages.

21 3. The employer shall provide for each of its
22 employees life insurance with a death benefit of \$100,000.

23 4. Policies providing coverage under this subsection
24 must use prescribed and acceptable underwriting standards,
25 forms, and policies approved by the Department of Insurance.
26 If any insurance policy that provides coverage under this
27 section is canceled, terminated, or nonrenewed for any reason,
28 the cancellation, termination, or nonrenewal is ineffective
29 until the self-insured employer or insurance carrier or
30 carriers notify the division and the Department of Insurance
31 of the cancellation, termination, or nonrenewal, and until the

1 division has actually received the notification. The division
2 must be notified of replacement coverage under a workers'
3 compensation and employer's liability insurance policy or plan
4 by the employer prior to the effective date of the
5 cancellation, termination, or nonrenewal; or

6 Section 5. This act shall take effect upon becoming a
7 law.

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