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.)

BILL: CS/SB 1236

SPONSOR: Banking and Insurance Committee and Senator Grant

SUBJECT: Redefining The Term "Medicare Supplement Policy"

DATE: April 12, 1999 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Woodham	Deffenbaugh	BI	Favorable/CS
2.				
3.				
4.				
5.				

I. Summary:

Florida law currently regulates Medicare supplement policies under the Florida Medicare Supplement Reform Act, (ss. 627.671 - 627.675, F.S.). This regulation includes policies issued within or outside this state that cover Florida residents. The Committee Substitute for Senate Bill 1236 redefines the definition of "Medicare supplement policy" for purposes of this act, to exclude a policy or plan of one or more labor organizations, or trustees of a fund established by labor organizations for employees or former employees, or members or former members. The bill changes the Florida definition of "Medicare supplement policy" to more closely follow the federal definition contained in 42 U.S.C. 1395ss, subpart (g)(1) and the National Association of Insurance Commissioners (NAIC) Model law and regulations, except that federal law and the NAIC also exclude policies issued by employer groups from the definition of Medicare supplement policy.

The bill would delete the requirements and regulatory power of the Department of Insurance as it relates to Medicare supplemental insurance policies for labor organizations, their members and former members.

This bill amends section 627.672 of the Florida Statutes.

II. Present Situation:

Currently, a "Medicare supplement policy" is defined under Part VIII of chapter 627 (ss. 627.671 - 627.675, F.S.), as a health insurance policy or health benefit plan, offered by a private entity to individuals entitled to Medicare benefits. The supplemental policy provides reimbursement for medical expenses incurred which are not reimbursable by Medicare because of applicable deductibles, coinsurance amounts or other limitations imposed by Medicare. The definition of "policy" includes a certificate issued or delivered in Florida under a group Medicare supplement policy which has been effectuated inside or outside of Florida. This definition applies to all of the requirements for Medicare supplement policies in ss. 627.671 - 627.675, F.S.

An insurer who delivers a certificate which qualifies as a "Medicare supplement policy" is currently subject to the penalties provision of s. 627.673, F.S., for violations under the Medicare Supplement Reform Act. If an insurer violates any provision of the Act, the department may require an insurer to cease marketing any Medicare supplement policy in Florida. An insurer is also required to file all advertisements for Medicare supplement policies with the department, pursuant to department rules. If the department is of the opinion that the advertisement violates any rule of the department or part X of chapter 626, the department may enter an order requiring the advertisement to be discontinued.

Section 627.6736, F.S., requires an insurer providing group Medicare supplement insurance benefits to a resident of Florida, to file a copy of the master policy and any certificate used in Florida, as if the policy were issued in Florida. There are also reporting requirements for insurers providing Medicare supplement insurance coverage in Florida. The insurer must provide the policy and certificate number, as well as the date of issuance of the policy.

Section 627.674, F.S., requires that a Medicare supplement policy meet the minimum standards set forth in departmental rules. These standards set forth specific requirements and disclosures which must be made by the insurer to the certificateholder. The minimum standards must meet or exceed the requirements of the National Association of Insurance Commissioners (NAIC) Medicare Supplement Insurance Minimum Standards Model Act.

Section 627.6745, F.S., sets forth the applicable loss ratio standards for Medicare supplement policies. At least 75 percent of the aggregate amount of premiums must be returned to the policyholder in the form of benefits in the case of group policies, and at least 65 percent for individual policies issued on or after July 1, 1989. The ratio of the incurred losses to earned premiums for policies or certificates which have been in force for 3 years or more must be greater than or equal to the applicable percentages of this section.

Other sections of part VIII, regarding Medicare supplement policies, contain provisions for issuance, cancellation, nonrenewal and replacement of Medicare supplement policies, permitted compensation arrangements and standards for marketing. Also, Medicare supplement insurance cannot be issued or sold, directly or through the mail, unless the issuer or seller obtains a written statement signed by the applicant, stating what Medicare supplement policies the individual has, from what source, and whether the individual has applied for and been determined to be entitled to Medicaid. Each year, an entity providing Medicare supplement policies must file its rates, rating schedules and documentation demonstrating compliance with the applicable loss ratio standards of this code.

Under 42 U.S.C. 1395ss, subpart (g)(1), federal law excludes policies provided by employer groups and labor organizations from the definition of "Medicare supplement policy." The NAIC Medicare Supplement Insurance Minimum Standards Model Act also excludes policies issued to an employer group, it employees or former employees, or labor organization's members or former members. This exclusion was a part of Florida law until 1987 when the NAIC amended its model law to include employer group and labor union policies. The NAIC reversed itself in September 1988, and restored the employer group and labor organization exclusion, to make the NAIC models consistent with federal law. The Florida law has not been changed back to conform to federal law and the NAIC models. The department does have a rule excluding employer groups

and labor organizations, Rule 4-156.002(2), but it is superseded by the current statute which does not exclude employer groups or labor organizations. According to proponents of the bill, Florida is one of only three states (Vermont and Alaska are the other two) which include policies of labor unions and employer groups in the definition of Medicare supplement policy.

The situation which gave rise to this bill deals with the desire of the insurer that is negotiating with the Teamsters Union for Medicare supplement benefits for its members (mainly, those who are retired) on a nationwide basis. Since there are only three states that include policies issued by labor organizations in the definition of Medicare supplement policy, the insurer must comply with the requirements of each of the three state's laws relating to Medicare supplement insurance and draft applications for policies in accordance with each state's laws and regulations.

III. Effect of Proposed Changes:

Section 1. The bill excludes from the definition of "Medicare supplement policy," any policy or plan of one or more labor organizations or members or former members of labor organizations.

By excluding policies or plans for Medicare supplement insurance provided to labor organizations from the definition of "Medicare supplement policy," the state Medicare supplement requirements and related department regulation would no longer apply, such as the specific loss ratio standards of policies of labor organizations and the department would no longer have regulatory authority to assist insureds, who purchased Medicare supplement insurance through their labor organization in this or any other state, who have problems or complaints with the insurer or problems obtaining benefits. Any policy issued to a labor union will still be required to comply with the applicable laws of the state where the master group policy is issued.

Proponents of the bill believe that the exclusion will permit insurers and labor unions to negotiate coverages for its members and retired members on a uniform, nationwide basis, without being required to have state specific policy forms and applications unique to Florida. Proponents of the bill suggest that it will also better allow the insurers and labor unions the discretion to negotiate insurance products for their members.

Section 2. Provides for an effective date of July 1, 1999.

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:

Insurers and labor unions will be allowed to negotiate the Medicare supplement insurance benefits and rates for their members, without being subject to the requirements of Florida's specific laws that apply to Medicare supplement policy forms, rates, and business practices. If the certificateholder of a Medicare supplement policy issued by a labor organization has a complaint or problem with an insurer for any coverage or benefits disputes, the Florida Department of Insurance would not have authority to provide assistance. However, the labor union may have a procedure in place to lend assistance to their members and former members.

C. Government Sector Impact:

By excluding policies issued by labor organizations from its definition of "Medicare supplement policy," the federal law allows Medicare supplement policies to be regulated at the state level. The bill would effectively do away with the regulatory power of the department as it relates to the Medicare supplement policies issued by labor organizations. The department has not estimated a fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.