

By the Committee on Banking and Insurance; and Senator Brown-Waite

311-1726A-99

1                                   A bill to be entitled  
2           An act relating to health maintenance  
3           organizations; amending s. 641.31, F.S.;  
4           revising the procedures and standards for rate  
5           changes made by an organization; deleting  
6           current provisions that allow rate changes to  
7           be implemented immediately upon filing with the  
8           Department of Insurance, subject to  
9           disapproval; requiring rate changes to be filed  
10          with the department a specified time period  
11          prior to use; providing that a filing is deemed  
12          approved after a certain time period absent  
13          affirmative approval or disapproval by the  
14          department; making conforming changes;  
15          providing an effective date.

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

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19           Section 1. Subsections (2) and (3) of section 641.31,  
20 Florida Statutes, are amended to read:

21           641.31 Health maintenance contracts.--

22           (2) The rates charged by any health maintenance  
23 organization to its subscribers shall not be excessive,  
24 inadequate, or unfairly discriminatory or follow a rating  
25 methodology that is inconsistent, indeterminate, or ambiguous  
26 or encourages misrepresentation or misunderstanding. The  
27 department, in accordance with generally accepted actuarial  
28 practice as applied to health maintenance organizations, may  
29 define by rule what constitutes excessive, inadequate, or  
30 unfairly discriminatory rates and may require whatever

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1 information it deems necessary to determine that a rate or  
2 proposed rate meets the requirements of this subsection.

3 (3)(a) If a health maintenance organization desires to  
4 amend any contract with its subscribers or any certificate or  
5 member handbook, or desires to ~~change any rate charged for the~~  
6 ~~contract or to change any basic health maintenance contract,~~  
7 certificate, grievance procedure, or member handbook form, or  
8 application form where written application is required and is  
9 to be made a part of the contract, or printed amendment,  
10 addendum, rider, or endorsement form or form of renewal  
11 certificate, it may do so, upon filing with the department the  
12 proposed change or amendment, ~~or change in rates~~. Any  
13 proposed change shall be effective immediately, subject to  
14 disapproval by the department. Following receipt of notice of  
15 such disapproval or withdrawal of approval, no health  
16 maintenance organization shall issue or use any form ~~or rate~~  
17 disapproved by the department or as to which the department  
18 has withdrawn approval.

19 (b) Any change in the rate is subject to paragraph (d)  
20 and requires at least 30 days' advance written notice to the  
21 subscriber. In the case of a group member, there may be a  
22 contractual agreement with the health maintenance organization  
23 to have the employer provide the required notice to the  
24 individual members of the group.

25 (c)~~(b)~~ The department shall disapprove any form filed  
26 under this subsection, or withdraw any previous approval  
27 thereof, if the form:

28 1. Is in any respect in violation of, or does not  
29 comply with, any provision of this part or rule adopted  
30 thereunder.

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1           2. Contains or incorporates by reference, where such  
2 incorporation is otherwise permissible, any inconsistent,  
3 ambiguous, or misleading clauses or exceptions and conditions  
4 which deceptively affect the risk purported to be assumed in  
5 the general coverage of the contract.

6           3. Has any title, heading, or other indication of its  
7 provisions which is misleading.

8           4. Is printed or otherwise reproduced in such a manner  
9 as to render any material provision of the form substantially  
10 illegible.

11           5. Contains provisions which are unfair, inequitable,  
12 or contrary to the public policy of this state or which  
13 encourage misrepresentation.

14           ~~6. Charges rates that are determined by the department~~  
15 ~~to be inadequate, excessive, or unfairly discriminatory, or~~  
16 ~~the rating methodology followed by the health maintenance~~  
17 ~~organization is determined by the department to be~~  
18 ~~inconsistent, indeterminate, ambiguous, or encouraging~~  
19 ~~misrepresentation or misunderstanding. Use of the rating~~  
20 ~~methodology must be discontinued immediately upon disapproval~~  
21 ~~unless the health maintenance organization seeks~~  
22 ~~administrative relief. If a new rating methodology is filed~~  
23 ~~with the department, the premiums determined by such newly~~  
24 ~~filed rating methodology may apply prospectively only to new~~  
25 ~~or renewal business written on or after the effective date of~~  
26 ~~the responsive filing made by the health maintenance~~  
27 ~~organization.~~

28           6.7. Excludes coverage for human immunodeficiency  
29 virus infection or acquired immune deficiency syndrome or  
30 contains limitations in the benefits payable, or in the terms  
31 or conditions of such contract, for human immunodeficiency

1 virus infection or acquired immune deficiency syndrome which  
2 are different than those which apply to any other sickness or  
3 medical condition.

4 (d) Any change in rates charged for the contract must  
5 be filed with the department not less than 30 days in advance  
6 of the effective date. At the expiration of such 30 days, the  
7 rate filing shall be deemed approved unless prior to such time  
8 the filing has been affirmatively approved or disapproved by  
9 order of the department. The approval of the filing by the  
10 department constitutes a waiver of any unexpired portion of  
11 such waiting period. The department may extend by not more  
12 than an additional 15 days the period within which it may so  
13 affirmatively approve or disapprove any such filing, by giving  
14 notice of such extension before expiration of the initial  
15 30-day period. At the expiration of any such period as so  
16 extended, and in the absence of such prior affirmative  
17 approval or disapproval, any such filing shall be deemed  
18 approved.

19 (e)(c) It is not the intent of this subsection to  
20 restrict unduly the right to modify rates in the exercise of  
21 reasonable business judgment.

22 Section 2. This act shall take effect July 1, 1999,  
23 and shall apply to policies and contracts issued or renewed on  
24 or after that date.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1238

Applies to Health Maintenance Organizations the same rate filing procedures that apply to health insurers, requiring HMOs to file rates at least 30 days in advance of use. The department may approve or disapprove the rate during this 30-day period, or during an extended period of an additional 15 days if the department gives notice of the extension. If the department disapproves the rate during this period, the HMO may not use the rate but may pursue its administrative hearing rights if it challenges the department's findings. If, however, the department does not affirmatively approve or disapprove the rate during this 30 to 45-day time period, the rate is deemed approved.

Deletes the provisions of the bill that would have continued to allow an HMO to use rates immediately upon filing with the department, subject to department disapproval, but would have further authorized the department to order refunds of amounts charged in excess of the approved rate.