

**STORAGE NAME:** h1443.hcs

**DATE:** April 9, 1999

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
HEALTH CARE SERVICES  
ANALYSIS**

**BILL #:** HB 1443

**RELATING TO:** Medicare Supplement Policy

**SPONSOR(S):** Rep. Lawson

**COMPANION BILL(S):** SB 1236 (i)

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) HEALTH CARE SERVICES
  - (2) INSURANCE
  - (3) HEALTH CARE LICENSING & REGULATION
  - (4) GENERAL GOVERNMENT APPROPRIATIONS
  - (5)
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**I. SUMMARY:**

HB 1443 provides for the exclusion of employer or labor organization Medicare supplement insurance from the definition of "Medicare supplement policy" as part of the "Florida Medicare Supplement Reform Act." The effect of this change is to remove Medicare supplement insurance provided through a group plan from the regulatory scheme of Florida's Medicare supplement policy insurance laws.

The bill will have an unknown fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chapter 627, F.S., provides for the regulation of insurance rates and contracts. Part VIII of ch. 627, F.S., is specific to Medicare supplement policies. This part, consisting of ss. 627.671-627.675, F.S., is the "Florida Medicare Supplement Reform Act." Section 627.672, F.S., provides the applicable definitions of terms used in this part. Subsection (1) of s. 627.672, F.S., defines "Medicare supplement policy" as:

a health insurance policy or other health benefit plan offered by a private entity to individuals who are entitled to have payments for health care costs made under Medicare, Title XVIII of the Social Security Act ("Medicare"), as presently constituted and as may later be amended, which provides reimbursement for expenses incurred for services and items for which payment may be made under Medicare but which expenses are not reimbursable by reason of the applicability of deductibles, coinsurance amounts, or other limitations imposed by Medicare.

This provision provides no exemptions for any type of Medicare supplement policies, without regard to the source of the coverage. Prior to a 1988 rewrite, the definition of Medicare supplement policy in s. 627.672, F.S., did contain a specific exemption for group employer- and labor organization-provided Medicare supplement policies, as a part of the definition of such policies. The exemption was deleted because a then current National Association of Insurance Commissioners' committee recommended model act contained no such exclusion. Later that same year, the National Association of Insurance Commissioners failed to concur with its committee's recommendation.

Existing Department of Insurance rules contain an exemption from the application of Rule 4-156, F.A.C., for employer groups. The department indicates that it has recently proposed deleting this exemption, and has work-shopped a version of the Medicare supplement rules with this revision and has received no comments from industry objecting to this department decision. The department indicates that its change in rule was designed to reflect the department's regulatory practice, to wit: because these plans are providing Medicare supplement benefits, under the definition of Medicare supplement insurance, these plans must comply with applicable insurance requirements.

The federal Social Security Act definition of "Medicare supplement policy" as found under 42 U.S.C. s1395ss, subpart (g)(1) does not include policies issued to a labor organization (members or former members).

The current National Association of Insurance Commissioners' Medicare Supplement Insurance Minimum Standards Model Act includes a labor union exemption. The exemption is expressed as part of the applicability and scope of regulation of Medicare supplement policies, not as an exemption as part of a definition of Medicare supplement insurance.

Advocates for this bill indicate that Florida is one of only two states that does not exclude Medicare supplement insurance policies negotiated by labor organizations from the state's Medicare supplement policy regulation.

B. EFFECT OF PROPOSED CHANGES:

HB 1443 will provide for the exclusion of employer or labor organization Medicare supplement insurance from the definition of "Medicare supplement policy" as part of the "Florida Medicare Supplement Reform Act."

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

The Department of Insurance will no longer regulate employer or labor organization Medicare supplement insurance policies.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

The Department of Insurance will no longer regulate employer or labor organization Medicare supplement insurance policies.

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 627.672(1), F.S.

E. SECTION-BY-SECTION ANALYSIS:

**Section 1.** Amends s. 627.672(1), F.S., relating to the definition of "Medicare supplement policy" as used in the "Florida Medicare Supplement Policy Reform Act," to exclude from the definition such policies or plan of one or more employers or labor organizations, or of the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations.

**Section 2.** Provides a July 1, 1999, effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Unknown.

2. Recurring Effects:

Unknown.

3. Long Run Effects Other Than Normal Growth:

Unknown.

4. Total Revenues and Expenditures:

Unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Unknown.

2. Recurring Effects:

Unknown.

3. Long Run Effects Other Than Normal Growth:

Unknown.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

While the Department of Insurance indicates that it cannot estimate private sector benefits or costs, the department did note as part of its review of this bill that there may be an indirect cost to group policyholders who are also Medicare beneficiaries. Under current law and practice, an employer may purchase a "stand alone" group policy for its employees who are also Medicare beneficiaries. These policies coordinate benefits with the Medicare program. Under Department of Insurance regulatory practice, these plans are required to meet the terms, conditions, and benefits of any other Medicare supplement policy insurance. The bill, in providing an exemption for these plans could deprive a member Medicare beneficiary from the protection of terms, conditions, and benefits of coverage which otherwise protect a person purchasing an individual Medicare supplement policy. Historically, the Department of Insurance has regulated these plans as Medicare supplement insurance plans and required such plans to meet the statutes which govern Medicare supplement insurance.

2. Direct Private Sector Benefits:

See Private Sector Costs comments above.

3. Effects on Competition, Private Enterprise and Employment Markets:

Unknown.

D. **FISCAL COMMENTS:**

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

The bill does not reduce the authority that counties or municipalities have to raise revenue in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

The Department of Insurance has indicated that the bill, in the revised definition of Medicare supplement insurance, while comports with federal and National Association of Insurance Commissioners' provisions, would reduce potential consumer protections for Florida residents, by removing Medicare supplement insurance provided through a group plan from protections of Florida's Medicare supplement insurance laws.

The standards of the National Association of Insurance Commissioners and applicable provisions of the federal Social Security Act provide for exemptions from regulation of labor organization-negotiated

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Medicare supplement policies. These provisions do not provide a comparable exclusion for employer-provided Medicare supplement policies, as proposed in the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Staff Director:

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Phil E. Williams

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