

By Senator Meek

36-762-99

1                                   A bill to be entitled

2           An act relating to health insurance; amending

3           s. 627.410, F.S.; modifying rate filing

4           requirements for approval of health insurance

5           policy forms by the Department of Insurance;

6           amending s. 627.411, F.S.; providing guidelines

7           for determining when benefits are considered

8           reasonable in relation to the premium charged

9           for purposes of disapproval of health insurance

10          policy forms by the department; providing an

11          effective date.

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

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15           Section 1. Subsections (6), (7), and (8) of section

16          627.410, Florida Statutes, 1998 Supplement, are amended to

17          read:

18           627.410 Filing, approval of forms.--

19           (6)(a) An insurer shall not deliver or issue for

20          delivery or renew in this state any health insurance policy

21          form until it has filed with the department a copy of every

22          applicable rating manual, rating schedule, change in rating

23          manual, and change in rating schedule; if rating manuals and

24          rating schedules are not applicable, the insurer must file

25          with the department applicable premium rates and any change in

26          applicable premium rates.

27           (b) The department may establish by rule, for each

28          type of health insurance form, procedures to be used in

29          ascertaining the reasonableness of benefits in relation to

30          premium rates and may, by rule, exempt from any requirement of

31          paragraph (a) any health insurance policy form or type thereof

1 (as specified in such rule) to which form or type such  
2 requirements may not be practically applied or to which form  
3 or type the application of such requirements is not desirable  
4 or necessary for the protection of the public. With respect to  
5 any health insurance policy form or type thereof which is  
6 exempted by rule from any requirement of paragraph (a),  
7 premium rates filed pursuant to ss. 627.640 and 627.662 shall  
8 be for informational purposes.

9 (c) Every filing made pursuant to this subsection  
10 shall be made within the same time period provided in, and  
11 shall be deemed to be approved under the same conditions as  
12 those provided in, subsection (2).

13 (d) Every filing made pursuant to this subsection,  
14 except disability income policies and accidental death  
15 policies, shall be prohibited from applying the following  
16 rating practices:

17 1. Select and ultimate premium schedules.

18 ~~2. Premium class definitions which classify insured~~  
19 ~~based on year of issue or duration since issue.~~

20 2.3. Attained age premium structures on policy forms  
21 under which more than 50 percent of the policies are issued to  
22 persons age 65 or over.

23 ~~(e) Except as provided in subparagraph 1., an insurer~~  
24 ~~shall continue to make available for purchase any individual~~  
25 ~~policy form issued on or after October 1, 1993. A policy form~~  
26 ~~shall not be considered to be available for purchase unless~~  
27 ~~the insurer has actively offered it for sale in the previous~~  
28 ~~12 months.~~

29 1. An insurer may discontinue the availability of a  
30 policy form if the insurer provides to the department in  
31 writing its decision at least 30 days prior to discontinuing

1 the availability of the form of the policy or certificate.  
2 After receipt of the notice by the department, the insurer  
3 shall no longer offer for sale the policy form or certificate  
4 form in this state.

5 ~~2. An insurer that discontinues the availability of a~~  
6 ~~policy form pursuant to subparagraph 1. shall not file for~~  
7 ~~approval a new policy form providing similar benefits as the~~  
8 ~~discontinued form for a period of 5 years after the insurer~~  
9 ~~provides notice to the department of the discontinuance. The~~  
10 ~~period of discontinuance may be reduced if the department~~  
11 ~~determines that a shorter period is appropriate.~~

12 2.3. The experience of an individual accident and  
13 health insurance all policy form that is no longer being  
14 marketed in this state, except for policies rated pursuant to  
15 a loss ratio guarantee under subsection (8), must be combined  
16 with the experience of at least one other individual accident  
17 and health insurance policy form forms providing similar  
18 benefits, as determined by the insurer, which is still being  
19 marketed in the state by the same insurer, unless the insurer  
20 has no other policy form providing similar benefits, as  
21 determined by the insurer, which is still being marketed in  
22 the state shall be combined for all rating purposes.

23 (7)(a) Each insurer subject to the requirements of  
24 subsection (6) shall make an annual filing with the department  
25 no later than 12 months after its previous filing,  
26 establishing ~~demonstrating~~ the reasonableness of benefits in  
27 relation to premium rates. The department, after receiving a  
28 request to be exempted from the provisions of this section,  
29 may, for good cause due to insignificant numbers of policies  
30 in force or insignificant premium volume, exempt a company, by  
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1 line of coverage, from filing rates or rate certification as  
2 required by this section.

3 (b) The filing required by this subsection shall be  
4 satisfied by one of the following methods:

5 1. A rate filing prepared by an actuary which contains  
6 documentation establishing ~~demonstrating~~ the reasonableness of  
7 benefits in relation to premiums charged ~~in accordance with~~  
8 ~~the applicable rating laws and rules promulgated by the~~  
9 ~~department.~~ For premium rate changes, benefits will be  
10 considered reasonable in relation to premium charged if both  
11 of the following loss ratios meet or exceed the standards  
12 established in s. 627.411(2).

13 a. The anticipated loss ratio over the entire future  
14 period for which the revised rates are computed to provide  
15 coverage; and

16 b. The following lifetime anticipated loss ratio  
17 derived by dividing (I) by (II):

18 (I) The sum of the accumulated benefits from the  
19 original effective date of the form to the effective date of  
20 the revision, and the present value of future benefits; and

21 (II) The sum of the accumulated premiums from the  
22 original effective date of the form to the effective date of  
23 the revision, and the present value of future premiums, such  
24 present values to be taken over the entire period for which  
25 the revised rates are computed to provide coverage, and such  
26 accumulated benefits and premiums to include an explicit  
27 estimate of actual benefits and premiums from the last date an  
28 accounting has been made to the effective date of the  
29 revision.

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1 Interest must be used in the calculation of these accumulated  
2 benefits and premiums and present values only if it is a  
3 significant factor, as determined by the insurer, in the  
4 calculation of the loss ratio. For purposes of this  
5 sub-subparagraph, the present value of benefits may, at the  
6 insurer's option, include recognition of the policy reserve as  
7 a benefit (addition), and the present value of premiums may,  
8 at the insurer's option, include recognition of the policy  
9 reserve as a deduction. Anticipated loss ratios lower than  
10 those indicated in this sub-subparagraph will require  
11 justification based on applicable special circumstances.  
12 Examples of coverages that may require special consideration  
13 are accident only, short-term nonrenewable, specified peril,  
14 and other special risks. Examples of other factors that may  
15 require special consideration are marketing methods; giving  
16 due consideration to acquisition and administration costs and  
17 premium mode; extraordinary expenses; high risk of claims  
18 fluctuation because of low loss frequency or the catastrophic  
19 or experimental nature of the coverage; product features such  
20 as long elimination periods, high deductibles, and high  
21 maximum limits; and the industrial or debit method of  
22 distribution.

23         2. If no rate change is proposed, a filing which  
24 consists of a certification by an actuary that benefits are  
25 reasonable in relation to premiums currently charged in  
26 accordance with the loss ratio standards established in this  
27 subsection and s. 627.411(2)~~applicable laws and rules~~  
28 ~~promulgated by the department.~~

29         (c) As used in this section, the term "actuary" means  
30 an individual who is a member of the Society of Actuaries or  
31 the American Academy of Actuaries. If an insurer does not

1 employ or otherwise retain the services of an actuary, the  
2 insurer's certification shall be prepared by insurer personnel  
3 or consultants with a minimum of 5 years' experience in  
4 insurance ratemaking. The chief executive officer of the  
5 insurer shall review and sign the certification indicating his  
6 or her agreement with its conclusions.

7 (d) If at the time a filing is required under this  
8 section an insurer is in the process of completing a rate  
9 review, the insurer may apply to the department for an  
10 extension of up to an additional 30 days in which to make the  
11 filing. The request for extension must be received by the  
12 department in its offices in Tallahassee no later than the  
13 date the filing is due.

14 (e) If an insurer fails to meet the filing  
15 requirements of this subsection and does not submit the filing  
16 within 60 days following the date the filing is due, the  
17 department may, in addition to any other penalty authorized by  
18 law, order the insurer to discontinue the issuance of policies  
19 for which the required filing was not made, until such time as  
20 the department determines that the required filing is properly  
21 submitted.

22 (8)(a) For the purposes of subsections (6) and (7) and  
23 s. 627.411, benefits of an individual accident and health  
24 insurance policy form, including Medicare supplement policies  
25 as defined in s. 627.672, ~~when authorized by rules adopted by~~  
26 ~~the department~~, and excluding long-term care insurance  
27 policies as defined in s. 627.9404, and other policy forms  
28 under which more than 50 percent of the policies are issued to  
29 individuals age 65 and over, are deemed to comply with the  
30 provisions of subsections (6) and (7) and s. 627.411 ~~to be~~  
31 ~~reasonable in relation to premium rates~~ if the rates are filed

1 pursuant to a loss ratio guarantee and both the initial rates  
2 and the durational and lifetime loss ratios have been approved  
3 by the department, and such benefits shall continue to be  
4 deemed reasonable for renewal rates while the insurer complies  
5 with such guarantee, provided the currently expected lifetime  
6 loss ratio is not more than 5 percent less than the filed  
7 lifetime loss ratio as certified to by an actuary. The  
8 department shall have the right to bring an administrative  
9 action should it deem that the lifetime loss ratio will not be  
10 met. For Medicare supplement filings, the department may  
11 withdraw a previously approved filing which was made pursuant  
12 to a loss ratio guarantee if it determines that the filing is  
13 not in compliance with ss. 627.671-627.675 or the currently  
14 expected lifetime loss ratio is less than the filed lifetime  
15 loss ratio as certified by an actuary in the initial  
16 guaranteed loss ratio filing. If this section conflicts with  
17 ss. 627.671-627.675, ss. 627.671-627.675 shall control.

18 (b) The renewal premium rates shall be deemed to be  
19 approved upon filing with the department if the filing is  
20 accompanied by the most current approved loss ratio guarantee.  
21 The loss ratio guarantee shall be in writing, shall be signed  
22 by an officer of the insurer, and shall contain at least:

23 1. A recitation of the anticipated lifetime and  
24 durational target loss ratios contained in the actuarial  
25 memorandum filed with the policy form when it was originally  
26 approved. The durational target loss ratios shall be  
27 calculated for 1-year experience periods. If statutory  
28 changes have rendered any portion of such actuarial memorandum  
29 obsolete, the loss ratio guarantee shall also include an  
30 amendment to the actuarial memorandum reflecting current law  
31 and containing new lifetime and durational loss ratio targets.

1           2. A guarantee that the applicable loss ratios for the  
2 experience period in which the new rates will take effect, and  
3 for each experience period thereafter until new rates are  
4 filed, will meet the loss ratios referred to in subparagraph  
5 1.

6           3. A guarantee that the applicable loss ratio results  
7 for the experience period will be independently audited at the  
8 insurer's expense. The audit shall be performed in the second  
9 calendar quarter of the year following the end of the  
10 experience period, and the audited results shall be reported  
11 to the department no later than the end of such quarter. The  
12 department shall establish by rule the minimum information  
13 reasonably necessary to be included in the report. The audit  
14 shall be done in accordance with accepted accounting and  
15 actuarial principles.

16           4. A guarantee that affected policyholders in this  
17 state shall be issued a proportional refund, based on the  
18 premium earned, of the amount necessary to bring the  
19 applicable experience period loss ratio up to the durational  
20 target loss ratio referred to in subparagraph 1. The refund  
21 shall be made to all policyholders in this state who are  
22 insured under the applicable policy form as of the last day of  
23 the experience period, except that no refund need be made to a  
24 policyholder in an amount less than \$10. Refunds less than \$10  
25 shall be aggregated and paid pro rata to the policyholders  
26 receiving refunds. The refund shall include interest at the  
27 then-current variable loan interest rate for life insurance  
28 policies established by the National Association of Insurance  
29 Commissioners, from the end of the experience period until the  
30 date of payment. Payments shall be made during the third  
31 calendar quarter of the year following the experience period



1 for which a refund is determined to be due. However, no  
2 refunds shall be made until 60 days after the filing of the  
3 audit report in order that the department has adequate time to  
4 review the report.

5           5. A guarantee that if the applicable loss ratio  
6 exceeds the durational target loss ratio for that experience  
7 period by more than 20 percent, provided there are at least  
8 2,000 policyholders on the form nationwide or, if not, then  
9 accumulated each calendar year until 2,000 policyholder years  
10 is reached, the insurer, if directed by the department, shall  
11 withdraw the policy form for the purposes of issuing new  
12 policies.

13           (c) As used in this subsection, the term:

14           1. "Loss ratio" means the ratio of incurred claims to  
15 earned premium.

16           2. "Applicable loss ratio" means the loss ratio  
17 attributable solely to this state if there are 2,000 or more  
18 policyholders in the state. If there are 500 or more  
19 policyholders in this state but less than 2,000, it is the  
20 linear interpolation of the nationwide loss ratio and the loss  
21 ratio for this state. If there are less than 500  
22 policyholders in this state, it is the nationwide loss ratio;  
23 however, if there are less than 2,000 policyholder years  
24 nationwide, the experience must be accumulated until the end  
25 of the calendar year in which 2,000 policyholder years are  
26 obtained.

27           3. "Experience period" means the period, ordinarily a  
28 calendar year, for which a loss ratio guarantee is calculated.

29           (d) The department may not disapprove or withdraw any  
30 previous approval of any individual accident and health

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1 insurance form pursuant to s. 627.411(1)(e) if rates have been  
2 filed as provided in this subsection.

3 Section 2. Section 627.411, Florida Statutes, is  
4 amended to read:

5 627.411 Grounds for disapproval.--

6 (1) The department shall disapprove any insurance  
7 policy form that must be filed under s. 627.410, or withdraw  
8 any previous approval thereof, only if the form:

9 (a) Is in any respect in violation of, or does not  
10 comply with, this code.

11 (b) Contains or incorporates by reference, where such  
12 incorporation is otherwise permissible, any inconsistent,  
13 ambiguous, or misleading clauses, or exceptions and conditions  
14 which deceptively affect the risk purported to be assumed in  
15 the general coverage of the contract.

16 (c) Has any title, heading, or other indication of its  
17 provisions which is misleading.

18 (d) Is printed or otherwise reproduced in such manner  
19 as to render any material provision of the form substantially  
20 illegible.

21 (e) Is for health insurance, and provides benefits  
22 which are unreasonable in relation to the premium charged or,  
23 contains provisions that ~~which are unfair or inequitable or~~  
24 ~~contrary to the public policy of this state or which encourage~~  
25 ~~misrepresentation, or which apply rating practices which~~  
26 ~~result in premium escalations that are not viable for the~~  
27 ~~policyholder market or result in unfair discrimination in~~  
28 ~~sales practices.~~

29 (f) Excludes coverage for human immunodeficiency virus  
30 infection or acquired immune deficiency syndrome or contains  
31 limitations in the benefits payable, or in the terms or

1 conditions of such contract, for human immunodeficiency virus  
2 infection or acquired immune deficiency syndrome which are  
3 different than those which apply to any other sickness or  
4 medical condition.

5 (2) ~~In determining whether the Benefits are considered~~  
6 reasonable in relation to the premium charged if premium rates  
7 are neither excessive nor inadequate, ~~the department, in~~  
8 ~~accordance with reasonable actuarial techniques, shall~~  
9 ~~consider:~~

10 (a) ~~Past loss experience and prospective loss~~  
11 ~~experience within and without this state.~~

12 (b) ~~Allocation of expenses.~~

13 (c) ~~Risk and contingency margins, along with~~  
14 ~~justification of such margins.~~

15 (d) ~~Acquisition costs.~~

16 (a) Premium rates are not excessive if the insurer  
17 demonstrates, in accordance with generally accepted standards  
18 of actuarial practice, satisfaction of the following minimum  
19 anticipated loss ratios.

20 1. Loss Ratio Table, Individual Policies for the Line  
21 of Business Indicated.--

22 a. Medical Expenses.--

<u>Renewal Clause</u>	<u>Loss Ratio</u>
<u>Noncancelable</u>	<u>55 percent</u>
<u>Nonrenewable</u>	<u>60 percent</u>
<u>Guaranteed Renewable</u>	<u>65 percent</u>
<u>All others</u>	<u>70 percent</u>

28 b. Medical Indemnity, Loss of Income.--

<u>Renewal Clause</u>	<u>Loss Ratio</u>
<u>Noncancelable</u>	<u>50 percent</u>
<u>Nonrenewable</u>	<u>55 percent</u>

1	<u>Guaranteed Renewable</u>	<u>60 percent</u>
2	<u>All others</u>	<u>65 percent</u>
3	<u>2. Loss Ratio Table, Group Policies.--</u>	
4	<u>a. Group Medical Expense.--</u>	
5	<u>Group Size</u>	<u>Loss Ratio</u>
6	<u>Fewer than 51 certificates</u>	<u>65 percent</u>
7	<u>51 through 500 certificates</u>	<u>70 percent</u>
8	<u>All others</u>	<u>75 percent</u>
9	<u>b. Group Medical Indemnity or Any Group Policy with</u>	
10	<u>and Average Annual Premium per Certificate of Less Than</u>	
11	<u>\$1,000.--</u>	
12	<u>Group Size</u>	<u>Loss Ratio</u>
13	<u>Fewer than 51 certificates</u>	<u>57.5 percent</u>
14	<u>51 through 500 certificates</u>	<u>62.5 percent</u>
15	<u>All others</u>	<u>67.5 percent</u>
16	<u>3. Group conversion insurance, other than</u>	
17	<u>long-term-care insurance and Medicare supplement insurance,</u>	
18	<u>issued on either a group or an individual basis, shall have a</u>	
19	<u>loss ratio of not less than 120 percent, subject to the limits</u>	
20	<u>described in s. 627.6675.</u>	
21	<u>4. Blanket insurance is exempt from the loss ratios</u>	
22	<u>described in subparagraphs 1.-3. The minimum loss ratio for</u>	
23	<u>blanket insurance is 65 percent.</u>	
24	<u>5. Medicare supplement and long-term-care insurance</u>	
25	<u>are exempt from the loss ratios described in subparagraphs</u>	
26	<u>1.-3. The minimum loss ratios for Medicare supplement</u>	
27	<u>insurance must be established in accordance with s. 627.674.</u>	
28	<u>The minimum loss ratios for long-term-care insurance must be</u>	
29	<u>established in accordance with s. 627.9407.</u>	
30	<u>(b) Premium rates are not inadequate if the insurer</u>	
31	<u>demonstrates, in accordance with generally accepted standards</u>	

1 of actuarial practice, that the sum of premium income and  
2 investment income, minus the sum of benefit payments,  
3 expenses, taxes, and contingency margins is greater than zero.

4 Section 3. This act shall take effect July 1, 1999.

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7 SENATE SUMMARY

8 Modifies the rate filing requirements for a health  
9 insurer to have its policy forms approved by the  
10 Department of Insurance. Provides guidelines for the  
11 department in determining when benefits are considered  
12 reasonable in relation to the premium charged.  
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