

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; amending s.
11 626.883, F.S.; relating to payments on behalf
12 of insurer; amending s. 641.316, F.S.; relating
13 to payments to a health care provider;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Subsections (1), (6), (7), and (8) of
19 section 627.410, Florida Statutes, 1998 Supplement, are
20 amended to read:

21 627.410 Filing, approval of forms.--

22 (1) No basic insurance policy or annuity contract
23 form, or application form where written application is
24 required and is to be made a part of the policy or contract,
25 or group certificates issued under a master contract delivered
26 in this state, or printed rider or endorsement form or form of
27 renewal certificate, shall be delivered or issued for delivery
28 in this state, unless the form has been filed with the
29 department at its offices in Tallahassee by or in behalf of
30 the insurer which proposes to use such form and has been
31 approved by the department. This provision does not apply to:

1 (a) Surety bonds or to specialty rated inland marine
2 risks, or

3 (b) Policies, riders, endorsements, or forms of unique
4 character which are designed for and used with relation to
5 insurance upon a particular subject (other than as to
6 individual or small group health insurance), or which relate
7 to the manner of distribution of benefits or to the
8 reservation of rights and benefits under life or health
9 insurance policies and are used at the request of the
10 individual policyholder, contract holder, or
11 certificateholder. As to group insurance policies effectuated
12 and delivered outside this state but covering persons resident
13 in this state, the group certificates to be delivered or
14 issued for delivery in this state shall be filed with the
15 department for information purposes only.

16 (6)(a) An insurer shall not deliver or issue for
17 delivery or renew in this state any health insurance policy
18 form until it has filed with the department a copy of every
19 applicable rating manual, rating schedule, change in rating
20 manual, and change in rating schedule; if rating manuals and
21 rating schedules are not applicable, the insurer must file
22 with the department applicable premium rates and any change in
23 applicable premium rates. This provision does not apply to
24 rating manuals, rating schedules, changes in rating manuals or
25 schedules, or if rating manuals or schedules are not
26 applicable, to premium rates or changes in such rates,
27 relating to policies, riders, endorsements, or forms of unique
28 character which are designed for and used with relation to
29 insurance upon a particular subject or to benefits under group
30 health insurance policies insuring 51 or more persons and are

31

1 used at the request of the individual policyholder, contract
2 holder, or certificate holder.

3 (b) The department may establish by rule, for each
4 type of health insurance form, procedures to be used in
5 ascertaining the reasonableness of benefits in relation to
6 premium rates and may, by rule, exempt from any requirement of
7 paragraph (a) any health insurance policy form or type thereof
8 (as specified in such rule) to which form or type such
9 requirements may not be practically applied or to which form
10 or type the application of such requirements is not desirable
11 or necessary for the protection of the public. With respect to
12 any health insurance policy form or type thereof which is
13 exempted by rule from any requirement of paragraph (a),
14 premium rates filed pursuant to ss. 627.640 and 627.662 shall
15 be for informational purposes.

16 (c) Every filing made pursuant to this subsection
17 shall be made within the same time period provided in, and
18 shall be deemed to be approved under the same conditions as
19 those provided in, subsection (2).

20 (d) Every filing made pursuant to this subsection,
21 except disability income policies and accidental death
22 policies, shall be prohibited from applying the following
23 rating practices:

- 24 1. Select and ultimate premium schedules.
- 25 2. Premium class definitions which classify insured
26 based on year of issue or duration since issue.
- 27 3. Attained age premium structures on policy forms
28 under which more than 50 percent of the policies are issued to
29 persons age 65 or over.

30 ~~(e) Except as provided in subparagraph 1., an insurer~~
31 ~~shall continue to make available for purchase any individual~~

1 ~~policy form issued on or after October 1, 1993. A policy form~~
2 ~~shall not be considered to be available for purchase unless~~
3 ~~the insurer has actively offered it for sale in the previous~~
4 ~~12 months.~~

5 1. An insurer may discontinue the availability of a
6 policy form if the insurer provides to the department in
7 writing its decision at least 30 days prior to discontinuing
8 the availability of the form of the policy or certificate.
9 After receipt of the notice by the department, the insurer
10 shall no longer offer for sale the policy form or certificate
11 form in this state.

12 2. ~~An insurer that discontinues the availability of a~~
13 ~~policy form pursuant to subparagraph 1. shall not file for~~
14 ~~approval a new policy form providing similar benefits as the~~
15 ~~discontinued form for a period of 5 years after the insurer~~
16 ~~provides notice to the department of the discontinuance. The~~
17 ~~period of discontinuance may be reduced if the department~~
18 ~~determines that a shorter period is appropriate.~~

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

30 3. Each individual accident and health insurer that
31 discontinues the availability of a policy form and that has no

1 other policy form providing similar benefits which is still
 2 being marketed in the state shall offer every existing insured
 3 who is currently paying premiums under the discontinued policy
 4 form the option to apply for coverage under any individual
 5 accident and health insurance policy form which is still being
 6 marketed in the state by the same insurer. Individuals who
 7 fail to satisfy the insurer's underwriting guidelines or
 8 standards for issuance of a replacement policy shall be issued
 9 coverage if they apply for such replacement coverage within
 10 180 days' written notice to the insured persons from the
 11 insurer, without regard to health status or claims experience.
 12 However, individuals who apply for the replacement coverage
 13 described in this subparagraph who fail to satisfy the
 14 insurer's underwriting guidelines or standards may be charged
 15 a premium rate not to exceed 140 percent of the standard
 16 premium rate charged by the insurer for the coverage. The
 17 replacement coverage described in this subparagraph shall
 18 waive any preexisting condition limitations or waiting periods
 19 satisfied under the preceding, discontinued policy form.

20 4. For purposes of this paragraph an individual
 21 accident and health insurance policy form shall be deemed to
 22 provide similar benefits to another individual accident and
 23 health insurance policy form if the forms are of the same
 24 type, e.g. major medical; hospital/surgical; disability; home
 25 health care; long-term care, and at least 70 percent of the
 26 benefits provided by one form are also provided by the other.

27 (7)(a) Each insurer subject to the requirements of
 28 subsection (6) shall make an annual filing with the department
 29 no later than 12 months after its previous filing,
 30 establishing ~~demonstrating~~ the reasonableness of benefits in
 31 relation to premium rates. The department, after receiving a

1 request to be exempted from the provisions of this section,
2 may, for good cause due to insignificant numbers of policies
3 in force or insignificant premium volume, exempt a company, by
4 line of coverage, from filing rates or rate certification as
5 required by this section.

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

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

16 a. The anticipated loss ratio over the entire future
17 period for which the revised rates are computed to provide
18 coverage; and

19 b. The lifetime anticipated loss ratio derived by
20 dividing the amount determined under sub-sub-subparagraph (I)
21 by the amount determined under sub-sub-subparagraph (II):

22 (I) The sum of the accumulated benefits from the
23 original effective date of the form to the effective date of
24 the revision, and the present value of future benefits.

25 (II) The sum of the accumulated premiums from the
26 original effective date of the form to the effective date of
27 the revision, and the present value of future premiums, which
28 present values shall be taken over the entire period for which
29 the revised rates are computed to provide coverage and which
30 accumulated benefits and premiums shall include an explicit
31 estimate of actual benefits and premiums from the last date an

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

25 2. If no rate change is proposed, a filing which
 26 consists of a certification by an actuary that benefits are
 27 reasonable in relation to premiums currently charged in
 28 accordance with the loss ratio standards established in this
 29 section and s. 627.411(2)~~applicable laws and rules~~
 30 ~~promulgated by the department.~~
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1 (c) As used in this section, the term "actuary" means
2 an individual who is a member of the Society of Actuaries or
3 the American Academy of Actuaries. If an insurer does not
4 employ or otherwise retain the services of an actuary, the
5 insurer's certification shall be prepared by insurer personnel
6 or consultants with a minimum of 5 years' experience in
7 insurance ratemaking. The chief executive officer of the
8 insurer shall review and sign the certification indicating his
9 or her agreement with its conclusions.

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

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

25 (8)(a) For the purposes of subsections (6) and (7) and
26 s. 627.411, benefits of an individual accident and health
27 insurance policy form, including Medicare supplement policies
28 as defined in s. 627.672, ~~when authorized by rules adopted by~~
29 ~~the department~~, and excluding long-term care insurance
30 policies as defined in s. 627.9404, and other policy forms
31 under which more than 50 percent of the policies are issued to

1 individuals age 65 and over, are deemed to comply with the
 2 provisions cited in this section ~~to be reasonable in relation~~
 3 ~~to premium rates~~ if the rates are filed pursuant to a loss
 4 ratio guarantee and both the initial rates and the durational
 5 and lifetime loss ratios have been approved by the department,
 6 and such benefits shall continue to be deemed reasonable for
 7 renewal rates while the insurer complies with such guarantee,
 8 provided the currently expected lifetime loss ratio is not
 9 more than 5 percent less than the filed lifetime loss ratio as
 10 certified to by an actuary. The department shall have the
 11 right to bring an administrative action should it deem that
 12 the lifetime loss ratio will not be met. For Medicare
 13 supplement filings, the department may withdraw a previously
 14 approved filing which was made pursuant to a loss ratio
 15 guarantee if it determines that the filing is not in
 16 compliance with ss. 627.671-627.675 or the currently expected
 17 lifetime loss ratio is less than the filed lifetime loss ratio
 18 as certified by an actuary in the initial guaranteed loss
 19 ratio filing. If this section conflicts with ss.
 20 627.671-627.675, ss. 627.671-627.675 shall control.

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

26 1. A recitation of the anticipated lifetime and
 27 durational target loss ratios contained in the actuarial
 28 memorandum filed with the policy form when it was originally
 29 approved. The durational target loss ratios shall be
 30 calculated for 1-year experience periods. If statutory
 31 changes have rendered any portion of such actuarial memorandum

1 obsolete, the loss ratio guarantee shall also include an
2 amendment to the actuarial memorandum reflecting current law
3 and containing new lifetime and durational loss ratio targets.

4 2. A guarantee that the applicable loss ratios for the
5 experience period in which the new rates will take effect, and
6 for each experience period thereafter until new rates are
7 filed, will meet the loss ratios referred to in subparagraph
8 1.

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

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

1 Commissioners, from the end of the experience period until the
2 date of payment. Payments shall be made during the third
3 calendar quarter of the year following the experience period
4 for which a refund is determined to be due. However, no
5 refunds shall be made until 60 days after the filing of the
6 audit report in order that the department has adequate time to
7 review the report.

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

16 (c) As used in this subsection:

17 1. "Loss ratio" means the ratio of incurred claims to
18 earned premium.

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

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

1 (d) The department shall not disapprove or withdraw
2 any previous approval of any individual accident and health
3 insurance form pursuant to s. 627.411(1)(e) if rates have been
4 filed as provided in this subsection.

5 Section 2. Section 627.411, Florida Statutes, is
6 amended to read:

7 627.411 ~~Grounds for~~ Disapproval of forms.--

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

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

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

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

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

23 (e)1. Is for health insurance, and provides benefits
24 which are unreasonable in relation to the premium charged; or,

25 2. Contains provisions that constitute unfair
26 discrimination pursuant to s. 626.9541(1)(g), which are unfair
27 or inequitable as contrary to the public policy of this state
28 or which encourages misrepresentation or which apply rating
29 practices which result in premium escalations that are not
30 viable for the policyholder market or result in unfair
31 discrimination in sales practices.

1 (f) Excludes coverage for human immunodeficiency virus
2 infection or acquired immune deficiency syndrome or contains
3 limitations in the benefits payable, or in the terms or
4 conditions of such contract, for human immunodeficiency virus
5 infection or acquired immune deficiency syndrome which are
6 different than those which apply to any other sickness or
7 medical condition.

8 (2) ~~In determining whether the~~ Benefits are deemed
9 reasonable in relation to the premium charged if premium rates
10 are neither excessive nor inadequate., ~~the department, in~~
11 ~~accordance with reasonable actuarial techniques, shall~~
12 ~~consider:~~

13 ~~(a) Past loss experience and prospective loss~~
14 ~~experience within and without this state.~~

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

16 ~~(c) Risk and contingency margins, along with~~
17 ~~justification of such margins.~~

18 ~~(d) Acquisition costs.~~

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

23 1. Loss Ratio Table, Individual Policies for the Line
24 of Business Indicated.--

25 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>

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

1	<u>Renewal Clause</u>	<u>Loss Ratio</u>
2	<u>Noncancelable</u>	<u>50 percent</u>
3	<u>Nonrenewable</u>	<u>55 percent</u>
4	<u>Guaranteed Renewable</u>	<u>60 percent</u>
5	<u>All others</u>	<u>65 percent</u>
6	<u>2. Loss Ratio Table, Group Policies.--</u>	
7	<u>a. Group Medical Expense.--</u>	
8	<u>Group Size</u>	<u>Loss Ratio</u>
9	<u>Fewer than 51 certificates</u>	<u>65 percent</u>
10	<u>51 through 500 certificates</u>	<u>70 percent</u>
11	<u>All others</u>	<u>75 percent</u>
12	<u>b. Group Medical Indemnity or Any Group Policy with</u>	
13	<u>and Average Annual Premium per Certificate of Less Than</u>	
14	<u>\$1,000.--</u>	
15	<u>Group Size</u>	<u>Loss Ratio</u>
16	<u>Fewer than 51 certificates</u>	<u>57.5 percent</u>
17	<u>51 through 500 certificates</u>	<u>62.5 percent</u>
18	<u>All others</u>	<u>67.5 percent</u>
19	<u>3. Group conversion insurance, other than</u>	
20	<u>long-term-care insurance and Medicare supplement insurance,</u>	
21	<u>issued on either a group or an individual basis, shall have a</u>	
22	<u>loss ratio of not less than 120 percent, subject to the limits</u>	
23	<u>described in s. 627.6675.</u>	
24	<u>4. The lifetime loss ratios in subparagraphs 1. and 2.</u>	
25	<u>may be adjusted in accordance with the following formula:</u>	
26		
27	<u>$R' = (A - 25I) R/A$</u>	
28		
29	<u>where:</u>	
30	<u>R = the loss ratio from subparagraphs 1. and 2.;</u>	
31		

1 A = the average annualized premium per individual policy or
2 per group certificate;

3 I = (CPI-U, year N-1)/103.9;

4 R' = the adjusted loss ratio.

5
6 R' cannot be more than 10 percentage points less than R nor
7 less than 50 percent, except that R' cannot be less than 45
8 percent as to accident only non-cancellable policies. The
9 CPI-U is the consumer price index for all urban consumers, for
10 all items and for all regions of the U. S. combined, as
11 determined by the U. S. Department of Labor, Bureau of
12 Statistics as of September of each year. Year N-1 is the
13 calendar year immediately preceding the calendar year (N) in
14 which the rate filing is submitted in Florida.

15 5. Blanket insurance is exempt from the loss ratios
16 described in subparagraphs 1.-3. The minimum loss ratio for
17 blanket insurance is 65 percent.

18 6. Medicare supplement and long-term-care insurance
19 are exempt from the loss ratios described in subparagraphs
20 1.-3. The minimum loss ratios for Medicare supplement
21 insurance must be established in accordance with s. 627.674.
22 Benefits under long-term care insurance policies shall be
23 deemed reasonable in relation to premiums provided the
24 expected loss ratio is at least 60 percent, calculated in a
25 manner which provides for adequate reserving of the long-term
26 care insurance risk. In determining the expected loss ratio,
27 the Insurance Department shall adopt rules consistent with the
28 Long-Term Care Model Regulation as approved by the National
29 Association of Insurance Commissioners in July 1998.

30 (b) Premium rates are not inadequate if the insurer
31 demonstrates, in accordance with generally accepted standards

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. Subsection (6) is added to section 626.883,
5 Florida Statutes, to read:

6 626.883 Administrator as intermediary; collections
7 held in fiduciary capacity; establishment of account;
8 disbursement; payments on behalf of insurer.--

9 (6) All payments to a health care provider by a fiscal
10 intermediary for noncapitated providers must include an
11 explanation of services being reimbursed which includes, at a
12 minimum, the patient's name, the date of service, the
13 procedure code, the amount of reimbursement, and the
14 identification of the plan on whose behalf the payment is
15 being made. For capitated providers, the statement of
16 services must include the number of patients covered by the
17 contract, the rate per patient, the total amount of the
18 payment, and the identification of the plan on whose behalf
19 the payment is being made.

20 Section 4. Paragraph (a) of subsection (2) of section
21 641.316, Florida Statutes, 1998 Supplement, is amended to
22 read:

23 641.316 Fiscal intermediary services.--

24 (2)(a) The term "fiduciary" or "fiscal intermediary
25 services" means reimbursements received or collected on behalf
26 of health care professionals for services rendered, patient
27 and provider accounting, financial reporting and auditing,
28 receipts and collections management, compensation and
29 reimbursement disbursement services, or other related
30 fiduciary services pursuant to health care professional
31 contracts with health maintenance organizations. All payments

1 to a health care provider by a fiscal intermediary for
2 noncapitated providers must include an explanation of services
3 being reimbursed which includes, at a minimum, the patient's
4 name, the date of service, the procedure code, the amount of
5 reimbursement, and the identification of the plan on whose
6 behalf the payment is being made. For capitated providers,
7 the statement of services must include the number of patients
8 covered by the contract, the rate per patient, the total
9 amount of the payment, and the identification of the plan on
10 whose behalf the payment is being made.

11 Section 5. This act shall take effect July 1, 1999.
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