

54-364AX-32

Bill No. CS for SB 2522, 2nd Eng.

Amendment No. ____ (for drafter's use only)

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Arnall offered the following:

Amendment (with title amendment)

On page 29, between lines 4 and 5,

insert:

Section 14. Section 627.6474, Florida Statutes, is created to read:

627.6474 Point of service policies; purpose; definitions; authority; standards; reporting; application.--

(1) PURPOSE.--It is the purpose of this section to encourage the issuance to persons coverage that provides an option, at the time medical services are secured, of accessing benefits provided by a licensed health maintenance organization or by a licensed health insurer. By authorizing the issuance of such coverage, the Legislature intends to maximize health care options for consumers of health care policies.

(2) SCOPE.--Point of service coverage may be issued on an individual or group basis.

(3) DEFINITIONS.--As used in this section:

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1 (a) "Point of service agreement" is the contractual
2 means by which a health insurer and health maintenance
3 organization jointly offer point of service coverage.

4 (b) "Point of service policy" is a policy providing
5 comprehensive health benefits under which a covered person
6 has:

7 1. A health insurance policy issued by an authorized
8 health insurer in conjunction with a health maintenance
9 contract issued by a licensed health maintenance organization,
10 under which the covered person may choose at each time of
11 service to access indemnity benefits under the health
12 insurance policy or benefits under the health maintenance
13 contract, but not both; or

14 2. A single contract issued by a health maintenance
15 organization or a single policy issued by a health insurer,
16 pursuant to a point of service agreement between the health
17 insurer and the health maintenance organization, under which
18 the covered person may choose at each time of service to
19 access indemnity benefits under the health insurance portion
20 of the policy or benefits under the health maintenance portion
21 or the policy, but not both.

22 (c) "Covered person" means the policyholder or
23 subscriber of an individual point of service policy, or the
24 subscriber or certificateholder under a group point of service
25 policy.

26 (4) AUTHORITY TO ISSUE.--Subject to the requirements
27 contained in this section, nothing in this code, including
28 chapter 641, and rules adopted under the code and such
29 chapter, shall be deemed to prohibit an authorized health
30 insurer and a licensed health maintenance organization, in
31 conjunction, from soliciting, offering, or providing point of

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1 service coverage either in a separate policy issued by the
2 health insurer jointly with a separate health maintenance
3 contract issued by the health maintenance organization or in a
4 single contract issued by the health maintenance organization
5 or in a single policy issued by the health insurer.

6 (5) PROVISIONS OF POINT OF SERVICE POLICIES.--Each
7 point of service policy shall contain, in addition to all
8 others required under this code, chapter 641, and rules
9 adopted under the code and such chapter, a provision:

10 (a) Clearly identifying both the health insurer and
11 the health maintenance organization and, in the instance of a
12 group policy, a provision in the member handbook or
13 certificate of coverage clearly identifying the health insurer
14 and the health maintenance organization.

15 (b) Stating that a covered person covered under a
16 point of service policy must elect either indemnity benefits
17 or health maintenance organization coverage at the time of
18 service.

19 (c) Stating that whenever coverage has been paid or
20 provided with respect to a given medical service by either the
21 health insurer or the health maintenance organization pursuant
22 to a filed and approved point of service policy, the
23 provisions of s. 627.4235 shall not apply with respect to the
24 point of service policy but shall apply as to other policies,
25 plans, or contracts of the covered person.

26 (d) Stating that 60 days prior to the termination of a
27 point of service agreement, the terminating company must
28 provide each covered person who has a policy under the
29 agreement notice in writing of the termination.

30 (e) That, if a point of service agreement is
31 terminated, the policyholder in an individual contract or the

1 contract holder in a group contract may, within 60 days after
2 receiving notice of the termination, elect to continue
3 coverage for the remainder of the contract period on the form
4 and at the rate approved by the department pursuant to
5 subsection (6) with either the health maintenance organization
6 or the health insurer that was a party to the point of service
7 agreement. Point of service policies and contracts issued
8 pursuant to this section are exempt from the notice
9 requirements of s. 641.31074(3)(a)1. and 2. and s.
10 627.6571(3)(a) 1. and 2.

11 (f) That, if the covered person is entitled to a
12 conversion plan, the covered person is entitled to a choice of
13 either an indemnity plan from the health insurer or a health
14 maintenance organization contract, without prejudice.

15 (6) FILING AND REPORTING REQUIREMENTS.--

16 (a) The following requirements apply to point of
17 service policy forms and rate filings.

18 1. All point of service policy form and rate filings
19 shall be made jointly, whether or not separate or combined
20 forms are used.

21 2. The point of service policy form and rate filing
22 shall include all forms and rates required by this section.
23 However, if forms and rates which have been previously
24 approved are used to satisfy the required separate health
25 benefit policies and the conversion policies to be used in
26 conjunction with such point of service policy, it shall be
27 sufficient to identify the form number and date of approval of
28 these forms and related rates.

29 3. The point of service policy form and rate filing
30 shall contain certification from an officer of the health
31 insurer and an officer of the health maintenance organization

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1 that each company agrees, as a condition precedent to
2 termination of the point of service agreement, to provide the
3 department with notice of its intention to terminate the point
4 of service arrangement no less than 90 days prior to the
5 effective date of termination. Further, each company agrees to
6 notify the department within 48 hours after a material breach
7 by either company.

8 4. All point of service policy filings shall contain
9 an authorization from the health insurer and the health
10 maintenance organization, either as joint signatories or an
11 original letter of authorization from each company to the
12 other, to make the combined filing whenever a single policy
13 will be used and that each company will be responsible for the
14 accuracy of the information which it provided for the combined
15 filing. The insurer or health maintenance organization that
16 issues the single policy shall be primarily responsible for
17 insuring that the benefits specified in the contract are
18 provided in the manner specified in the contract.

19 5. All point of service policy forms and rates shall
20 be filed and approved prior to use. All form and rate changes
21 to such policy shall be filed and approved prior to use.

22 6. The health insurer and the health maintenance
23 organization shall each file and have approved a policy form
24 and rate to be made available to the covered person when the
25 point of service agreement is terminated during an existing
26 contract period. The filing shall:

27 a. Contain levels of indemnity benefits or other
28 health benefit coverage no less than that provided by the
29 insurer under the point of service policy for the insurer's
30 policy form or by the health maintenance organization under
31 the point of service policy for the health maintenance

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1 organization contract.

2 b. Comply in all respects with the requirements of the
3 insurance code or chapter 641 as related to the product being
4 filed.

5 c. Clearly identify that the policy is intended for
6 use as a replacement for a point of service policy.

7 7. The health insurer or the health maintenance
8 organization shall make, at a minimum, an annual rate filing
9 for each point of service policy form offered in this state.
10 Annual periodic rate adjustments shall be made to reflect the
11 actual premium split based on experience and compared with the
12 assumed split at the beginning of the contract. Except as so
13 described, no other experience adjustments shall be made on a
14 retrospective basis without approval by the department.

15 8. All rate filings for a point of service policy
16 shall contain the following terms and conditions, in addition
17 to all others required by law or rule:

18 a. The health insurer and the health maintenance
19 organization shall each perform its own pricing on a net claim
20 basis.

21 b. The health insurer and the health maintenance
22 organization shall each calculate its own expenses and profit
23 margins.

24 c. Expenses shall be itemized and shall clearly
25 identify which entity is performing which duty relative to
26 each expense item noted.

27 d. Minimum loss ratios, as defined in the code or in
28 any applicable rule adopted under the code, shall be met by
29 each company.

30 (b) Each health insurer and health maintenance
31 organization shall maintain separate records relating to any

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1 point of service policy. The annual actuarial certification
2 shall contain a specific actuarial certification that the
3 rates charged for this product are not inadequate, excessive,
4 or discriminatory.

5 (7) APPLICABILITY.--

6 (a) Any health insurer entering into a point of
7 service arrangement pursuant to this section, in addition to
8 the requirements of this section, shall be subject to all
9 provisions of the insurance code and other laws, and rules
10 adopted under the code or such laws, applicable to health
11 insurers generally. However, an agent that sells or solicits a
12 product issued as a single policy or contract by either the
13 health maintenance organization or the insurer shall be
14 appointed by the entity issuing the policy or contract and
15 shall not be required to be appointed by both carriers.

16 (b) Any health maintenance organization entering into
17 a point of service arrangement pursuant to this section, in
18 addition to the requirements of this section, shall be subject
19 to all provisions of chapter 641, and rules adopted under such
20 chapter, and to all other provisions of this code and other
21 laws and rules adopted under such code and laws applicable to
22 health maintenance organizations generally.

23 (c) The health insurance portion of a point of service
24 arrangement policy shall be subject to the provisions of part
25 III of chapter 631. The health maintenance portion of a point
26 of service arrangement shall be subject to part IV of chapter
27 631.

28 (d) Any health maintenance organization entering into
29 a point of service arrangement pursuant to this section shall
30 not be subject to part VII of chapter 626 when administering a
31 point of service policy.

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1 (8) RULEMAKING.--The department may adopt any rule
2 necessary to implement the intent and provisions of this
3 section. In adopting such rule, the department shall consider
4 requirements to ensure that experience adjustments and other
5 adjustments are reasonable, fair, and equitable; that point of
6 service policies, advertisements, solicitation materials, and
7 other statements or related documents are clear and
8 understandable; that point of service policies are provided to
9 the insurance buying public in a fashion that meets the
10 purposes of this section and are provided in a fair and
11 equitable fashion; and that point of service policies provide
12 for a proper triggering of the conversion plan policies.

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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

On page 2, line 22, after the semicolon,

insert:

creating s. 627.6474, F.S.; providing for point
of service policies; providing purpose and
scope; providing definitions; providing
authority to issue point of service policies;
specifying required provisions in such
policies; providing filing and reporting
requirements; specifying applicability;
authorizing the Department of Insurance to
adopt rules;