SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 312

SPONSOR: Banking and Insurance Committee and Senator Lee

SUBJECT: Health Insurance

DATE: March 8, 1999 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Emrich	Deffenbaugh	BI	Favorable/CS
2.				
3.				
4.				
5.				

I. Summary:

Committee Substitute for Senate Bill 312 limits the right of an insurance company or health maintenance organization (HMO) to retroactively cancel a group health insurance policy due to nonpayment of premium by the employer and protects the employee's right to elect a conversion health insurance policy in this event. Specifically, the committee substitute prohibits an insurer or HMO from retroactively canceling a group health insurance contract, due to nonpayment of premium by the employer, prior to the date the notice of cancellation is mailed to the employer *unless* the notice is mailed within 45 days after the date the premium was due. Should an employee's health insurance coverage be terminated due to nonpayment of premium by the employer and written notice of cancellation by the insurer or HMO was not provided to the employee by the employer, the 63-day period within which the employee must apply for an individual conversion policy would *not* begin to run until the date the insurer or HMO mails the cancellation notice to the employee. Additionally, the premium for the conversion policy would be set at the previous group rate for the time period *prior* to the date the insurer or HMO mails the notice to the employee. For the period of coverage after such date, the premium for the converted policy would be subject to the requirements of current law which provides that such premium may not exceed 200 percent of the standard risk rate as established by the Department of Insurance.

The committee substitute also clarifies current law to allow group insurers to contract with another insurer to issue conversion contracts on its behalf, provided that the other insurer is authorized in Florida and the policy has been approved by the Department of Insurance.

This committee substitute substantially amends the following sections of the Florida Statutes: 627.6645, 627.6675, 641.3108, and 641.3922.

II. Present Situation:

Under Florida law, group health insurers are *not* required to provide advance notice to the group policyholder (the employer) or the certificateholder (employee) that their insurance is canceled

due to nonpayment of premium (s. 627.6645, F.S.). For other reasons, however, insurers must give the policyholder at least 45 days' advance notice of cancellation, expiration, nonrenewal, or a change in rates of a policy. Upon receiving such notice, the policyholder must forward the notice to each certificateholder covered under the policy. Insurers who bill certificateholders directly for premiums must provide the 45 days' notice described above directly to each certificateholder. If insurers fail to provide the 45 days' notice, the coverage shall remain in effect at the existing rates until 45 days after the notice is given or until the effective date of replacement coverage is obtained by the insured, whichever occurs first.

Health maintenance organizations have similar notice provisions to group health insurers under s. 641.3108, F.S. Health maintenance organizations are *not* required to provide advance notice to either the group contract holder, (employer) or the subscriber (employee) that their coverage is canceled due to nonpayment of premium or termination of eligibility. However, for cancellation due to other reasons, HMOs, who contract directly with group contract holders, must provide these entities with 45 days' advance notice in writing prior to cancellation, expiration or nonrenewal of a contract and request that the notification be forward to all subscribers. All HMO contracts must contain the 45 days' notice requirements and the notice must contain the reasons for the cancellation, expiration or nonrenewal. Pursuant to s. 641.31, F.S., HMOs must provide 30 days' notice to contract holders of a change in health insurance rates and the contract must allow a grace period of at least 10 days after the premium date, during which time the contract must stay in force. Health maintenance organizations who contract directly with subscribers must provide the notices as described above directly to each subscriber.

In January 1998, the Department of Insurance filed an administrative action against AvMed Health Plan (an HMO) for *retroactively* canceling the group health insurance coverage of employees' who worked for a company which failed to pay its group HMO premiums. According to the petition filed by the department, the employer had fallen behind on paying the HMO for its group health contract, but during a 2 to 3 month period, the HMO continued to authorize doctors and hospitals to treat the employees. In August 1997, the HMO terminated the group coverage retroactively to May when the last premiums were paid. Employees were not provided written notification by the HMO prior to the contract being canceled. The HMO has billed employees for medical care provided after the May cancellation date. The Department of Insurance alleges that because the HMO failed to provide any of the employees with written notice of termination of their health insurance coverage as specified in their member handbook, the employees were illegally denied the opportunity to request continued health insurance coverage through a converted contract under s. 641.3922, F.S. Additionally, due to the fact that the HMO continued to authorize and preauthorize medical visits, the department contends that employees were misled into believing that they had health insurance.

Presently, insurers and HMOs issuing group policies in Florida must offer individual conversion policies or contracts to an employee or member whose eligibility for the group coverage terminates, as required by s. 627.6675, F.S., for insurers, and by s. 641.3922, F.S., for HMOs. The maximum premium for the policy is 200 percent of the *standard risk rate* as determined by the department.

Failure of an employee to obtain notice of cancellation of a group policy may result in the employee incurring medical bills that are not covered. It may also compromise the employee's

ability to obtain an individual conversion policy or other replacement coverage, due to the fact that an employee has only 63 days after the date of termination of eligibility for group coverage to apply for an individual conversion policy (s. 627.6675, F.S., for group health insurance and s. 641.3922, F.S., for group HMO contracts).

III. Effect of Proposed Changes:

Section 1. Amends s. 627.6645, F.S., relating to notification of cancellation or nonrenewal of group health insurance policies, to prohibit a group health insurer from retroactively canceling a group contract, due to nonpayment of premium, *prior* to the date the notice of cancellation is mailed by the insurer to the employer, *unless* the notice is mailed within 45 days after the date the premium was due. Such notice must be mailed to the policyholder's (employer's) last address as shown by the records of the insurer.

Section 2. Amends s. 627.6675, F.S., relating to conversion of group health insurance policies. If termination of an employee's health insurance coverage under a group policy is due to nonpayment of premium by the employer (policyholder) and written notice of cancellation from the insurer was not provided to the employee (certificateholder) by the employer, the following requirements apply:

(1) The 63-day time period within which the employee must apply for an individual conversion policy would *not* begin to run until the date the insurer mails notice of cancellation to the employee at the employee's last address as shown by the records of the insurer.

(2) The premium for the conversion policy would be at the previous group rate for the time period prior to the date the insurer mails notice to the employee. For the period of coverage after such date, the premium for the converted policy would be subject to the requirements of current law which provides that such premium may not exceed 200 percent of the standard risk rate as established by the Department of Insurance.

The bill also clarifies current law to allow group insurers to contract with another insurer to issue conversion contracts on its behalf, provided that the other insurer is authorized in Florida and the policy has been approved by the Department of Insurance pursuant to s. 627.410, F.S.

Section 3. Amends s. 641.3108, F.S., relating to notification of cancellation of health maintenance contracts, to prohibit a HMO from retroactively canceling a group contract, due to nonpayment of premium, *prior* to the date the notice of cancellation is mailed by the HMO to the subscriber, *unless* the notice is mailed within 45 days after the date the premium was due. Such notice must be mailed to the subscriber's (employer's) last address as shown by the records of the HMO. For group contracts issued to an employer, the notice requirements of this section are satisfied by providing notice to the employer [subsection (3)].

Section 4. Amends s.641.3922, F.S., relating to HMO conversion contracts, to specify that if termination of an employee's health insurance coverage is due to nonpayment of premium by the employer (group contract holder) and written notice of cancellation from the HMO was not provided to the employee by the employer, the following requirements apply:

(1) The 63-day time period within which the employee must apply for an individual conversion contract would *not* begin to run until the date the HMO mails notice of cancellation to the employee at the employee's last address as shown by the records of the HMO.

(2) The premium for the conversion contract would be at the previous group rate for the time period prior to the date the HMO mails notice to the employee. For the period of coverage after such date, the premium for the converted policy would be subject to the requirements of current law which provides that such premium may not exceed 200 percent of the standard risk rate as established by the Department of Insurance.

Section 5. Provides for an effective date of October 1, 1999, and shall apply to policies and contracts issued or renewed on or after that date.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Employees who are members of group health plans would benefit from the provision that protects their right to elect a conversion insurance policy under certain circumstances. Additionally, employees would be protected by the provision that limits the right of insurers and HMOs to retroactively cancel a group health insurance policy due to nonpayment of premium by an employer. Under current law, employees who are not notified of cancellation of their group policy may incur medical bills that are not covered. It may also compromise the employee's ability to obtain an individual conversion policy or other replacement coverage, due to the fact that an employee has only 63 days after the date of termination of eligibility for group coverage to apply for an individual conversion policy (s. 627.6675, F.S., for group health insurance and s. 641.3922, F.S., for group HMO contracts).

Insurers and HMO's would be required to expend funds and allocate administrative resources to meet the notice requirements imposed under the committee substitute. These entities would need to continually maintain a current listing of all employees under the group plan with their addresses should employee notification of contract cancellation become necessary.

Insurers and HMOs are unlikely to allow an employer to be more than 45 days late in paying a past due premium, before canceling the coverage, because the bill would prohibit retroactive cancellation after such time.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.