

**STORAGE NAME:** h0765.hcs

**DATE:** February 10, 2000

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

**BILL #:** HB 765

**RELATING TO:** Medicare Supplement Policy

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

**TIED BILL(S):**

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

- (1) HEALTH CARE SERVICES
  - (2) INSURANCE
  - (3) GENERAL GOVERNMENT APPROPRIATIONS
  - (4)
  - (5)
- 

**I. SUMMARY:**

HB 765 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's effective date is July 1, 2000.

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

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |                             |   |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/>            | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. 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.

C. EFFECT OF PROPOSED CHANGES:

HB 765 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."

D. 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, 2000, effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Unknown.

2. Expenditures:

Unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Unknown.

2. Expenditures:

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.

**STORAGE NAME:** h0765.hcs

**DATE:** February 10, 2000

**PAGE 4**

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:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

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

The Senate companion bill, SB 828, does not include employer Medicare supplement insurance. To conform with the companion bill, the House bill should be amended to delete that language.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:N/A

**STORAGE NAME:** h0765.hcs

**DATE:** February 10, 2000

**PAGE 5**

VII. SIGNATURES:

COMMITTEE ON Health Care Services:

Prepared by:

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Phil E. Williams

Staff Director:

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Phil E. Williams