

STORAGE NAME: h0765.in

DATE: March 24, 2000

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
INSURANCE
ANALYSIS**

BILL #: HB 765

RELATING TO: Medicare Supplement Policy

SPONSOR(S): Representative Hart

TIED BILL(S):

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

- (1) HEALTH CARE SERVICES YEAS 14 NAYS 0
 - (2) INSURANCE
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
-

I. SUMMARY:

HB 765 would exclude Medicare supplement insurance offered by employer groups and labor organizations from the definition of "Medicare supplement policy." As a result, employer groups or labor organizations would be able to negotiate with underwriters to develop a product that would apply on a nationwide basis, rather than having to conform policies specifically to Florida law. This would facilitate the issuance of multi-state policies by employer groups or labor organizations. Policies would still be required to conform to the laws of the state where the master policy is issued.

The bill would not have a fiscal impact on state or local government.

The Committee on Health Care Services adopted an amendment which is traveling with the bill. See Section VI. of this analysis.

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:

Part VIII of ch. 627, F.S., consisting of ss. 627.671-627.675, F.S., is the "Florida Medicare Supplement Reform Act," which regulates Medicare supplement insurance. A "Medicare supplement policy" is defined in s. 627.672(1), F.S., as a health insurance policy or other health benefit plan offered by a private entity to reimburse the policyholder for expenses incurred but not reimbursable under Medicare.

Prior to 1988, the definition of Medicare supplement policy contained a specific exemption for Medicare supplement policies provided by employer groups or labor organizations, thus making those Medicare supplement insurance policies exempt from state regulation. The exemption reportedly was removed because a model act recommended by the National Association of Insurance Commissioners (NAIC) contained no such exclusion. The current NAIC Medicare Supplement Insurance Minimum Standards Model Act now includes an exemption for policies issued by employer groups or labor organizations. 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.

The federal Social Security Act definition of "Medicare supplement policy" as found under 42 U.S.C. s.1395ss, subpart (g)(1), contains an exemption for policies issued by employer groups or labor organizations.

The Department of Insurance has promulgated rules regarding Medicare supplement insurance policies. Specifically, Rule 4-156.002(2), Florida Administrative Code, exempts policies or contracts for Medicare supplement insurance offered by employer groups or labor organizations from regulation, but the rule is superseded by statute.

Out-of-state insurers that issue Medicare supplement policies to Florida residents are required to file a master copy of the policy and any certificate used in the state with the DOI. Additionally, every insurer issuing this type of policy in the state is required to report to the DOI every policy and certificate number and the date of issuance. Insurers that offer Medicare supplement insurance also must meet certain marketing standards and follow certain provisions for issuance, cancellation, and nonrenewal. Additionally, insurers offering this type of insurance are required to file with the DOI rates and rating schedules and demonstrate compliance with the loss ratio standards set forth in s. 627.6745, F.S.

C. EFFECT OF PROPOSED CHANGES:

HB 765 would exclude Medicare supplement insurance offered by employer groups or labor organizations from the definition of "Medicare supplement policy." As a result, employer groups or labor organizations would be able to negotiate with underwriters to develop a policy for this type of coverage that would apply on a nationwide basis, rather than having to conform policies specifically to Florida law. This would facilitate issuance of multi-state policies by employer groups or labor organizations. Policies would still be required to conform to the laws of the state where the master policy is issued.

Florida law would conform with federal regulations, NAIC model acts, and the laws of 48 other states.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

While the DOI 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 DOI 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 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 DOI has regulated these plans as Medicare supplement insurance plans and required such plans to meet the statutes which govern Medicare supplement insurance.

2. Direct Private Sector Benefits:

An employer group or labor organization could negotiate coverage for its members or former members on a nationwide basis without being required to have a state-specific policy.

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:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

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On March 16, 2000, The Committee on Health Care Services adopted one amendment (page 1, lines 25-26), which deletes the exclusion of *employer* Medicare supplement insurance policies from the bill. As a result, such policies will remain subject to the Florida Medicare Supplement Reform Act. This revision also makes HB 765 identical to its Senate companion, SB 828.

VII. SIGNATURES:

COMMITTEE ON Health Care Services:

Prepared by:

Phil E. Williams

Staff Director:

Phil E. Williams

AS REVISED BY THE COMMITTEE ON INSURANCE:

Prepared by:

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