

By the Council for Competitive Commerce and
Representatives Farkas, Kravitz, Lynn and Gannon

1 A bill to be entitled
2 An act relating to health care; amending s.
3 627.6699, F.S.; revising a definition;
4 authorizing carriers to separate certain
5 experience groups for certain purposes;
6 providing limitations for rates under an
7 alternative modified community rating under
8 certain circumstances; requiring the Insurance
9 Commissioner to appoint a health benefit plan
10 committee to modify the standard, basic, and
11 flexible health benefit plans; prohibiting
12 small employer carriers from using certain
13 policies, contracts, forms, or rates unless
14 filed with and approved by the Department of
15 Insurance pursuant to certain provisions;
16 restricting application of certain laws to
17 flexible benefit policies under certain
18 circumstances; authorizing offering or
19 delivering flexible benefit policies or
20 contracts to certain employers; providing
21 requirements for benefits in flexible benefit
22 policies or contracts for small employers;
23 providing an effective date.

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25 WHEREAS, the Legislature recognizes that the increasing
26 number of uninsured Floridians is due in part to small
27 employers' and their employees' inability to afford
28 comprehensive health insurance coverage, and

29 WHEREAS, the Legislature recognizes the need for small
30 employers and their employees to have the opportunity to

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1 choose more affordable and flexible health insurance plans,
2 and

3 WHEREAS, it is the intent of the Legislature that
4 insurers and health maintenance organizations have maximum
5 flexibility in health plan design or in developing a health
6 plan design to complement a medical savings account program
7 established by a small employer for the benefit of its
8 employees, NOW, THEREFORE,

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10 Be It Enacted by the Legislature of the State of Florida:

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12 Section 1. Paragraph (m) of subsection (3), paragraph
13 (b) of subsection (6), paragraphs (a), (c), (d), and (e) of
14 subsection (12), and subsection (15) of section 627.6699,
15 Florida Statutes, are amended, and paragraphs (f) and (g) are
16 added to subsection (12) of said section, to read:

17 627.6699 Employee Health Care Access Act.--

18 (3) DEFINITIONS.--As used in this section, the term:

19 (m) "Flexible ~~Limited~~ benefit policy or contract"
20 means a policy or contract that provides coverage for each
21 person insured under the policy ~~for a specifically named~~
22 ~~disease or diseases, a specifically named accident, or a~~
23 ~~specifically named limited market~~ that fulfills a ~~an~~
24 ~~experimental or~~ reasonable need by providing more affordable
25 health insurance to a small employer or a small employer
26 health alliance under s. 627.654, such as the small group
27 ~~market.~~

28 (6) RESTRICTIONS RELATING TO PREMIUM RATES.--

29 (b) For all small employer health benefit plans that
30 are subject to this section and are issued by small employer
31 carriers on or after January 1, 1994, premium rates for health

1 benefit plans subject to this section are subject to the
2 following:

3 1. Small employer carriers must use a modified
4 community rating methodology in which the premium for each
5 small employer must be determined solely on the basis of the
6 eligible employee's and eligible dependent's gender, age,
7 family composition, tobacco use, or geographic area as
8 determined under paragraph (5)(j) and in which the premium may
9 be adjusted as permitted by subparagraphs 5. and 6.

10 2. Rating factors related to age, gender, family
11 composition, tobacco use, or geographic location may be
12 developed by each carrier to reflect the carrier's experience.
13 The factors used by carriers are subject to department review
14 and approval.

15 3. Small employer carriers may not modify the rate for
16 a small employer for 12 months from the initial issue date or
17 renewal date, unless the composition of the group changes or
18 benefits are changed. However, a small employer carrier may
19 modify the rate one time prior to 12 months after the initial
20 issue date for a small employer who enrolls under a previously
21 issued group policy that has a common anniversary date for all
22 employers covered under the policy if:

23 a. The carrier discloses to the employer in a clear
24 and conspicuous manner the date of the first renewal and the
25 fact that the premium may increase on or after that date.

26 b. The insurer demonstrates to the department that
27 efficiencies in administration are achieved and reflected in
28 the rates charged to small employers covered under the policy.

29 4. A carrier may issue a group health insurance policy
30 to a small employer health alliance or other group association
31 with rates that reflect a premium credit for expense savings

1 attributable to administrative activities being performed by
2 the alliance or group association if such expense savings are
3 specifically documented in the insurer's rate filing and are
4 approved by the department. Any such credit may not be based
5 on different morbidity assumptions or on any other factor
6 related to the health status or claims experience of any
7 person covered under the policy. Nothing in this subparagraph
8 exempts an alliance or group association from licensure for
9 any activities that require licensure under the insurance
10 code. A carrier issuing a group health insurance policy to a
11 small employer health alliance or other group association
12 shall allow any properly licensed and appointed agent of that
13 carrier to market and sell the small employer health alliance
14 or other group association policy. Such agent shall be paid
15 the usual and customary commission paid to any agent selling
16 the policy.

17 5. Any adjustments in rates for claims experience,
18 health status, or duration of coverage may not be charged to
19 individual employees or dependents. For a small employer's
20 policy, such adjustments may not result in a rate for the
21 small employer which deviates more than 15 percent from the
22 carrier's approved rate. Any such adjustment must be applied
23 uniformly to the rates charged for all employees and
24 dependents of the small employer. A small employer carrier may
25 make an adjustment to a small employer's renewal premium, not
26 to exceed 10 percent annually, due to the claims experience,
27 health status, or duration of coverage of the employees or
28 dependents of the small employer. Semiannually, small group
29 carriers shall report information on forms adopted by rule by
30 the department, to enable the department to monitor the
31 relationship of aggregate adjusted premiums actually charged

1 policyholders by each carrier to the premiums that would have
2 been charged by application of the carrier's approved modified
3 community rates. If the aggregate resulting from the
4 application of such adjustment exceeds the premium that would
5 have been charged by application of the approved modified
6 community rate by 5 percent for the current reporting period,
7 the carrier shall limit the application of such adjustments
8 only to minus adjustments beginning not more than 60 days
9 after the report is sent to the department. For any subsequent
10 reporting period, if the total aggregate adjusted premium
11 actually charged does not exceed the premium that would have
12 been charged by application of the approved modified community
13 rate by 5 percent, the carrier may apply both plus and minus
14 adjustments. A small employer carrier may provide a credit to
15 a small employer's premium based on administrative and
16 acquisition expense differences resulting from the size of the
17 group. Group size administrative and acquisition expense
18 factors may be developed by each carrier to reflect the
19 carrier's experience and are subject to department review and
20 approval.

21 6. A small employer carrier rating methodology may
22 include separate rating categories for one dependent child,
23 for two dependent children, and for three or more dependent
24 children for family coverage of employees having a spouse and
25 dependent children or employees having dependent children
26 only. A small employer carrier may have fewer, but not
27 greater, numbers of categories for dependent children than
28 those specified in this subparagraph.

29 7. Small employer carriers may not use a composite
30 rating methodology to rate a small employer with fewer than 10
31 employees. For the purposes of this subparagraph, a "composite

1 rating methodology" means a rating methodology that averages
2 the impact of the rating factors for age and gender in the
3 premiums charged to all of the employees of a small employer.

4 8.a. A carrier may separate the experience of small
5 employer groups with less than 2 eligible employees from the
6 experience of small employer groups with 2-50 eligible
7 employees for purposes of determining an alternative modified
8 community rating.

9 b. If a carrier separates the experience of small
10 employer groups as provided in sub-subparagraph a., the rate
11 to be charged to small employer groups of less than 2 eligible
12 employees may not exceed 150 percent of the rate determined
13 for small employer groups of 2-50 eligible employees. However,
14 the carrier may charge excess losses of the experience pool
15 consisting of small employer groups with less than 2 eligible
16 employees to the experience pool consisting of small employer
17 groups with 2-50 eligible employees so that all losses are
18 allocated and the 150-percent rate limit on the experience
19 pool consisting of small employer groups with less than 2
20 eligible employees is maintained. Notwithstanding s.

21 627.411(1), the rate to be charged to a small employer group
22 of fewer than 2 eligible employees, insured as of July 1,
23 2002, may be up to 125 percent of the rate determined for
24 small employer groups of 2-50 eligible employees for the first
25 annual renewal and 150 percent for subsequent annual renewals.

26 (12) STANDARD, BASIC, AND FLEXIBLE ~~LIMITED~~ HEALTH
27 BENEFIT PLANS.--

28 (a)1. By May 15, 1993, the commissioner shall appoint
29 a health benefit plan committee composed of four
30 representatives of carriers which shall include at least two
31 representatives of HMOs, at least one of which is a staff

1 model HMO, two representatives of agents, four representatives
2 of small employers, and one employee of a small employer. The
3 carrier members shall be selected from a list of individuals
4 recommended by the board. The commissioner may require the
5 board to submit additional recommendations of individuals for
6 appointment.

7 2. The plans shall comply with all of the requirements
8 of this subsection.

9 3. The plans must be filed with and approved by the
10 department prior to issuance or delivery by any small employer
11 carrier.

12 4. Before October 1, 2003, and in every fourth year
13 thereafter, the commissioner shall appoint a new health
14 benefit plan committee in the manner provided in subparagraph
15 1. to determine if modifications to a plan might be
16 appropriate and to submit recommended modifications to the
17 department for approval. Such determination shall be based
18 upon prevailing industry standards regarding managed care and
19 cost containment provisions and shall be for the purpose of
20 ensuring that the benefit plans offered to small employers on
21 a guaranteed issue basis are consistent with the low-priced to
22 mid-priced benefit plans offered in the large group market.
23 Each new health benefit plan committee shall evaluate the
24 implementation of this act and its impact on the entities that
25 provide the plans, the number of enrollees, the participants
26 covered by the plans and their access to care, the scope of
27 health care coverage offered under the plans, and an
28 assessment of the plans. This determination shall be included
29 in a report submitted to the President of the Senate and the
30 Speaker of the House of Representatives annually by October 1.
31 ~~After approval of the revised health benefit plans, if the~~

1 ~~department determines that modifications to a plan might be~~
2 ~~appropriate, the commissioner shall appoint a new health~~
3 ~~benefit plan committee in the manner provided in subparagraph~~
4 ~~i. to submit recommended modifications to the department for~~
5 ~~approval.~~

6 (c) If a small employer rejects, in writing, the
7 standard health benefit plan and the basic health benefit
8 plan, the small employer carrier may offer the small employer
9 a flexible ~~limited~~ benefit policy or contract.

10 (d)1. Upon offering coverage under a standard health
11 benefit plan, a basic health benefit plan, or a flexible
12 ~~limited~~ benefit policy or contract for any small employer, the
13 small employer carrier shall provide such employer group with
14 a written statement that contains, at a minimum:

15 a. An explanation of those mandated benefits and
16 providers that are not covered by the policy or contract;

17 b. An explanation of the managed care and cost control
18 features of the policy or contract, along with all appropriate
19 mailing addresses and telephone numbers to be used by insureds
20 in seeking information or authorization; and

21 c. An explanation of the primary and preventive care
22 features of the policy or contract.

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24 Such disclosure statement must be presented in a clear and
25 understandable form and format and must be separate from the
26 policy or certificate or evidence of coverage provided to the
27 employer group.

28 2. Before a small employer carrier issues a standard
29 health benefit plan, a basic health benefit plan, or a limited
30 benefit policy or contract, it must obtain from the
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1 prospective policyholder a signed written statement in which
2 the prospective policyholder:
3 a. Certifies as to eligibility for coverage under the
4 standard health benefit plan, basic health benefit plan, or
5 limited benefit policy or contract;
6 b. Acknowledges the limited nature of the coverage and
7 an understanding of the managed care and cost control features
8 of the policy or contract;
9 c. Acknowledges that if misrepresentations are made
10 regarding eligibility for coverage under a standard health
11 benefit plan, a basic health benefit plan, or a limited
12 benefit policy or contract, the person making such
13 misrepresentations forfeits coverage provided by the policy or
14 contract; and
15 d. If a flexible benefit policy or contract ~~limited~~
16 ~~plan~~ is requested, acknowledges that the prospective
17 policyholder had been offered, at the time of application for
18 the insurance policy or contract, the opportunity to purchase
19 any health benefit plan offered by the carrier and that the
20 prospective policyholder had rejected that coverage.
21
22 A copy of such written statement shall be provided to the
23 prospective policyholder no later than at the time of delivery
24 of the policy or contract, and the original of such written
25 statement shall be retained in the files of the small employer
26 carrier for the period of time that the policy or contract
27 remains in effect or for 5 years, whichever period is longer.
28 3. Any material statement made by an applicant for
29 coverage under a health benefit plan which falsely certifies
30 as to the applicant's eligibility for coverage serves as the
31 basis for terminating coverage under the policy or contract.

1 4. Each marketing communication that is intended to be
2 used in the marketing of a health benefit plan in this state
3 must be submitted for review by the department prior to use
4 and must contain the disclosures stated in this subsection.

5 5. The contract, policy, and certificates evidencing
6 coverage under a flexible benefit policy or contract and the
7 application for coverage under such plans must state in not
8 less than 10 point type on the first page in contrasting color
9 the following: "The benefits provided by this health plan are
10 limited and may not cover all of your medical needs. You
11 should carefully review the benefits offered under this health
12 plan."

13 (e) A small employer carrier may not use any policy,
14 contract, form, or rate under this section, including
15 applications, enrollment forms, policies, contracts,
16 certificates, evidences of coverage, riders, amendments,
17 endorsements, and disclosure forms, until the carrier insurer
18 has filed it with the department and the department has
19 approved it under ss. 627.410, ~~and~~ 627.411, and 641.31 and
20 this section.

21 (f) A flexible benefit policy or contract must have an
22 annual maximum benefit of \$10,000 or greater and such benefit
23 shall be disclosed in 10-point type in contrasting color.

24 (g) A mandatory offer for catastrophic coverage shall
25 be provided by the carriers to employers whenever a flexible
26 benefit policy of contract is offered.

27 (15) APPLICABILITY OF OTHER STATE LAWS.--

28 (a) Except as expressly provided in this section, a
29 law requiring coverage for a specific health care service or
30 benefit, or a law requiring reimbursement, utilization, or
31 consideration of a specific category of licensed health care

1 practitioner, does not apply to a standard or basic health
2 benefit plan policy or contract or a flexible ~~limited~~ benefit
3 policy or contract offered or delivered to a small employer
4 unless that law is made expressly applicable to such policies
5 or contracts. A law restricting or limiting deductibles,
6 coinsurance, copayments, or annual or lifetime maximum
7 payments does not apply to any health plan policy, including a
8 standard or basic health benefit plan policy or contract or a
9 flexible benefit policy or contract, offered or delivered to a
10 small employer unless such law is made expressly applicable to
11 such policy or contract. The provisions of s. 627.419(2), (3),
12 and (4) apply to a flexible benefit policy or contract offered
13 or delivered to a small employer.

14 (b) Except as provided in this section, a standard or
15 basic health benefit plan policy or contract or flexible
16 ~~limited~~ benefit policy or contract offered to a small employer
17 is not subject to any provision of this code which:

18 1. Inhibits a small employer carrier from contracting
19 with providers or groups of providers with respect to health
20 care services or benefits;

21 2. Imposes any restriction on a small employer
22 carrier's ability to negotiate with providers regarding the
23 level or method of reimbursing care or services provided under
24 a health benefit plan; or

25 3. Requires a small employer carrier to either include
26 a specific provider or class of providers when contracting for
27 health care services or benefits or to exclude any class of
28 providers that is generally authorized by statute to provide
29 such care.

30 (c) Any second tier assessment paid by a carrier
31 pursuant to paragraph (11)(j) may be credited against

1 assessments levied against the carrier pursuant to s.
2 627.6494.

3 (d) Notwithstanding chapter 641, a health maintenance
4 organization is authorized to issue contracts providing
5 benefits equal to the standard health benefit plan, the basic
6 health benefit plan, and the flexible ~~limited~~ benefit policy
7 authorized by this section.

8 Section 2. This act shall take effect October 1, 2002.

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