

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,

9  
10 Be It Enacted by the Legislature of the State of Florida:

11  
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.

23  
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. When any flexible benefit health  
 12 insurance policy or flexible benefit contract provides for the  
 13 payment for medical expense benefits or procedures, such  
 14 policy or contract shall be construed to include payment to a  
 15 licensed physician who provides the medical service benefits  
 16 or procedures which are within the scope of a licensed  
 17 physician's license. Any limitation or condition placed upon  
 18 payment to, or upon services, diagnosis, or treatment by, any  
 19 licensed physician shall apply equally to all licensed  
 20 physicians without unfair discrimination to the usual and  
 21 customary treatment procedures of any class of physicians.

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

26 1. Inhibits a small employer carrier from contracting  
 27 with providers or groups of providers with respect to health  
 28 care services or benefits;

29 2. Imposes any restriction on a small employer  
 30 carrier's ability to negotiate with providers regarding the  
 31

1 level or method of reimbursing care or services provided under  
2 a health benefit plan; or

3           3. Requires a small employer carrier to either include  
4 a specific provider or class of providers when contracting for  
5 health care services or benefits or to exclude any class of  
6 providers that is generally authorized by statute to provide  
7 such care.

8           (c) Any second tier assessment paid by a carrier  
9 pursuant to paragraph (11)(j) may be credited against  
10 assessments levied against the carrier pursuant to s.  
11 627.6494.

12           (d) Notwithstanding chapter 641, a health maintenance  
13 organization is authorized to issue contracts providing  
14 benefits equal to the standard health benefit plan, the basic  
15 health benefit plan, and the flexible ~~limited~~ benefit policy  
16 authorized by this section.

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

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