

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; including
12 coverage for diabetes treatment in certain
13 plans, policies, and contracts; revising
14 certain disclosure requirements; providing
15 additional notice requirements; prohibiting
16 small employer carriers from using certain
17 policies, contracts, forms, or rates unless
18 filed with and approved by the Department of
19 Insurance pursuant to certain provisions;
20 restricting application of certain laws to
21 flexible benefit policies under certain
22 circumstances; authorizing offering or
23 delivering flexible benefit policies or
24 contracts to certain employers; providing
25 requirements for benefits in flexible benefit
26 policies or contracts for small employers;
27 providing exemptions; providing an effective
28 date.

29
30 WHEREAS, the Legislature recognizes that the increasing
31 number of uninsured Floridians is due in part to small

1 employers' and their employees' inability to afford
2 comprehensive health insurance coverage, and

3 WHEREAS, the Legislature recognizes the need for small
4 employers and their employees to have the opportunity to
5 choose more affordable and flexible health insurance plans,
6 and

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

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Paragraph (m) of subsection (3), paragraph
17 (b) of subsection (6), and subsections (12) and (15) of
18 section 627.6699, Florida Statutes, are amended to read:

19 627.6699 Employee Health Care Access Act.--

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

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

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

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1 (b) For all small employer health benefit plans that
2 are subject to this section and are issued by small employer
3 carriers on or after January 1, 1994, premium rates for health
4 benefit plans subject to this section are subject to the
5 following:

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

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

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

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

29 b. The insurer demonstrates to the department that
30 efficiencies in administration are achieved and reflected in
31 the rates charged to small employers covered under the policy.

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

20 5. Any adjustments in rates for claims experience,
21 health status, or duration of coverage may not be charged to
22 individual employees or dependents. For a small employer's
23 policy, such adjustments may not result in a rate for the
24 small employer which deviates more than 15 percent from the
25 carrier's approved rate. Any such adjustment must be applied
26 uniformly to the rates charged for all employees and
27 dependents of the small employer. A small employer carrier may
28 make an adjustment to a small employer's renewal premium, not
29 to exceed 10 percent annually, due to the claims experience,
30 health status, or duration of coverage of the employees or
31 dependents of the small employer. Semiannually, small group

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

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

1 7. Small employer carriers may not use a composite
 2 rating methodology to rate a small employer with fewer than 10
 3 employees. For the purposes of this subparagraph, a "composite
 4 rating methodology" means a rating methodology that averages
 5 the impact of the rating factors for age and gender in the
 6 premiums charged to all of the employees of a small employer.

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

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

24 627.411(1), the rate to be charged to a small employer group
 25 of fewer than 2 eligible employees, insured as of July 1,
 26 2002, may be up to 125 percent of the rate determined for
 27 small employer groups of 2-50 eligible employees for the first
 28 annual renewal and 150 percent for subsequent annual renewals.

29 (12) STANDARD, BASIC, AND FLEXIBLE ~~LIMITED~~ HEALTH
 30 BENEFIT PLANS.--

1 (a)1. By May 15, 1993, the commissioner shall appoint
2 a health benefit plan committee composed of four
3 representatives of carriers which shall include at least two
4 representatives of HMOs, at least one of which is a staff
5 model HMO, two representatives of agents, four representatives
6 of small employers, and one employee of a small employer. The
7 carrier members shall be selected from a list of individuals
8 recommended by the board. The commissioner may require the
9 board to submit additional recommendations of individuals for
10 appointment.

11 2. The plans shall comply with all of the requirements
12 of this subsection.

13 3. The plans must be filed with and approved by the
14 department prior to issuance or delivery by any small employer
15 carrier.

16 4. Before October 1, 2002, and in every fourth year
17 thereafter, the commissioner shall appoint a new health
18 benefit plan committee in the manner provided in subparagraph
19 1. to determine if modifications to a plan might be
20 appropriate and to submit recommended modifications to the
21 department for approval. Such determination shall be based
22 upon prevailing industry standards regarding managed care and
23 cost containment provisions and shall be for the purpose of
24 ensuring that the benefit plans offered to small employers on
25 a guaranteed issue basis are consistent with the low-priced to
26 mid-priced benefit plans offered in the large group market.
27 Each new health benefit plan committee shall evaluate the
28 implementation of this act and its impact on the entities that
29 provide the plans, the number of enrollees, the participants
30 covered by the plans and their access to care, the scope of
31 health care coverage offered under the plans, and an

1 assessment of the plans. This determination shall be included
2 in a report submitted to the President of the Senate and the
3 Speaker of the House of Representatives annually by October 1.

4 ~~After approval of the revised health benefit plans, if the~~
5 ~~department determines that modifications to a plan might be~~
6 ~~appropriate, the commissioner shall appoint a new health~~
7 ~~benefit plan committee in the manner provided in subparagraph~~
8 ~~1. to submit recommended modifications to the department for~~
9 ~~approval.~~

10 (b)1. Each small employer carrier issuing new health
11 benefit plans shall offer to any small employer, upon request,
12 a standard health benefit plan and a basic health benefit plan
13 that meets the criteria set forth in this section.

14 2. For purposes of this subsection, the terms
15 "standard health benefit plan" and "basic health benefit plan"
16 mean policies or contracts that a small employer carrier
17 offers to eligible small employers that contain:

18 a. An exclusion for services that are not medically
19 necessary or that are not covered preventive health services;
20 and

21 b. A procedure for preauthorization by the small
22 employer carrier, or its designees.

23 3. A small employer carrier may include the following
24 managed care provisions in the policy or contract to control
25 costs:

26 a. A preferred provider arrangement or exclusive
27 provider organization or any combination thereof, in which a
28 small employer carrier enters into a written agreement with
29 the provider to provide services at specified levels of
30 reimbursement or to provide reimbursement to specified
31 providers. Any such written agreement between a provider and a

1 small employer carrier must contain a provision under which
2 the parties agree that the insured individual or covered
3 member has no obligation to make payment for any medical
4 service rendered by the provider which is determined not to be
5 medically necessary. A carrier may use preferred provider
6 arrangements or exclusive provider arrangements to the same
7 extent as allowed in group products that are not issued to
8 small employers.

9 b. A procedure for utilization review by the small
10 employer carrier or its designees.

11
12 This subparagraph does not prohibit a small employer carrier
13 from including in its policy or contract additional managed
14 care and cost containment provisions, subject to the approval
15 of the department, which have potential for controlling costs
16 in a manner that does not result in inequitable treatment of
17 insureds or subscribers. The carrier may use such provisions
18 to the same extent as authorized for group products that are
19 not issued to small employers.

20 4. The standard health benefit plan and any flexible
21 benefit policy or contract shall include:

- 22 a. Coverage for inpatient hospitalization;
23 b. Coverage for outpatient services;
24 c. Coverage for newborn children pursuant to s.
25 627.6575;
26 d. Coverage for child care supervision services
27 pursuant to s. 627.6579;
28 e. Coverage for adopted children upon placement in the
29 residence pursuant to s. 627.6578;
30 f. Coverage for mammograms pursuant to s. 627.6613;

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1 g. Coverage for handicapped children pursuant to s.
2 627.6615;

3 h. Emergency or urgent care out of the geographic
4 service area; ~~and~~

5 i. Coverage for services provided by a hospice
6 licensed under s. 400.602 in cases where such coverage would
7 be the most appropriate and the most cost-effective method for
8 treating a covered illness; and

9 j. Coverage for diabetes treatment services pursuant
10 to s. 627.65745.

11 5. The standard health benefit plan and the basic
12 health benefit plan may include a schedule of benefit
13 limitations for specified services and procedures. If the
14 committee develops such a schedule of benefits limitation for
15 the standard health benefit plan or the basic health benefit
16 plan, a small employer carrier offering the plan must offer
17 the employer an option for increasing the benefit schedule
18 amounts by 4 percent annually.

19 6. The basic health benefit plan shall include all of
20 the benefits specified in subparagraph 4.; however, the basic
21 health benefit plan shall place additional restrictions on the
22 benefits and utilization and may also impose additional cost
23 containment measures.

24 7. Sections 627.419(2), (3), and (4), 627.6574,
25 627.6612, 627.66121, 627.66122, 627.6616, 627.6618, 627.668,
26 and 627.66911 apply to the standard health benefit plan, to
27 any flexible benefit policy or contract, and to the basic
28 health benefit plan. However, notwithstanding said provisions,
29 the plans may specify limits on the number of authorized
30 treatments, if such limits are reasonable and do not
31 discriminate against any type of provider.

1 8. Each small employer carrier that provides for
2 inpatient and outpatient services by allopathic hospitals may
3 provide as an option of the insured similar inpatient and
4 outpatient services by hospitals accredited by the American
5 Osteopathic Association when such services are available and
6 the osteopathic hospital agrees to provide the service.

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

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

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

19 a.b. An outline of coverage together ~~explanation of~~
20 ~~the managed care and cost control features of the policy or~~
21 ~~contract, along with all appropriate mailing addresses and~~
22 ~~telephone numbers to be used by insureds in seeking~~
23 ~~information or authorization.~~ and

24 b.c. ~~An explanation of~~ The primary and preventive care
25 features of the policy or contract.

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

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1 ~~2. Before a small employer carrier issues a standard~~
2 ~~health benefit plan, a basic health benefit plan, or a limited~~
3 ~~benefit policy or contract, it must obtain from the~~
4 ~~prospective policyholder a signed written statement in which~~
5 ~~the prospective policyholder:~~

6 ~~a. Certifies as to eligibility for coverage under the~~
7 ~~standard health benefit plan, basic health benefit plan, or~~
8 ~~limited benefit policy or contract;~~

9 ~~c.b. Acknowledges~~ The limited nature of the coverage
10 and ~~an understanding of the managed care and cost control~~
11 ~~features of the policy or contract.~~

12 ~~c. Acknowledges that if misrepresentations are made~~
13 ~~regarding eligibility for coverage under a standard health~~
14 ~~benefit plan, a basic health benefit plan, or a limited~~
15 ~~benefit policy or contract, the person making such~~
16 ~~misrepresentations forfeits coverage provided by the policy or~~
17 ~~contract; and~~

18 2.d. If a flexible benefit policy or contract limited
19 plan is requested, the prospective policyholder must
20 acknowledge in writing ~~acknowledges~~ that he or she ~~the~~
21 ~~prospective policyholder~~ had been offered, at the time of
22 application for the insurance policy or contract, the
23 opportunity to purchase any health benefit plan offered by the
24 carrier and that the prospective policyholder had rejected
25 that coverage.

26
27 ~~A copy of such written statement shall be provided to the~~
28 ~~prospective policyholder no later than at the time of delivery~~
29 ~~of the policy or contract, and the original of such written~~
30 ~~statement shall be retained in the files of the small employer~~
31

1 ~~carrier for the period of time that the policy or contract~~
2 ~~remains in effect or for 5 years, whichever period is longer.~~

3 ~~3. Any material statement made by an applicant for~~
4 ~~coverage under a health benefit plan which falsely certifies~~
5 ~~as to the applicant's eligibility for coverage serves as the~~
6 ~~basis for terminating coverage under the policy or contract.~~

7 3.4. Each marketing communication that is intended to
8 be used in the marketing of a health benefit plan in this
9 state must be submitted for review by the department prior to
10 use and must contain the disclosures stated in this
11 subsection.

12 4. The contract, policy, and certificates evidencing
13 coverage under a flexible benefit policy or contract and the
14 application for coverage under such plans must state in not
15 less than 12-point bold type on the first page in contrasting
16 color the following: "The benefits provided by this health
17 plan are limited and may not cover all of your medical needs.
18 You should carefully review the benefits offered under this
19 health plan."

20 (e) A small employer carrier may not use any policy,
21 contract, form, or rate under this section, including
22 applications, enrollment forms, policies, contracts,
23 certificates, evidences of coverage, riders, amendments,
24 endorsements, and disclosure forms, until the carrier insurer
25 has filed it with the department and the department has
26 approved it under ss. 627.410, ~~and~~ 627.411, and 641.31 and
27 this section.

28 (f) A flexible benefit policy or contract must have an
29 annual maximum benefit of \$25,000 or greater and a lifetime
30 benefit of \$500,000 or greater and such benefit shall be
31 disclosed in 12-point bold type in contrasting color.

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

2 (a) Except as expressly provided in this section, a
3 law requiring coverage for a specific health care service or
4 benefit, or a law requiring reimbursement, utilization, or
5 consideration of a specific category of licensed health care
6 practitioner, does not apply to a standard or basic health
7 benefit plan policy or contract or a flexible ~~limited~~ benefit
8 policy or contract offered or delivered to a small employer
9 unless that law is made expressly applicable to such policies
10 or contracts. A law restricting or limiting deductibles,
11 coinsurance, copayments, or annual or lifetime maximum
12 payments does not apply to any health plan policy, including a
13 standard or basic health benefit plan policy or contract or a
14 flexible benefit policy or contract, offered or delivered to a
15 small employer unless such law is made expressly applicable to
16 such policy or contract. When any flexible benefit health
17 insurance policy or flexible benefit contract provides for the
18 payment for medical expense benefits or procedures, such
19 policy or contract shall be construed to include payment to a
20 licensed physician or licensed dentist who provides the
21 medical service benefits or procedures which are within the
22 scope of a licensed physician's or licensed dentist's license.
23 Any limitation or condition placed upon payment to, or upon
24 services, diagnosis, or treatment by, any licensed physician
25 or licensed dentist shall apply equally to all licensed
26 physicians or licensed dentists, respectively, without unfair
27 discrimination to the usual and customary treatment procedures
28 of any class of physicians or dentists.

29 (b) Except as provided in this section, a standard or
30 basic health benefit plan policy or contract or flexible

31

1 ~~limited~~ benefit policy or contract offered to a small employer
2 is not subject to any provision of this code which:

3 1. Inhibits a small employer carrier from contracting
4 with providers or groups of providers with respect to health
5 care services or benefits;

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

10 3. Requires a small employer carrier to either include
11 a specific provider or class of providers when contracting for
12 health care services or benefits or to exclude any class of
13 providers that is generally authorized by statute to provide
14 such care.

15 (c) Any second tier assessment paid by a carrier
16 pursuant to paragraph (11)(j) may be credited against
17 assessments levied against the carrier pursuant to s.
18 627.6494.

19 (d) Notwithstanding chapter 641, a health maintenance
20 organization is authorized to issue contracts providing
21 benefits to a small employer equal to the standard health
22 benefit plan, the basic health benefit plan, and the flexible
23 ~~limited~~ benefit policy authorized by this section. Flexible
24 benefit policies shall contain all provider provisions
25 required under chapter 641.

26 Section 2. The provisions of this act shall not apply
27 to coverage for newborn children, pursuant to s.627.641, F.S.,
28 maternity care, pursuant to s.627.6406, F.S., and
29 natural-born, adopted, and foster children, pursuant to
30 s.627.6415, F.S.

31 Section 3. This act shall take effect October 1, 2002.