

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Banking and Insurance Committee

BILL: CS/SB 2222

INTRODUCER: Banking and Insurance Committee and Senator Posey

SUBJECT: Health Insurance Policies

DATE: April 10, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	Deffenbaugh	BI	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 2222 provides individual health insurance policyholders with the right to designate at least one secondary person to receive a notice of termination of the policy. This bill requires health insurers to notify the policyholder of this right at least once every 2 years, on a specified form. If the policyholder does not elect this option, a specified waiver must be signed by the policyholder.

The bill defines “cognitive impairment” and states that if an individual health insurance policy is canceled or non-renewed due to nonpayment of premium, the policyholder is entitled to have the policy reinstated if, within a period of not less than 150 days after the date of cancellation, the policyholder or any secondary addressee demonstrates that the failure to pay the premium when due was unintentional and due to the cognitive impairment or loss of functional capacity of the policyholder. The policyholder must pay the overdue premiums in order to reinstate the policy and the insurer may impose an interest charge of not more than 8 percent per year. During this period the policy coverage continues if the demonstration of cognitive impairment is made.

The bill is modeled on requirements that currently apply to long-term care policies. However, certain requirements are not consistent with the requirements that apply to health insurance policies and refer to dates cited in the long-term care law that may not be appropriate.

This bill substantially amends section 627.6043 of the Florida Statutes.

II. Present Situation:

Individual Health Insurance Policies (Grace Period for Late Payment; Notice of Cancellation)

Grace Period - Current Florida law (s. 627.608, F.S.) requires that health insurers provide a 31-day grace period for late payment of premium for individual health insurance policies, except that a 10-day grace period is required for a monthly premium policy and a 7-day grace period is required for a weekly premium policy. This means that if the renewal premium is not paid on or before the date it is due, it may be paid during the grace period.

Notice of Cancellation - The current law (s. 627.6043, F.S.) also specifies the following requirements related to notice of cancellation, nonrenewal, or change in rates for individual health insurance policies:

- The policyholder must be given at least 45 days' advanced written notice of cancellation, non-renewal, or change in rates, except that 10 days' written notice is required if the cancellation is for non-payment of premium.
- If the insurer fails to provide the required 45 days' notice, the coverage remains in effect at the existing premium until 45 days after the notice is given or until the effective date of replacement coverage obtained by the insured, whichever occurs first.
- Notice of cancellation, non-renewal, or change in rates must be mailed to the policyholder's last shown address by the records of the insurer.
- Written notice of cancellation for nonpayment of premium is not required for health insurance policies for which premiums are payable monthly or more frequently and regularly collected by a licensed agent.
- In the event of cancellation, the insurer is required to return the unearned portion of any premium paid promptly.
- If the insured cancels, the earned premium must be computed by the use of the short-rate table last filed with the state insurance official where the insured resided when the policy was issued. If the insurer cancels, the earned premium must be computed pro rata.

Long-term Care Policies (Grace Period; Notice of Cancellation; Right to Designate a Secondary Person to Notify; Reinstatement)

Florida law establishes requirements for long-term care policies in Part XVIII of chapter 627, F.S. Long-term care refers to a broad range of supportive medical and personal services needed by people who are unable to meet their basic living needs for an extended period of time. Long-term care policies generally provide coverage for care in a nursing home and for specified lower levels of care, such as home health care.

Section 627.94073, F.S, includes requirements for long-term care policies regarding grace periods for late payment and notice of cancellation. It also provides protections against a policyholder unknowingly missing a payment or failing to read a notice by giving the policyholder an option to designate a second person to notify, as well as the opportunity to pay overdue premiums and reinstate a canceled policy, under certain conditions. These requirements are as follows:

Grace Period - A long-term care policy must provide a grace period of at least 30 days within which the premium may be paid after it is due. The insurer may impose an interest charge of up to 8 percent per year for the number of days payment is late.

Notice of Cancellation; Right to Designate Secondary Addressee

- After expiration of the grace period, an insurer must provide at least 30 days notice of cancellation for non-payment of premium.
- Notice of cancellation must be given by first class mail, postage prepaid, and may not be given until 30 days after a premium is due and unpaid. Notice is deemed to have been given as of 5 days after the date of mailing.
- The insurer must give applicants and policyholders the right to designate at least one person who is to receive the notice of termination, in addition to the insured. The insurer must notify the policyholder of this option at least once every 2 years and provide a form that must be executed by the policyholder.
- If the policyholder does not elect to designate a secondary addressee, a waiver of this right must be signed by the policyholder, as specified in the law.

Reinstatement of a Policy Canceled Due to Nonpayment

- If a policy is canceled due to nonpayment of premium, the policyholder is entitled to have the policy reinstated if, within a period of not less than 5 months after the date of cancellation, the policyholder or any secondary addressee demonstrates that the failure to pay the premium when due was unintentional and due to the cognitive impairment or loss of functional capacity of the policyholder.
- The standard of proof of cognitive impairment or loss of functional capacity may not be more stringent than the benefit eligibility criteria in the long-term care policy for cognitive impairment or the loss of functional capacity. A definition of cognitive impairment is provided.
- The policyholder must pay the overdue premiums in order to reinstate the policy. The insurer may impose an interest charge of not more than 8 percent per year, for the number of days payment is late. During this period the policy coverage continues if the demonstration of cognitive impairment is made.
- If the policy becomes a claim during the 180-day period (apparently referring to the 30 day grace period plus the 5 month period to reinstate) before the overdue premium is paid, the amount of the premium, plus allowable interest, may be deducted in any settlement under the policy.

III. Effect of Proposed Changes:

Section 1 establishes a right for individual health insurance policyholders to designate a secondary person to receive notice of termination of the policy and to reinstate a policy that has been terminated due to nonpayment of premium, under certain circumstances. This section provides health insurance policyholders with similar rights currently provided to long-term care policyholders, as described above. This bill provides:

- A health insurer must notify the policyholder at least once every two years of the policyholder's right to designate a secondary addressee to receive notice of termination of the policy. This applies to policies issued or renewed on or after October 1, 2007.

- The insurer must provide a form for the policyholder to designate the name and address of at least one other person to notify.
- If the policyholder does not elect to designate a secondary addressee, a waiver of this right must be signed by the policyholder, as specified in the law.
- Notice of cancellation or non-renewal due to non-payment of premium must be given by first class U.S. mail, postage prepaid, and notice may not be given until 30 days after a premium is due and unpaid.
- As used in the bill, “cognitive impairment” shall be defined as a deficiency in a person’s short-term or long-term memory; orientation as to person, place, and time; deductive or abstract reasoning; or judgment as it relates to safety awareness.
- If a policy is canceled due to nonpayment of premium, the policyholder is entitled to have the policy reinstated if, within a period of not less than 150 days after the date of cancellation or non-renewal, the policyholder or any secondary addressee demonstrates that the failure to pay the premium when due was unintentional and due to the cognitive impairment or loss of functional capacity of the policyholder.
- The policyholder must pay the overdue premiums in order to reinstate the policy. The insurer may impose an interest charge of not more than 8 percent per year, for the number of days payment is late. During this period the policy coverage continues if the demonstration of cognitive impairment is made.
- If the policy becomes a claim during the 180-day period (apparently referring to a 30 day grace period plus the 5 month period to reinstate) before the overdue premium is paid, the amount of the premium (plus allowable interest) may be deducted in any settlement under the policy.

The bill is modeled on requirements that apply to long-term care policies in s. 627.94073, F.S., but by doing so, refers to terms and requirements that are not consistent with health insurance policies. See, Technical Errors, below for more detail.

Section 2 provides that this act shall take effect October 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill provides protections to individual health insurance policyholders that may prevent cancellation due to nonpayment of premium and to reinstate coverage after cancellation due to cognitive impairment. The bill will impose administrative costs on health insurers to provide the required notice requirements. It will also require, under certain conditions, that health insurers pay claims incurred after a policy is canceled for nonpayment of premiums if coverage is reinstated.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
