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CHAMBER ACTION

Senate

House

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Floor: 1/AD/2R
4/23/2008 2:39 PM

1 Senator Gaetz moved the following **amendment**:

2
3 **Senate Amendment (with title amendment)**

4 Delete line(s) 85-301

5 and insert:

6 Section 3. Subsections (18) and (19) are added to section
7 627.6131, Florida Statutes, to read:

8 627.6131 Payment of claims.--

9 (18) Notwithstanding the 30-month period provided in
10 subsection (6), all claims for overpayment submitted to a
11 provider licensed under chapter 458, chapter 459, chapter 460,
12 chapter 461, or chapter 466 must be submitted to the provider
13 within 12 months after the health insurer's payment of the claim.
14 A claim for overpayment may not be permitted beyond 12 months
15 after the health insurer's payment of a claim, except that claims
16 for overpayment may be sought beyond that time from providers
17 convicted of fraud pursuant to s. 817.234.



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18 (19) Notwithstanding any other provision of this section,
19 all claims for underpayment from a provider licensed under
20 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
21 466 must be submitted to the insurer within 12 months after the
22 health insurer's payment of the claim. A claim for underpayment
23 may not be permitted beyond 12 months after the health insurer's
24 payment of a claim.

25 Section 4. Section 627.64731, Florida Statutes, is created
26 to read:

27 627.64731 Leasing, renting, or granting access to a
28 participating provider.--

29 (1) As used in this section, the term:

30 (a) "Contracting entity" means any person or entity that is
31 engaged in the act of contracting with participating providers
32 and has a direct contract with a participating provider for the
33 delivery of health care services or the selling or assigning of
34 physicians or physician panels to other health care entities.

35 (b) "Participating provider" means a physician licensed
36 under chapter 458, chapter 459, chapter 460, chapter 461, or
37 chapter 466, or a physician group practice that has a health care
38 contract with a contracting entity and is entitled to
39 reimbursement for health care services rendered to an enrollee
40 under the health care contract and includes both preferred
41 providers as defined in s. 627.6471 and exclusive providers as
42 defined in s. 627.6472.

43 (2) A contracting entity may not sell, lease, rent, or
44 otherwise grant access to the health care services of a
45 participating provider under a health care contract unless
46 expressly authorized by the health care contract. The health care
47 contract must specifically provide that it applies to network



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48 rental arrangements and state that one purpose of the contract is
49 selling, renting, or giving the contracting entity rights to the
50 services of the participating provider, including other preferred
51 provider organizations. At the time a health care contract is
52 entered into with a participating provider, the contracting
53 entity shall, to the extent possible, identify any third party to
54 which the contracting entity has granted access to the health
55 care services of the participating provider. The contracting
56 entity may sell, lease, rent, or otherwise grant access to the
57 participating provider's services only to a third party that is:
58 (a) A payer or a third-party administrator or other entity
59 responsible for administering claims on behalf of the payer;
60 (b) A preferred provider organization or preferred provider
61 network that receives access to the participating provider's
62 services pursuant to an arrangement with the preferred provider
63 organization or preferred provider network in a contract with the
64 participating provider and that is required to comply with all of
65 the terms, conditions, and affirmative obligations to which the
66 originally contracted primary participating provider network is
67 bound under its contract with the participating provider,
68 including, but not limited to, obligations concerning patient
69 steerage and the timeliness and manner of reimbursement; or
70 (c) An entity that is engaged in the business of providing
71 electronic claims transport between the contracting entity and
72 the payer or third-party administrator and that complies with all
73 of the applicable terms, conditions, and affirmative obligations
74 of the contracting entity's contract with the participating
75 provider including, but not limited to, obligations concerning
76 patient steerage and the timeliness and manner of reimbursement.



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77 (3) Upon a request by a participating provider, a
78 contracting entity must provide the identity of any third party
79 that has been granted access to the health care services of the
80 participating provider.

81 (4) A contracting entity that leases, rents, or otherwise
82 grants access to the health care services of a participating
83 provider must maintain an Internet website or a toll-free
84 telephone number through which the provider may obtain a listing,
85 updated at least every 90 days, of the third parties that have
86 been granted access to the provider's health care services.

87 (5) A contracting entity that leases, rents, or otherwise
88 grants access to a participating provider's health care services
89 must ensure that an explanation of benefits or remittance advice
90 furnished to the participating provider that delivers health care
91 services under the health care contract identifies the
92 contractual source of any applicable discount.

93 (6) Subject to applicable continuity-of-care laws, the
94 right of a third party to exercise the rights and
95 responsibilities of a contracting entity under a health care
96 contract terminates on the day following the termination of the
97 participating provider's contract with the contracting entity.

98 (7) The provisions of this section do not apply if the
99 third party that is granted access to a participating provider's
100 health care services under a health care contract is:

101 (a) An employer or other entity providing coverage for
102 health care services to the employer's employees or the entity's
103 members and the employer or entity has a contract with the
104 contracting entity or the contracting entity's affiliate for the
105 administration or processing of claims for payment or services
106 provided under the health care contract;



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107 (b) An entity providing administrative services to, or
108 receiving administrative services from, the contracting entity or
109 the contracting entity's affiliate or subsidiary; or

110 (c) An affiliate or a subsidiary of a contracting entity,
111 or other entity if operating under the same brand licensee
112 program as the contracting entity.

113 (8) A health care contract may provide for arbitration of
114 disputes arising under this section.

115 (9) A contracting entity shall ensure that all third
116 parties to which the contracting entity has sold, rented,
117 assigned, or otherwise given access to the participating
118 provider's discounted rate comply with the physician contract,
119 including all requirements to encourage access to the
120 participating provider, and pay the provider pursuant to the
121 rates of payment and methodology set forth in that contract,
122 unless otherwise agreed to by a participating provider.

123 (10) A contracting entity is deemed in compliance with this
124 section when the insured's identification card provides
125 information, written or electronically, which identifies the
126 preferred provider network or networks to be used to reimburse
127 the provider for covered services.

128 (11) This section does not apply to a contract between a
129 contracting entity and a discount medical plan organization
130 licensed or exempt under part II of chapter 636.

131 Section 5. Subsections (11), (12), and (13) of section
132 627.662, Florida Statutes, are renumbered as subsections (12),
133 (13), and (14), respectively, and a new subsection (11) is added
134 to that section, to read:



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135 627.662 Other provisions applicable.--The following
136 provisions apply to group health insurance, blanket health
137 insurance, and franchise health insurance:

138 (11) Section 627.64731, relating to leasing, renting, or
139 granting access to a participating provider.

140 Section 6. Paragraph (v) of subsection (3) of section
141 627.6699, Florida Statutes, is amended to read:

142 627.6699 Employee Health Care Access Act.--

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

144 (v) "Small employer" means, in connection with a health
145 benefit plan with respect to a calendar year and a plan year, any
146 person, sole proprietor, self-employed individual, independent
147 contractor, firm, corporation, partnership, or association that
148 is actively engaged in business, has its principal place of
149 business in this state, employed an average of at least 1 but not
150 more than 50 eligible employees on business days during the
151 preceding calendar year the majority of whom were employed in
152 this state, and employs at least 1 employee on the first day of
153 the plan year, and is not formed primarily for purposes of
154 purchasing insurance. In determining the number of eligible
155 employees, companies that are an affiliated group as defined in
156 s. 1504(a) of the Internal Revenue Code of 1986, as amended, are
157 considered a single employer. For purposes of this section, a
158 sole proprietor, an independent contractor, or a self-employed
159 individual is considered a small employer only if all of the
160 conditions and criteria established in this section are met.

161 Section 7. Subsection (41) is added to section 641.31,
162 Florida Statutes, to read:

163 641.31 Health maintenance contracts.--



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164 (41) Whenever, in any health maintenance organization claim
165 form, a subscriber specifically authorizes payment of benefits
166 directly to any contracted hospital, ambulance provider,
167 physician, or dentist, the health maintenance organization shall
168 make such payment to the designated provider of such services if
169 any benefits are due to the subscriber under the terms of the
170 agreement between the subscriber and the health maintenance
171 organization. The health maintenance organization contract may
172 not prohibit, and claims forms must provide an option for, the
173 payment of benefits directly to a licensed hospital, ambulance
174 provider, physician, or dentist for covered services provided,
175 for services provided pursuant to s. 395.1041, and for ambulance
176 transport and treatment provided pursuant to part III of chapter
177 401. The attestation of assignment of benefits may be in written
178 or electronic form. Payment to the provider from the health
179 maintenance organization may not be more than the amount that the
180 insurer would otherwise have paid without the assignment. This
181 subsection does not affect the applicability of ss. 641.3154 and
182 641.513 with respect to services provided and payment for such
183 services provided pursuant to the subsection.

184 Section 8. Subsections (16) and (17) are added to section
185 641.3155, Florida Statutes, to read:

186 641.3155 Prompt payment of claims.--

187 (16) Notwithstanding the 30-month period provided in
188 subsection (5), all claims for overpayment submitted to a
189 provider licensed under chapter 458, chapter 459, chapter 460,
190 chapter 461, or chapter 466 must be submitted to the provider
191 within 12 months after the health maintenance organization's
192 payment of the claim. A claim for overpayment may not be
193 permitted beyond 12 months after the health maintenance



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194 organization's payment of a claim, except that claims for
195 overpayment may be sought beyond that time from providers
196 convicted of fraud pursuant to s. 817.234.

197 (17) Notwithstanding any other provision of this section,
198 all claims for underpayment from a provider licensed under
199 chapter 458, chapter 459, chapter 460, chapter 461, or chapter
200 466 must be submitted to the health maintenance organization
201 within 12 months after the health maintenance organization's
202 payment of the claim. A claim for underpayment may not be
203 permitted beyond 12 months after the health maintenance
204 organization's payment of a claim.

205 Section 9. This act shall take effect November 1, 2008, and
206 applies to contracts entered into, issued, or renewed on or after
207 that date, and the amendments made by this act to ss. 627.6131
208 and 641.3155, Florida Statutes, apply to claims payments made on
209 or after November 1, 2008.

210
211 ===== T I T L E A M E N D M E N T =====

212 And the title is amended as follows:

213 Delete line(s) 12-39

214 and insert:

215 for the delivery of health care services; amending s.
216 627.6131, F.S.; requiring claims for overpayment and
217 underpayment be submitted to the provider within a certain
218 timeframe; providing exceptions; creating s. 627.64731,
219 F.S.; providing definitions; providing requirements,
220 limitations, and procedures for leasing, renting, or
221 granting access to participating providers by third
222 parties; providing exceptions; providing for arbitration;
223 providing for application; amending s. 627.662, F.S.;



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224 | expanding the list of sections applicable to certain types
225 | of insurance; amending s. 627.6699, F.S.; revising the
226 | definition of the term "small employer" with regard to the
227 | Employee Health Care Access Act; amending s. 641.31, F.S.;
228 | requiring health maintenance organizations to pay benefits
229 | directly to certain providers under certain circumstances;
230 | prohibiting health maintenance contracts from prohibiting
231 | and requiring claims forms to provide the option for
232 | payment of benefits directly to certain providers;
233 | amending s. 641.3155, F.S.; providing time limitations for
234 | and prohibitions against submitting certain claims for
235 | overpayment and claims for underpayment; providing for
236 | applicability; providing an effective date.