

By Senator Peaden

2-03282-08

20082534__

1 A bill to be entitled
2 An act relating to health insurance; amending s. 408.909,
3 F.S.; expanding the definition of "health flex plan" to
4 include those who purchase coverage as an individual;
5 authorizing a health flex plan to limit or exclude certain
6 provider network requirements; providing that a health
7 flex plan offering may include the option of a
8 catastrophic plan supplementing the health flex plan;
9 revising requirements for eligibility to enroll in a
10 health flex plan; extending the date of expiration of
11 certain provisions of state law regarding health flex
12 plans; amending s. 409.811, F.S.; expanding the definition
13 of "premium assistance payment" to include the direct
14 payment of the premium for a qualifying child to be
15 covered as a dependent under an employer-sponsored group
16 family plan when such payment does not exceed the payment
17 required for an enrollee in the Florida Kidcare program;
18 amending s. 627.6562, F.S.; requiring that certain health
19 insurance policies insure a dependent child of the
20 policyholder or certificateholder for a specified period
21 under certain conditions; limiting certain coverage
22 requirements; preserving certain rights of insurers,
23 employers, and health maintenance organizations; providing
24 that dependent children meeting certain criteria may,
25 within a specified period, make a written election to
26 reinstate coverage, without proof of insurability, under
27 that plan as a dependent child; providing for coverage for
28 certain other dependent children; providing that a plan
29 may require the payment of a premium by the insured or

2-03282-08

20082534__

30 dependent child, subject to the approval of the Office of
31 Insurance Regulation, for any period of coverage relating
32 to a dependent's written election of coverage; requiring
33 that notice be sent to an insured regarding the
34 reinstatement of coverage for a dependent child; providing
35 requirements for such notice; limiting the application of
36 certain provisions of state law to certain insurance
37 policies; amending s. 627.602, F.S.; requiring that
38 policies insuring dependent children of a policyholder
39 comply with certain provisions of state law; amending ss.
40 641.31, 627.653, and 627.6699, F.S.; requiring that all
41 health maintenance contracts providing coverage for a
42 member of the subscriber's family comply with certain
43 provisions of state law; requiring that, for all policies
44 issued or renewed after a specified date, all eligible
45 employees and their dependents be enrolled for coverage at
46 the time of issuance of a policy or during the next open
47 or special enrollment period, unless the employer chooses
48 otherwise or the employee provides written notice to the
49 employer declining coverage; requiring that such notice
50 contain certain information; requiring that such notice be
51 retained by the employer as part of the employee's
52 employment or insurance file; authorizing an employer to
53 require its employees to participate in its group health
54 plan as a condition of employment; providing effective
55 dates.

56
57 Be It Enacted by the Legislature of the State of Florida:
58

2-03282-08

20082534__

59 Section 1. Paragraph (e) of subsection (2) and subsections
60 (3), (5), and (10) of section 408.909, Florida Statutes, are
61 amended to read:

62 408.909 Health flex plans.--

63 (2) DEFINITIONS.--As used in this section, the term:

64 (e) "Health flex plan" means a health plan approved under
65 subsection (3) which guarantees payment for specified health care
66 coverage provided to the enrollee who purchases coverage directly
67 from the plan as an individual or as a small business, or through
68 a small business purchasing arrangement sponsored by a local
69 government.

70 (3) PROGRAM.--The agency and the office shall each approve
71 or disapprove health flex plans that provide health care coverage
72 for eligible participants. A health flex plan may limit or
73 exclude benefits or provider network requirements otherwise
74 required by law for insurers offering coverage in this state, may
75 cap the total amount of claims paid per year per enrollee, may
76 limit the number of enrollees, or may take any combination of
77 those actions. A health flex plan offering may include the option
78 of a catastrophic plan or a catastrophic plan supplementing the
79 health flex plan.

80 (a) The agency shall develop guidelines for the review of
81 applications for health flex plans and shall disapprove or
82 withdraw approval of plans that do not meet or no longer meet
83 minimum standards for quality of care and access to care. The
84 agency shall ensure that the health flex plans follow
85 standardized grievance procedures similar to those required of
86 health maintenance organizations.

2-03282-08

20082534__

87 (b) The office shall develop guidelines for the review of
88 health flex plan applications and provide regulatory oversight of
89 health flex plan advertisement and marketing procedures. The
90 office shall disapprove or shall withdraw approval of plans that:

91 1. Contain any ambiguous, inconsistent, or misleading
92 provisions or any exceptions or conditions that deceptively
93 affect or limit the benefits purported to be assumed in the
94 general coverage provided by the health flex plan;

95 2. Provide benefits that are unreasonable in relation to
96 the premium charged or contain provisions that are unfair or
97 inequitable or contrary to the public policy of this state, that
98 encourage misrepresentation, or that result in unfair
99 discrimination in sales practices;

100 3. Cannot demonstrate that the health flex plan is
101 financially sound and that the applicant is able to underwrite or
102 finance the health care coverage provided; or

103 4. Cannot demonstrate that the applicant and its management
104 are in compliance with the standards required under s.
105 624.404(3).

106 (c) The agency and the Financial Services Commission may
107 adopt rules as needed to administer this section.

108 (5) ELIGIBILITY.--Eligibility to enroll in an approved
109 health flex plan is limited to residents of this state who:

110 (a) 1. Are 64 years of age or younger;

111 2. ~~(b)~~ Have a family income equal to or less than 300 ~~200~~
112 percent of the federal poverty level;

113 ~~(c) Are eligible under a federally approved Medicaid~~
114 ~~demonstration waiver and reside in Palm Beach County or Miami-~~
115 ~~Dade County;~~

2-03282-08

20082534__

116 3.(d) Are not covered by a private insurance policy and are
117 not eligible for coverage through a public health insurance
118 program, such as Medicare or Medicaid, ~~unless specifically~~
119 ~~authorized under paragraph (c)~~, or another public health care
120 program, such as Kidcare, and have not been covered at any time
121 during the past 6 months; and

122 4.(e) Have applied for health care coverage through an
123 approved health flex plan and have agreed to make any payments
124 required for participation, including periodic payments or
125 payments due at the time health care services are provided.

126 (b) Are part of an employer group in which at least 75
127 percent of the employees have a family income equal to or less
128 than 300 percent of the federal poverty level, and the employee
129 group is not covered by a private health insurance policy and has
130 not been covered at any time during the immediately preceding 6
131 months. If the health flex plan entity is a health insurer,
132 health plan, or health maintenance organization properly licensed
133 under Florida law, only 50 percent of the employees must meet the
134 income requirements of this paragraph.

135 (10) EXPIRATION.--This section expires July 1, 2014 ~~2008~~.

136 Section 2. Subsection (22) of section 409.811, Florida
137 Statutes, is amended to read:

138 409.811 Definitions relating to Florida Kidcare Act.--As
139 used in ss. 409.810-409.820, the term:

140 (22) "Premium assistance payment" means the monthly
141 consideration paid by the agency per enrollee in the Florida
142 Kidcare program towards health insurance premiums and may include
143 the direct payment of the premium for a qualifying child to be
144 covered as a dependent under an employer-sponsored group family

2-03282-08

20082534__

145 plan, when such payment does not exceed the payment required for
146 an enrollee in the program.

147 Section 3. Section 627.6562, Florida Statutes, is amended
148 to read:

149 627.6562 Dependent coverage.--

150 (1) If an insurer offers coverage under a group, blanket,
151 or franchise health insurance policy that insures dependent
152 children of the policyholder or certificateholder, the policy
153 must insure a dependent child of the policyholder or
154 certificateholder at least until the end of the calendar year in
155 which the child reaches the age of 30 ~~25~~, if the child ~~meets all~~
156 ~~of the following:~~

157 (a) Is unmarried and does not have a dependent of his or
158 her own; ~~The child is dependent upon the policyholder or~~
159 ~~certificateholder for support.~~

160 (b) Is a resident of this state; and ~~The child is living in~~
161 ~~the household of the policyholder or certificateholder, or the~~
162 ~~child is a full-time or part-time student.~~

163 (c) Is not actually provided coverage as a named
164 subscriber, insured, enrollee, or covered person under any other
165 group, blanket, or franchise health insurance policy or
166 individual health benefits plan, or is not entitled to benefits
167 under Title XVIII of the Social Security Act.

168 (2) ~~Nothing in~~ This section does not:

169 (a) Affect or preempt ~~affects or preempts~~ an insurer's
170 right to medically underwrite or charge the appropriate premium.

171 (b) Require coverage for services provided to a dependent
172 before October 1, 2008.

2-03282-08

20082534__

173 (c) Require that an employer pay all or part of the cost of
174 coverage provided for a dependent under this section.

175 (d) Prohibit an insurer or health maintenance organization
176 from increasing the limiting age for dependent coverage to age 30
177 for policies or contracts issued or renewed before October 1,
178 2008.

179 (3) Until April 1, 2009, a dependent child who qualifies
180 for coverage under subsection (1) but whose coverage as a
181 dependent child under a insured's plan terminated under the terms
182 of the plan before October 1, 2008, may make a written election
183 to reinstate coverage, without proof of insurability, under that
184 plan as a dependent child. All other dependent children who
185 qualify for coverage under subsection (1) shall be automatically
186 covered at least until the end of the calendar year in which the
187 child reaches age 30, unless the insured provides the group
188 policyholder with written evidence that the dependent child is
189 married, is not a resident of Florida, is covered under a
190 separate comprehensive health insurance policy, is covered under
191 a health benefit plan, or is entitled to benefits under Title
192 XVIII of the Social Security Act.

193 (4) The insured's plan may require the payment of a premium
194 by the insured or dependent child, as appropriate, subject to the
195 approval of the Office of Insurance Regulation, for any period of
196 coverage relating to a dependent's written election of coverage
197 pursuant to paragraph (3).

198 (5) Notice regarding the reinstatement of coverage for a
199 dependent child as provided in this section must be provided to
200 an insured in the certificate of coverage prepared for such
201 insureds by the insurer or by the insured's employer. The notice

2-03282-08

20082534__

202 regarding the opportunity for reinstatement of coverage for a
203 dependent child shall be given as soon as practicable after July
204 1, 2008, and such notice may be given through the group
205 policyholder.

206 (6) This section does not apply to accident only,
207 specified-disease, disability income, Medicare supplement, or
208 long-term-care insurance policies.

209 (7) This section applies to all group, blanket, or
210 franchise health insurance policies covering residents of this
211 state, including, but not limited to, policies in which the
212 carrier has reserved the right to change the premium.

213 Section 4. Paragraph (c) of subsection (1) of section
214 627.602, Florida Statutes, is amended to read:

215 627.602 Scope, format of policy.--

216 (1) Each health insurance policy delivered or issued for
217 delivery to any person in this state must comply with all
218 applicable provisions of this code and all of the following
219 requirements:

220 (c) The policy may purport to insure only one person,
221 except that upon the application of an adult member of a family,
222 who is deemed to be the policyholder, a policy may insure, either
223 originally or by subsequent amendment, any eligible members of
224 that family, including husband, wife, any children or any person
225 dependent upon the policyholder. If an insurer offers coverage
226 for dependent children of the policyholder, such policy must
227 comply with the provisions of s. 627.6562.

228 Section 5. Subsections (41) and (42) are added to section
229 641.31, Florida Statutes, to read:

230 641.31 Health maintenance contracts.--

2-03282-08

20082534__

231 (41) All health maintenance contracts providing coverage
232 for a member of the subscriber's family must comply with the
233 provisions of s. 627.6562.

234 (42) Unless the employer chooses otherwise, for all
235 policies issued or renewed after October 1, 2008, all eligible
236 employees and their dependents shall be enrolled for coverage at
237 the time of issuance or during the next open or special
238 enrollment period, unless the employee provides written notice to
239 the employer declining coverage. Such notice must include
240 evidence of coverage under an existing group insurance policy or
241 group health benefit plan, or reasons for declining coverage.
242 Such notice shall be retained by the employer as part of the
243 employee's employment or insurance file. An employer may require
244 its employees to participate in its group health plan as a
245 condition of employment.

246 Section 6. Present subsection (4) of section 627.653,
247 Florida Statutes, is renumbered as subsection (5), and a new
248 subsection (4) is added to that section, to read:

249 627.653 Employee groups.--

250 (4) Unless the employer chooses otherwise, for all policies
251 issued or renewed after October 1, 2008, all eligible employees
252 and their dependents shall be enrolled for coverage at the time
253 of issuance or during the next open or special enrollment period,
254 unless the employee provides written notice to the employer
255 declining coverage. Such notice must include evidence of coverage
256 under an existing group insurance policy or group health benefit
257 plan, or reasons for declining coverage. Such notice shall be
258 retained by the employer as part of the employee's employment or
259 insurance file. An employer may require its employees to

2-03282-08

20082534__

260 participate in its group health plan as a condition of
261 employment.

262 Section 7. Paragraph (h) of subsection (5) of section
263 627.6699, Florida Statutes, is amended to read:

264 627.6699 Employee Health Care Access Act.--

265 (5) AVAILABILITY OF COVERAGE.--

266 (h) All health benefit plans issued under this section must
267 comply with the following conditions:

268 1. For employers who have fewer than two employees, a late
269 enrollee may be excluded from coverage for no longer than 24
270 months if he or she was not covered by creditable coverage
271 continually to a date not more than 63 days before the effective
272 date of his or her new coverage.

273 2. Any requirement used by a small employer carrier in
274 determining whether to provide coverage to a small employer
275 group, including requirements for minimum participation of
276 eligible employees and minimum employer contributions, must be
277 applied uniformly among all small employer groups having the same
278 number of eligible employees applying for coverage or receiving
279 coverage from the small employer carrier, except that a small
280 employer carrier that participates in, administers, or issues
281 health benefits pursuant to s. 381.0406 which do not include a
282 preexisting condition exclusion may require as a condition of
283 offering such benefits that the employer has had no health
284 insurance coverage for its employees for a period of at least 6
285 months. A small employer carrier may vary application of minimum
286 participation requirements and minimum employer contribution
287 requirements only by the size of the small employer group.

2-03282-08

20082534__

288 3. Unless the employer chooses otherwise, for all policies
289 issued or renewed after October 1, 2008, all eligible employees
290 and their dependents shall be enrolled for coverage at the time
291 of issuance or during the next open or special enrollment period,
292 unless the employee provides written notice to the employer
293 declining coverage. Such notice must include evidence of coverage
294 under an existing group insurance policy or group health benefit
295 plan, or reasons for declining coverage. Such notice shall be
296 retained by the employer as part of the employee's employment or
297 insurance file. An employer may require its employees to
298 participate in its group health plan as a condition of
299 employment.

300 ~~4.3.~~ In applying minimum participation requirements with
301 respect to a small employer, a small employer carrier shall not
302 consider as an eligible employee employees or dependents who have
303 qualifying existing coverage in an employer-based group insurance
304 plan or an ERISA qualified self-insurance plan in determining
305 whether the applicable percentage of participation is met.
306 However, a small employer carrier may count eligible employees
307 and dependents who have coverage under another health plan that
308 is sponsored by that employer.

309 ~~5.4.~~ A small employer carrier shall not increase any
310 requirement for minimum employee participation or any requirement
311 for minimum employer contribution applicable to a small employer
312 at any time after the small employer has been accepted for
313 coverage, unless the employer size has changed, in which case the
314 small employer carrier may apply the requirements that are
315 applicable to the new group size.

2-03282-08

20082534__

316 ~~6.5.~~ If a small employer carrier offers coverage to a small
317 employer, it must offer coverage to all the small employer's
318 eligible employees and their dependents. A small employer carrier
319 may not offer coverage limited to certain persons in a group or
320 to part of a group, except with respect to late enrollees.

321 ~~7.6.~~ A small employer carrier may not modify any health
322 benefit plan issued to a small employer with respect to a small
323 employer or any eligible employee or dependent through riders,
324 endorsements, or otherwise to restrict or exclude coverage for
325 certain diseases or medical conditions otherwise covered by the
326 health benefit plan.

327 ~~8.7.~~ An initial enrollment period of at least 30 days must
328 be provided. An annual 30-day open enrollment period must be
329 offered to each small employer's eligible employees and their
330 dependents. A small employer carrier must provide special
331 enrollment periods as required by s. 627.65615.

332 Section 8. This act shall take effect upon becoming a law,
333 except that sections 2, 3, and 4 shall take effect October 1,
334 2008, and shall apply to all individual, group, blanket, and
335 franchise health insurance policies issued or amended on or after
336 that date.