

By Senator Justice

16-00313-09

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1 A bill to be entitled
 2 An act relating to health insurance; amending s.
 3 627.410, F.S.; establishing a minimum loss ratio for
 4 health insurance forms; amending s. 627.411, F.S.;
 5 revising the loss ratio for certain health insurance
 6 coverage; amending s. 627.6745, F.S.; revising the
 7 loss ratio for Medicare supplement policies issued on
 8 or after a certain date; amending s. 627.9407, F.S.;
 9 establishing a minimum loss ratio for long-term care
 10 insurance policies; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Paragraph (b) of subsection (6) and subsections
 15 (7) and (8) of section 627.410, Florida Statutes, are amended to
 16 read:

17 627.410 Filing, approval of forms.—

18 (6)

19 (b) The commission may ~~establish by rule;~~ ~~for each type of~~
 20 ~~health insurance form,~~

21 1. Establish procedures for to be used in ascertaining the
 22 relationship between reasonableness of benefits in relation to
 23 premium rates for each type of health insurance form, including
 24 Medicare supplement policies as defined in s. 627.672, long-term
 25 care policies as defined in s. 627.9404, and other policy forms
 26 where more than 50 percent of the policies are issued to
 27 individuals age 65 and older. and may, by rule,

28 2. Exempt from any requirement of paragraph (a) any health
 29 insurance policy form or type thereof ~~(as specified in such~~

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30 ~~rule)~~ to which form or type ~~such~~ requirements may not be
 31 practically applied or to which ~~form or type~~ the application of
 32 such requirements is not desirable or necessary for the
 33 protection of the public. ~~For~~ With respect to any health
 34 insurance policy form or type that ~~thereof which~~ is exempted by
 35 ~~rule from any requirement of paragraph (a),~~ premium rates filed
 36 pursuant to ss. 627.640 and 627.662 are ~~shall be~~ for
 37 informational purposes.

38 (7) ~~(a)~~ Each insurer subject to ~~the requirements of~~
 39 subsection (6) shall make an annual filing with the office
 40 within no later than 12 months after its previous filing
 41 supporting the, ~~demonstrating the reasonableness of benefits in~~
 42 relation to premium rates charged in relation to benefits for
 43 each insurance form. Upon ~~The office,~~ after receiving a request
 44 to be exempted from the provisions of this section, the office
 45 may, for good cause due to insignificant numbers of policies in
 46 force or insignificant premium volume, exempt a company, by line
 47 of coverage, from filing rates or rate certification as required
 48 by this section.

49 ~~(a)(b)~~ The filing is ~~required by this subsection~~ shall be
 50 satisfied by one of the following methods:

51 1. A rate filing prepared by an actuary which contains
 52 documentation supporting premium rates charged in relation to
 53 benefits ~~demonstrating the reasonableness of benefits in~~
 54 ~~relation to premiums charged~~ in accordance with ~~the~~ applicable
 55 rating laws and rules adopted ~~promulgated~~ by the commission.

56 2. If no rate change is proposed, the ~~a~~ filing ~~which~~
 57 consists of a certification by an actuary supporting premium
 58 rates charged in relation to benefits ~~that benefits are~~

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59 ~~reasonable in relation to premiums currently charged~~ in
60 accordance with applicable laws and rules adopted ~~promulgated~~ by
61 the commission.

62 ~~(b)(e)~~ As used in this section, "actuary" means ~~an~~
63 ~~individual who is~~ a member of the Society of Actuaries or the
64 American Academy of Actuaries. If an insurer does not employ or
65 otherwise retain the services of an actuary, the insurer's
66 certification must ~~shall~~ be prepared by insurer personnel or
67 consultants who have ~~with~~ a minimum of 5 years' experience in
68 insurance ratemaking. The chief executive officer of the insurer
69 must ~~shall~~ review and sign the certification indicating his or
70 her agreement with its conclusions.

71 ~~(c)(d)~~ If at the time a filing is due ~~required under this~~
72 ~~section~~ an insurer is in the process of completing a rate
73 review, the insurer may apply to the office for an extension of
74 up to ~~an additional~~ 30 days in which to make the filing. The
75 request for an extension must be received by the office by ~~no~~
76 ~~later than~~ the date the filing is due.

77 ~~(d)(e)~~ If an insurer ~~fails to meet the filing requirements~~
78 ~~of this subsection and~~ does not submit the filing within 60 days
79 following the date the filing is due, the office may, in
80 addition to any other penalty authorized by law, order the
81 insurer to discontinue issuing ~~the issuance of~~ policies subject
82 to the filing ~~for which the required filing was not made,~~ until
83 ~~such time as the office determines that~~ the required filing is
84 properly submitted.

85 (8) ~~(a)~~ For the purposes of subsections (6) and (7),
86 ~~benefits of an individual accident and health insurance policy~~
87 ~~form, including Medicare supplement policies as defined in s.~~

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88 ~~627.672, when authorized by rules adopted by the commission, and~~
89 ~~excluding long term care insurance policies as defined in s.~~
90 ~~627.9404, and other policy forms under which more than 50~~
91 ~~percent of the policies are issued to individuals age 65 and~~
92 ~~over,~~ are deemed to be reasonable in relation to premium rates
93 if the rates are filed pursuant to a loss ratio guarantee of at
94 least 85 percent and both the initial rates and the durational
95 and lifetime loss ratios have been approved by the office. ~~and~~
96 Such benefits shall also ~~continue to~~ be deemed reasonable for
97 renewal rates if ~~while~~ the insurer complies with the loss ratio
98 ~~such~~ guarantee and, ~~provided~~ the currently expected lifetime
99 loss ratio is not more than 5 percent less than the filed
100 lifetime loss ratio as certified ~~to~~ by an actuary.

101 (a) The office may ~~shall have the right to~~ bring an
102 administrative action if it determines ~~should it deem~~ that the
103 lifetime loss ratio will not be met. For Medicare supplement
104 filings, the office may withdraw a previously approved filing
105 ~~which was~~ made pursuant to a loss ratio guarantee if it
106 determines that the filing is not in compliance with ss.
107 627.671-627.675 or the currently expected lifetime loss ratio is
108 less than the filed lifetime loss ratio as certified by an
109 actuary in the initial guaranteed loss ratio filing. If this
110 section conflicts with ss. 627.671-627.675, ss. 627.671-627.675
111 shall control.

112 (b) The renewal premium rates shall be deemed to be
113 approved upon filing with the office if the filing is
114 accompanied by a ~~the most~~ current approved loss ratio guarantee
115 of at least 85 percent. The loss ratio guarantee must ~~shall~~ be
116 in writing, ~~shall~~ be signed by an officer of the insurer, and

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117 ~~shall~~ contain at least:

118 1. A recitation of the anticipated lifetime and durational
119 target loss ratios contained in the actuarial memorandum filed
120 with the policy form when it was originally approved. The
121 durational target loss ratios shall be calculated for 1-year
122 experience periods. If statutory changes have rendered any
123 portion of the ~~such~~ actuarial memorandum obsolete, the loss
124 ratio guarantee shall also include an amendment to the actuarial
125 memorandum reflecting current law and containing new lifetime
126 and durational loss ratio targets.

127 2. A guarantee that the applicable loss ratios for the
128 experience period in which the new rates will take effect, and
129 for each experience period thereafter until new rates are filed,
130 will meet the loss ratios referred to in subparagraph 1.

131 3. A guarantee that the applicable loss ratio results for
132 the experience period will be independently audited at the
133 insurer's expense. The audit must ~~shall~~ be performed in the
134 second calendar quarter of the year following the end of the
135 experience period, and the audited results must ~~shall~~ be
136 reported to the office by ~~no later than~~ the end of such quarter.
137 The commission shall establish by rule the minimum information
138 reasonably necessary to be included in the report. The audit
139 must ~~shall~~ be done in accordance with accepted accounting and
140 actuarial principles.

141 4. A guarantee that affected policyholders in this state
142 shall be issued a proportional refund, based on the premium
143 earned, of the amount necessary to bring the applicable
144 experience period loss ratio up to the durational target loss
145 ratio referred to in subparagraph 1. The refund shall be made to

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146 all policyholders ~~in this state~~ who are insured under the
147 applicable policy form as of the last day of the experience
148 period, except that no refund need be made ~~to a policyholder~~ in
149 an amount less than \$10. Refunds less than \$10 shall be
150 aggregated and paid pro rata to the policyholders receiving
151 refunds. The refund shall include interest at the then-current
152 variable loan interest rate for life insurance policies
153 established by the National Association of Insurance
154 Commissioners, calculated from the end of the experience period
155 until the date of payment. Payments must ~~shall~~ be made during
156 the third calendar quarter of the year following the experience
157 period for which a refund is determined to be due. However, no
158 refunds shall be made until 60 days after the filing of the
159 audit report in order for ~~that~~ the office to have ~~has~~ adequate
160 time to review the report.

161 5. A guarantee that if the applicable loss ratio exceeds
162 the durational target loss ratio for that experience period by
163 more than 20 percent and, ~~provided~~ there are at least 2,000
164 policyholders on the form nationwide or, if not, then
165 accumulated each calendar year until 2,000 policyholder years is
166 reached, the insurer, if directed by the office, shall withdraw
167 the policy form for the purposes of issuing new policies.

168 (c) As used in this subsection:

169 1. "Loss ratio" means the ratio of incurred claims to
170 earned premium.

171 2. "Applicable loss ratio" means the loss ratio
172 attributable solely to this state if there are 2,000 or more
173 policyholders in the state. If there are 500 or more
174 policyholders in this state but less than 2,000, it is the

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175 linear interpolation of the nationwide loss ratio and the loss
176 ratio for this state. If there are less than 500 policyholders
177 in this state, it is the nationwide loss ratio.

178 3. "Experience period" means the period, ordinarily a
179 calendar year, for which a loss ratio guarantee is calculated.

180 Section 2. Subsection (3) of section 627.411, Florida
181 Statutes, is amended to read:

182 627.411 Grounds for disapproval.—

183 (3) ~~(a)~~ For health insurance coverage as described in s.
184 627.6561(5)(a)2., the minimum loss ratio standard of incurred
185 claims to earned premium for the form shall be 85 ~~65~~ percent.

186 ~~(b)~~ Incurred claims are claims occurring within a fixed
187 period, whether or not paid during the same period, under the
188 terms of the policy period.

189 (a)1. Claims include scheduled benefit payments or services
190 provided by a provider or through a provider network for dental,
191 vision, disability, and similar health benefits.

192 (b)2. Claims do not include state assessments, taxes,
193 company expenses, or any expense incurred by the company for the
194 cost of adjusting and settling a claim, including the review,
195 qualification, oversight, management, or monitoring of a claim
196 or incentives or compensation to providers for other than the
197 provisions of health care services.

198 (c)3. A company may ~~at its discretion~~ include costs that
199 are demonstrated to reduce claims, such as fraud intervention
200 programs or case management costs, which are identified in each
201 filing, are demonstrated to reduce claims costs, and do not
202 result in increasing the experience period loss ratio by more
203 than 5 percent.

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204 (d)4- For scheduled claim payments, such as disability
205 income or long-term care, the incurred claims shall be the
206 present value of the benefit payments discounted for continuance
207 and interest.

208 Section 3. Subsection (1) of section 627.6745, Florida
209 Statutes, is amended to read:

210 627.6745 Loss ratio standards; public rate hearings.-

211 (1) Medicare supplement policies shall return the following
212 to policyholders in the form of aggregate benefits under the
213 policy, with respect to the lifetime of the policy, on the basis
214 of earned premiums and on the basis of incurred claims
215 experience or, if coverage is provided by a health maintenance
216 organization based on service rather than reimbursement,
217 incurred health care expenses, and in accordance with accepted
218 actuarial principles and practices:

219 (a) At least 85 ~~75~~ percent of the aggregate amount of
220 premiums earned in the case of group policies.

221 (b) For individual policies issued or renewed before ~~prior~~
222 ~~to~~ July 1, 1989, at least 60 percent of the aggregate amount of
223 premiums earned; ~~and~~ for individual policies issued or renewed
224 on or after July 1, 1989, but before October 1, 2009, at least
225 65 percent of the aggregate amount of premiums earned; and for
226 policies issued on or after October 1, 2009, at least 85 percent
227 of the aggregate amount of premiums earned. For the purposes of
228 this section, policies issued as a result of soliciting
229 ~~solicitations of~~ individuals through the mail or by mass media
230 advertising are ~~shall be~~ deemed to be individual policies.

231 Section 4. Subsection (6) of section 627.9407, Florida
232 Statutes, is amended to read:

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233 627.9407 Disclosure, advertising, and performance standards
234 for long-term care insurance.—

235 (6) LOSS RATIO AND RESERVE STANDARDS.—The commission shall
236 adopt rules establishing loss ratio and reserve standards for
237 long-term care insurance policies. Such loss ratios may not be
238 less than 85 percent. The rules must contain a specific
239 reference to long-term care insurance policies. Such loss ratio
240 and reserve standards shall be established at levels at which
241 benefits are reasonable in relation to premiums and that provide
242 for adequate reserving of the long-term care insurance risk.

243 Section 5. This act shall take effect July 1, 2009.