

By Senator Sobel

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1                   A bill to be entitled  
2           An act relating to antiretroviral drugs; amending ss.  
3           409.912 and 627.6265, F.S.; prohibiting limitations on  
4           the prescribing of antiretroviral drugs for treating  
5           human immunodeficiency virus infection; amending s.  
6           627.6515, F.S.; conforming provisions to changes made  
7           by the act; creating ss. 627.65736 and 641.31093,  
8           F.S.; prohibiting health insurance policies and health  
9           maintenance organizations from limiting the  
10          prescribing of antiretroviral drugs for treating human  
11          immunodeficiency virus infection; providing an  
12          effective date.

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

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16           Section 1. Subsection (54) is added to section 409.912,  
17 Florida Statutes, to read:

18           409.912 Cost-effective purchasing of health care.—The  
19 agency shall purchase goods and services for Medicaid recipients  
20 in the most cost-effective manner consistent with the delivery  
21 of quality medical care. To ensure that medical services are  
22 effectively utilized, the agency may, in any case, require a  
23 confirmation or second physician's opinion of the correct  
24 diagnosis for purposes of authorizing future services under the  
25 Medicaid program. This section does not restrict access to  
26 emergency services or poststabilization care services as defined  
27 in 42 C.F.R. part 438.114. Such confirmation or second opinion  
28 shall be rendered in a manner approved by the agency. The agency  
29 shall maximize the use of prepaid per capita and prepaid

31-00797A-10

20101132

30 aggregate fixed-sum basis services when appropriate and other  
31 alternative service delivery and reimbursement methodologies,  
32 including competitive bidding pursuant to s. 287.057, designed  
33 to facilitate the cost-effective purchase of a case-managed  
34 continuum of care. The agency shall also require providers to  
35 minimize the exposure of recipients to the need for acute  
36 inpatient, custodial, and other institutional care and the  
37 inappropriate or unnecessary use of high-cost services. The  
38 agency shall contract with a vendor to monitor and evaluate the  
39 clinical practice patterns of providers in order to identify  
40 trends that are outside the normal practice patterns of a  
41 provider's professional peers or the national guidelines of a  
42 provider's professional association. The vendor must be able to  
43 provide information and counseling to a provider whose practice  
44 patterns are outside the norms, in consultation with the agency,  
45 to improve patient care and reduce inappropriate utilization.  
46 The agency may mandate prior authorization, drug therapy  
47 management, or disease management participation for certain  
48 populations of Medicaid beneficiaries, certain drug classes, or  
49 particular drugs to prevent fraud, abuse, overuse, and possible  
50 dangerous drug interactions. The Pharmaceutical and Therapeutics  
51 Committee shall make recommendations to the agency on drugs for  
52 which prior authorization is required. The agency shall inform  
53 the Pharmaceutical and Therapeutics Committee of its decisions  
54 regarding drugs subject to prior authorization. The agency is  
55 authorized to limit the entities it contracts with or enrolls as  
56 Medicaid providers by developing a provider network through  
57 provider credentialing. The agency may competitively bid single-  
58 source-provider contracts if procurement of goods or services

31-00797A-10

20101132

59 results in demonstrated cost savings to the state without  
60 limiting access to care. The agency may limit its network based  
61 on the assessment of beneficiary access to care, provider  
62 availability, provider quality standards, time and distance  
63 standards for access to care, the cultural competence of the  
64 provider network, demographic characteristics of Medicaid  
65 beneficiaries, practice and provider-to-beneficiary standards,  
66 appointment wait times, beneficiary use of services, provider  
67 turnover, provider profiling, provider licensure history,  
68 previous program integrity investigations and findings, peer  
69 review, provider Medicaid policy and billing compliance records,  
70 clinical and medical record audits, and other factors. Providers  
71 shall not be entitled to enrollment in the Medicaid provider  
72 network. The agency shall determine instances in which allowing  
73 Medicaid beneficiaries to purchase durable medical equipment and  
74 other goods is less expensive to the Medicaid program than long-  
75 term rental of the equipment or goods. The agency may establish  
76 rules to facilitate purchases in lieu of long-term rentals in  
77 order to protect against fraud and abuse in the Medicaid program  
78 as defined in s. 409.913. The agency may seek federal waivers  
79 necessary to administer these policies.

80 (54) Notwithstanding any other provision of this section,  
81 antiretroviral drugs prescribed to treat human immunodeficiency  
82 virus infection must be included on a provider's formulary and  
83 may not be restricted through a requirement for prior  
84 authorization, a step-therapy approval process, or other  
85 limitation that restricts access to antiretroviral drugs.

86 Section 2. Section 627.6265, Florida Statutes, is amended  
87 to read:

31-00797A-10

20101132

88           627.6265 HIV infection ~~Cancellation or nonrenewal~~  
89 ~~prohibited.~~-

90           (1) Notwithstanding any other provision of law to the  
91 ~~contrary, an~~ no insurer may not ~~shall~~ cancel or nonrenew the  
92 health insurance policy of an ~~any~~ insured because of diagnosis  
93 or treatment of human immunodeficiency virus infection or  
94 acquired immune deficiency syndrome.

95           (2) Antiretroviral drugs prescribed to treat the human  
96 immunodeficiency virus infection of an insured must be included  
97 on a health plan formulary and may not be restricted through a  
98 requirement for prior authorization, a step-therapy approval  
99 process, or other limitation that restricts access to  
100 antiretroviral drugs.

101           Section 3. Paragraph (c) of subsection (2) of section  
102 627.6515, Florida Statutes, is amended to read:

103           627.6515 Out-of-state groups.-

104           (2) Except as otherwise provided in this part, this part  
105 does not apply to a group health insurance policy issued or  
106 delivered outside this state under which a resident of this  
107 state is provided coverage if:

108           (c) The policy provides the benefits specified in ss.  
109 627.419, 627.65736, 627.6574, 627.6575, 627.6579, 627.6612,  
110 627.66121, 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and  
111 627.66911.

112           Section 4. Section 627.65736, Florida Statutes, is created  
113 to read:

114           627.65736 HIV infection.-Antiretroviral drugs prescribed to  
115 treat the human immunodeficiency virus infection of an insured  
116 must be included on a health plan formulary and may not be

31-00797A-10

20101132\_\_

117 restricted through a requirement for prior authorization, a  
118 step-therapy approval process, or other limitation that  
119 restricts access to antiretroviral drugs.

120 Section 5. Section 641.31093, Florida Statutes, is created  
121 to read:

122 641.31093 HIV infection.—Antiretroviral drugs prescribed to  
123 treat the human immunodeficiency virus infection of a subscriber  
124 must be included on a health plan formulary and may not be  
125 restricted through a requirement for prior authorization, a  
126 step-therapy approval process, or other limitation that  
127 restricts access to antiretroviral drugs.

128 Section 6. This act shall take effect July 1, 2010.