1 A bill to be entitled
2 An act relating to health insurance; amending s. 409.912,
3 F.S.; requiring certain entities to include all
4 antiretroviral agents on their formularies; prohibiting
5 such entities from using access-limiting procedures to
6 restrict antiretroviral agents prescribed to treat a
7 person with HIV; creating ss. 627.6404, 627.6572, and
8 641.31093, F.S.; requiring all antiretroviral agents to be
9 included on health plan formularies; prohibiting access-
10 limiting procedures used to restrict antiretroviral agents
11 prescribed to treat a person with HIV; amending s.
12 627.6515, F.S.; including reference to such requirements
13 on policies issued by out-of-state groups; providing an
14 effective date.
15
16 Be It Enacted by the Legislature of the State of Florida:
17
18 Section 1. Subsection (54) is added to section 409.912,
19 Florida Statutes, to read:
20 409.912 Cost-effective purchasing of health care.—The
21 agency shall purchase goods and services for Medicaid recipients
22 in the most cost-effective manner consistent with the delivery
23 of quality medical care. To ensure that medical services are
24 effectively utilized, the agency may, in any case, require a
25 confirmation or second physician's opinion of the correct
26 diagnosis for purposes of authorizing future services under the
27 Medicaid program. This section does not restrict access to
28 emergency services or poststabilization care services as defined

29 in 42 C.F.R. part 438.114. Such confirmation or second opinion
30 shall be rendered in a manner approved by the agency. The agency
31 shall maximize the use of prepaid per capita and prepaid
32 aggregate fixed-sum basis services when appropriate and other
33 alternative service delivery and reimbursement methodologies,
34 including competitive bidding pursuant to s. 287.057, designed
35 to facilitate the cost-effective purchase of a case-managed
36 continuum of care. The agency shall also require providers to
37 minimize the exposure of recipients to the need for acute
38 inpatient, custodial, and other institutional care and the
39 inappropriate or unnecessary use of high-cost services. The
40 agency shall contract with a vendor to monitor and evaluate the
41 clinical practice patterns of providers in order to identify
42 trends that are outside the normal practice patterns of a
43 provider's professional peers or the national guidelines of a
44 provider's professional association. The vendor must be able to
45 provide information and counseling to a provider whose practice
46 patterns are outside the norms, in consultation with the agency,
47 to improve patient care and reduce inappropriate utilization.
48 The agency may mandate prior authorization, drug therapy
49 management, or disease management participation for certain
50 populations of Medicaid beneficiaries, certain drug classes, or
51 particular drugs to prevent fraud, abuse, overuse, and possible
52 dangerous drug interactions. The Pharmaceutical and Therapeutics
53 Committee shall make recommendations to the agency on drugs for
54 which prior authorization is required. The agency shall inform
55 the Pharmaceutical and Therapeutics Committee of its decisions
56 regarding drugs subject to prior authorization. The agency is

57 authorized to limit the entities it contracts with or enrolls as
58 Medicaid providers by developing a provider network through
59 provider credentialing. The agency may competitively bid single-
60 source-provider contracts if procurement of goods or services
61 results in demonstrated cost savings to the state without
62 limiting access to care. The agency may limit its network based
63 on the assessment of beneficiary access to care, provider
64 availability, provider quality standards, time and distance
65 standards for access to care, the cultural competence of the
66 provider network, demographic characteristics of Medicaid
67 beneficiaries, practice and provider-to-beneficiary standards,
68 appointment wait times, beneficiary use of services, provider
69 turnover, provider profiling, provider licensure history,
70 previous program integrity investigations and findings, peer
71 review, provider Medicaid policy and billing compliance records,
72 clinical and medical record audits, and other factors. Providers
73 shall not be entitled to enrollment in the Medicaid provider
74 network. The agency shall determine instances in which allowing
75 Medicaid beneficiaries to purchase durable medical equipment and
76 other goods is less expensive to the Medicaid program than long-
77 term rental of the equipment or goods. The agency may establish
78 rules to facilitate purchases in lieu of long-term rentals in
79 order to protect against fraud and abuse in the Medicaid program
80 as defined in s. 409.913. The agency may seek federal waivers
81 necessary to administer these policies.
82 (54) Any entity that provides Medicaid services on a
83 prepaid or fixed-sum basis shall include all antiretroviral
84 agents on its formulary and may not restrict antiretroviral

85 agents prescribed to treat a person with HIV through a
86 requirement for prior authorization, step therapy, or other
87 limitation that limits access to any antiretroviral agent.
88 Section 2. Section 627.6404, Florida Statutes, is created
89 to read:
90 627.6404 HIV treatment.—Antiretroviral agents prescribed
91 to treat a person with HIV must be included on a health plan
92 formulary and may not be restricted through a requirement for
93 prior authorization, step therapy, or other limitation that
94 limits access to any antiretroviral agent.
95 Section 3. Subsection (2) of section 627.6515, Florida
96 Statutes, is amended to read:
97 627.6515 Out-of-state groups.—
98 (2) Except as otherwise provided in this part, this part
99 does not apply to a group health insurance policy issued or
100 delivered outside this state under which a resident of this
101 state is provided coverage if:
102 (a) The policy is issued to an employee group the
103 composition of which is substantially as described in s.
104 627.653; a labor union group or association group the
105 composition of which is substantially as described in s.
106 627.654; an additional group the composition of which is
107 substantially as described in s. 627.656; a group insured under
108 a blanket health policy when the composition of the group is
109 substantially in compliance with s. 627.659; a group insured
110 under a franchise health policy when the composition of the
111 group is substantially in compliance with s. 627.663; an
112 association group to cover persons associated in any other

113 common group, which common group is formed primarily for
114 purposes other than providing insurance; a group that is
115 established primarily for the purpose of providing group
116 insurance, provided the benefits are reasonable in relation to
117 the premiums charged thereunder and the issuance of the group
118 policy has resulted, or will result, in economies of
119 administration; or a group of insurance agents of an insurer,
120 which insurer is the policyholder.;
121 (b) Certificates evidencing coverage under the policy are
122 issued to residents of this state and contain in contrasting
123 color and not less than 10-point type the following statement:
124 "The benefits of the policy providing your coverage are governed
125 primarily by the law of a state other than Florida".; and
126 (c) The policy provides the benefits specified in ss.
127 627.419, 627.6572, 627.6574, 627.6575, 627.6579, 627.6612,
128 627.66121, 627.66122, 627.6613, 627.667, 627.6675, 627.6691, and
129 627.66911.
130 (d) Applications for certificates of coverage offered to
131 residents of this state must contain, in contrasting color and
132 not less than 12-point type, the following statement on the same
133 page as the applicant's signature:
134
135 "This policy is primarily governed by the laws of ...insert
136 state where the master policy if filed.... As a result, all of
137 the rating laws applicable to policies filed in this state do
138 not apply to this coverage, which may result in increases in
139 your premium at renewal that would not be permissible under a
140 Florida-approved policy. Any purchase of individual health

141 insurance should be considered carefully, as future medical
142 conditions may make it impossible to qualify for another
143 individual health policy. For information concerning individual
144 health coverage under a Florida-approved policy, consult your
145 agent or the Florida Department of Financial Services."
146
147 This paragraph applies only to group certificates providing
148 health insurance coverage which require individualized
149 underwriting to determine coverage eligibility for an individual
150 or premium rates to be charged to an individual except for the
151 following:
152 1. Policies issued to provide coverage to groups of
153 persons all of whom are in the same or functionally related
154 licensed professions, and providing coverage only to such
155 licensed professionals, their employees, or their dependents;
156 2. Policies providing coverage to small employers as
157 defined by s. 627.6699. Such policies shall be subject to, and
158 governed by, the provisions of s. 627.6699;
159 3. Policies issued to a bona fide association, as defined
160 by s. 627.6571(5), provided that there is a person or board
161 acting as a fiduciary for the benefit of the members, and such
162 association is not owned, controlled by, or otherwise associated
163 with the insurance company; or
164 4. Any accidental death, accidental death and
165 dismemberment, accident-only, vision-only, dental-only, hospital
166 indemnity-only, hospital accident-only, cancer, specified
167 disease, Medicare supplement, products that supplement Medicare,
168 long-term care, or disability income insurance, or similar

169 supplemental plans provided under a separate policy,
170 certificate, or contract of insurance, which cannot duplicate
171 coverage under an underlying health plan, coinsurance, or
172 deductibles or coverage issued as a supplement to workers'
173 compensation or similar insurance, or automobile medical-payment
174 insurance.
175 Section 4. Section 627.6572, Florida Statutes, is created
176 to read:
177 627.6572 HIV treatment.—Antiretroviral agents prescribed
178 to treat a person with HIV must be included on a health plan
179 formulary and may not be restricted through a requirement for
180 prior authorization, step therapy, or other limitation that
181 limits access to any antiretroviral agent.
182 Section 5. Section 641.31093, Florida Statutes, is created
183 to read:
184 641.31093 HIV treatment.—Antiretroviral agents prescribed
185 to treat a person with HIV must be included on a health plan
186 formulary and may not be restricted through a requirement for
187 prior authorization, step therapy, or other limitation that
188 limits access to any antiretroviral agent.
189 Section 6. This act shall take effect July 1, 2010.