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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/22/2011	.	
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The Committee on Health Regulation (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (4) is added to section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(4) WELLNESS OR HEALTH IMPROVEMENT PROGRAMS.—

(a) Authorization to offer rewards or incentives for participation.—An insurer issuing a group or individual health benefit plan may offer a voluntary wellness or health



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13 improvement program and may encourage or reward participation in
14 the program by authorizing rewards or incentives, including, but
15 not limited to, merchandise, gift cards, debit cards, premium
16 discounts or rebates, contributions to a member's health savings
17 account, or modifications to copayment, deductible, or
18 coinsurance amounts. Any advertisement of the program is not
19 subject to the limitations set forth in paragraph (1)(m).

20 (b) Verification of medical condition by nonparticipants
21 due to medical condition.—An insurer may require a health
22 benefit plan member to provide verification, such as an
23 affirming statement from the member's physician, that the
24 member's medical condition makes it unreasonably difficult or
25 inadvisable to participate in the wellness or health improvement
26 program in order for that nonparticipant to receive the reward
27 or incentive.

28 (c) Disclosure requirement.—A reward or incentive offered
29 under this subsection shall be disclosed in the policy or
30 certificate.

31 (d) Other incentives.—This subsection does not prohibit
32 insurers from offering other incentives or rewards for adherence
33 to a wellness or health improvement program if otherwise
34 authorized by state or federal law.

35 Section 2. Section 627.6402, Florida Statutes, is amended
36 to read:

37 627.6402 Insurance rebates or rewards for healthy
38 lifestyles.—

39 (1) Any rate, rating schedule, or rating manual for an
40 individual health insurance policy filed with the office may
41 provide for an appropriate rebate of premiums paid in the last



42 year when the individual covered by such plan is enrolled in and
43 maintains participation in any health wellness, maintenance, or
44 improvement program approved by the health plan. The rebate may
45 be based on premiums paid in the last calendar year or the last
46 policy year. The individual must provide evidence of
47 demonstrative maintenance or improvement of the individual's
48 health status as determined by assessments of agreed-upon health
49 status indicators between the individual and the health insurer,
50 including, but not limited to, reduction in weight, body mass
51 index, and smoking cessation. Any rebate provided by the health
52 insurer is presumed to be appropriate unless credible data
53 demonstrates otherwise, or unless such rebate program requires
54 the insured to incur costs to qualify for the rebate which equal
55 or exceed the value of the rebate, but in no event shall the
56 rebate exceed 10 percent of paid premiums.

57 (2) The premium rebate authorized by this section shall be
58 effective for an insured on an annual basis, unless the
59 individual fails to maintain or improve his or her health status
60 while participating in an approved wellness program, or credible
61 evidence demonstrates that the individual is not participating
62 in the approved wellness program.

63 (3) Rebates or rewards are permitted pursuant to s.
64 626.9541(4).

65 Section 3. Section 627.65626, Florida Statutes, is amended
66 to read:

67 627.65626 Insurance rebates or rewards for healthy
68 lifestyles.—

69 (1) Any rate, rating schedule, or rating manual for a
70 health insurance policy that provides creditable coverage as



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71 defined in s. 627.6561(5) filed with the office shall provide
72 for an appropriate rebate of premiums paid in the last policy
73 year, contract year, or calendar year when the majority of
74 members of a health plan have enrolled and maintained
75 participation in any health wellness, maintenance, or
76 improvement program offered by the group policyholder and health
77 plan. The rebate may be based upon premiums paid in the last
78 calendar year or policy year. The group must provide evidence of
79 demonstrative maintenance or improvement of the enrollees'
80 health status as determined by assessments of agreed-upon health
81 status indicators between the policyholder and the health
82 insurer, including, but not limited to, reduction in weight,
83 body mass index, and smoking cessation. The group or health
84 insurer may contract with a third-party administrator to
85 assemble and report the health status required in this
86 subsection between the policyholder and the health insurer. Any
87 rebate provided by the health insurer is presumed to be
88 appropriate unless credible data demonstrates otherwise, or
89 unless the rebate program requires the insured to incur costs to
90 qualify for the rebate which equal or exceed the value of the
91 rebate, but the rebate may not exceed 10 percent of paid
92 premiums.

93 (2) The premium rebate authorized by this section shall be
94 effective for an insured on an annual basis unless the number of
95 participating members on the policy renewal anniversary becomes
96 less than the majority of the members eligible for participation
97 in the wellness program.

98 (3) Rebates or rewards are permitted pursuant to s.
99 626.9541(4).



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100 Section 4. Subsection (40) of section 641.31, Florida
101 Statutes, is amended to read:

102 641.31 Health maintenance contracts.—

103 (40) A health maintenance organization that issues
104 individual or group contracts may offer a reward or premium
105 rebate pursuant to s. 656.9541(4) for a healthy lifestyle
106 program.

107 ~~(a) Any group rate, rating schedule, or rating manual for a~~
108 ~~health maintenance organization policy, which provides~~
109 ~~creditable coverage as defined in s. 627.6561(5), filed with the~~
110 ~~office shall provide for an appropriate rebate of premiums paid~~
111 ~~in the last policy year, contract year, or calendar year when~~
112 ~~the majority of members of a health plan are enrolled in and~~
113 ~~have maintained participation in any health wellness,~~
114 ~~maintenance, or improvement program offered by the group~~
115 ~~contract holder. The group must provide evidence of~~
116 ~~demonstrative maintenance or improvement of his or her health~~
117 ~~status as determined by assessments of agreed-upon health status~~
118 ~~indicators between the group and the health insurer, including,~~
119 ~~but not limited to, reduction in weight, body mass index, and~~
120 ~~smoking cessation. Any rebate provided by the health maintenance~~
121 ~~organization is presumed to be appropriate unless credible data~~
122 ~~demonstrates otherwise, or unless the rebate program requires~~
123 ~~the insured to incur costs to qualify for the rebate which~~
124 ~~equals or exceeds the value of the rebate but the rebate may not~~
125 ~~exceed 10 percent of paid premiums.~~

126 ~~(b) The premium rebate authorized by this section shall be~~
127 ~~effective for a subscriber on an annual basis, unless the number~~
128 ~~of participating members on the contract renewal anniversary~~



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129 ~~becomes fewer than the majority of the members eligible for~~
130 ~~participation in the wellness program.~~

131 ~~(c) A health maintenance organization that issues~~
132 ~~individual contracts may offer a premium rebate, as provided~~
133 ~~under this section, for a healthy lifestyle program.~~

134 Section 5. Subsection (15) is added to section 641.3903,
135 Florida Statutes, to read:

136 641.3903 Unfair methods of competition and unfair or
137 deceptive acts or practices defined.—The following are defined
138 as unfair methods of competition and unfair or deceptive acts or
139 practices:

140 (15) EXCEPTION FOR WELLNESS OR HEALTH IMPROVEMENT
141 PROGRAMS.—

142 (a) Authorization to offer rewards or incentives for
143 participation.—An organization issuing a group or individual
144 health benefit plan may offer a voluntary wellness or health
145 improvement program and may encourage or reward participation in
146 the program by authorizing rewards or incentives, including, but
147 not limited to, merchandise, gift cards, debit cards, premium
148 discounts or rebates, contributions to a member's health savings
149 account, or modifications to copayment, deductible, or
150 coinsurance amounts.

151 (b) Verification of medical condition by nonparticipants.—
152 An organization may require a health benefit plan member to
153 provide verification, such as an affirming statement from the
154 member's physician, that the member's medical condition makes it
155 unreasonably difficult or inadvisable to participate in the
156 wellness or health improvement program. A reward or incentive
157 offered under this subsection is not a violation of this section



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158 if the program is disclosed in the contract or certificate. This
159 subsection does not prohibit an organization from offering other
160 incentives or rewards for adherence to a wellness or health
161 improvement program if otherwise authorized by state or federal
162 law.

163 Section 6. This act shall take effect July 1, 2011.

164
165 ===== T I T L E A M E N D M E N T =====

166 And the title is amended as follows:

167 Delete everything before the enacting clause
168 and insert:

169 A bill to be entitled
170 An act relating to wellness or health improvement
171 programs; amending s. 626.9541, F.S.; authorizing
172 insurers to offer a voluntary wellness or health
173 improvement program and to encourage or reward
174 participation in the program by offering rewards or
175 incentives to health benefit plan members; authorizing
176 insurers to require plan members not participating in
177 the wellness or health improvement programs to provide
178 verification that their medical condition warrants
179 nonparticipation in order for the nonparticipants to
180 receive rewards or incentives; requiring that the
181 reward or incentive be disclosed in the policy or
182 certificate; amending s. 627.6402, F.S.; authorizing
183 insurers to offer rewards or incentives to health
184 benefit plan members to encourage or reward
185 participation in wellness or health improvement
186 programs; authorizing insurers to require plan members



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187 not participating in programs to provide verification
188 that their medical condition warrants
189 nonparticipation; amending s. 627.65626, F.S.;
190 authorizing group health insurers to offer rewards or
191 incentives to health benefit plan members to encourage
192 or reward participation in wellness or health
193 improvement programs; authorizing insurers to require
194 plan members not participating in programs to provide
195 verification that their medical condition warrants
196 nonparticipation; amending s. 641.31, F.S.; deleting
197 provisions authorizing health maintenance
198 organizations to offer rebates of premiums for
199 participation in a wellness program; authorizing
200 health maintenance organizations to offer rewards or
201 incentives to members to encourage or reward
202 participation in wellness or health improvement
203 programs; authorizing the health maintenance
204 organization to require plan members not participating
205 in programs to provide verification that their medical
206 condition warrants nonparticipation; amending s.
207 641.3903, F.S.; providing for a wellness or health
208 improvement program; providing authorization to offer
209 certain rewards or incentives for participation;
210 authorizing verification of a nonparticipant's medical
211 condition; providing an effective date.