

By the Committee on Health Regulation; and Senator Gaetz

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1 A bill to be entitled
2 An act relating to wellness or health improvement
3 programs; amending s. 626.9541, F.S.; authorizing
4 insurers to offer a voluntary wellness or health
5 improvement program and to encourage or reward
6 participation in the program by offering rewards or
7 incentives to health benefit plan members; authorizing
8 insurers to require plan members not participating in
9 the wellness or health improvement programs to provide
10 verification that their medical condition warrants
11 nonparticipation in order for the nonparticipants to
12 receive rewards or incentives; requiring that the
13 reward or incentive be disclosed in the policy or
14 certificate; amending s. 627.6402, F.S.; authorizing
15 insurers to offer rewards or incentives to health
16 benefit plan members to encourage or reward
17 participation in wellness or health improvement
18 programs; authorizing insurers to require plan members
19 not participating in programs to provide verification
20 that their medical condition warrants
21 nonparticipation; amending s. 627.65626, F.S.;
22 authorizing group health insurers to offer rewards or
23 incentives to health benefit plan members to encourage
24 or reward participation in wellness or health
25 improvement programs; authorizing insurers to require
26 plan members not participating in programs to provide
27 verification that their medical condition warrants
28 nonparticipation; amending s. 641.31, F.S.; deleting
29 provisions authorizing health maintenance

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30 organizations to offer rebates of premiums for
 31 participation in a wellness program; authorizing
 32 health maintenance organizations to offer rewards or
 33 incentives to members to encourage or reward
 34 participation in wellness or health improvement
 35 programs; authorizing the health maintenance
 36 organization to require plan members not participating
 37 in programs to provide verification that their medical
 38 condition warrants nonparticipation; amending s.
 39 641.3903, F.S.; providing for a wellness or health
 40 improvement program; providing authorization to offer
 41 certain rewards or incentives for participation;
 42 authorizing verification of a nonparticipant's medical
 43 condition; providing an effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Subsection (4) is added to section 626.9541,
 48 Florida Statutes, to read:

49 626.9541 Unfair methods of competition and unfair or
 50 deceptive acts or practices defined.—

51 (4) WELLNESS OR HEALTH IMPROVEMENT PROGRAMS.—

52 (a) Authorization to offer rewards or incentives for
 53 participation.—An insurer issuing a group or individual health
 54 benefit plan may offer a voluntary wellness or health
 55 improvement program and may encourage or reward participation in
 56 the program by authorizing rewards or incentives, including, but
 57 not limited to, merchandise, gift cards, debit cards, premium
 58 discounts or rebates, contributions to a member's health savings

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59 account, or modifications to copayment, deductible, or
60 coinsurance amounts. Any advertisement of the program is not
61 subject to the limitations set forth in paragraph (1)(m).

62 (b) Verification of medical condition by nonparticipants
63 due to medical condition.—An insurer may require a health
64 benefit plan member to provide verification, such as an
65 affirming statement from the member's physician, that the
66 member's medical condition makes it unreasonably difficult or
67 inadvisable to participate in the wellness or health improvement
68 program in order for that nonparticipant to receive the reward
69 or incentive.

70 (c) Disclosure requirement.—A reward or incentive offered
71 under this subsection shall be disclosed in the policy or
72 certificate.

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

77 Section 2. Section 627.6402, Florida Statutes, is amended
78 to read:

79 627.6402 Insurance rebates or rewards for healthy
80 lifestyles.—

81 (1) Any rate, rating schedule, or rating manual for an
82 individual health insurance policy filed with the office may
83 provide for an appropriate rebate of premiums paid in the last
84 year when the individual covered by such plan is enrolled in and
85 maintains participation in any health wellness, maintenance, or
86 improvement program approved by the health plan. The rebate may
87 be based on premiums paid in the last calendar year or the last

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88 policy year. The individual must provide evidence of
89 demonstrative maintenance or improvement of the individual's
90 health status as determined by assessments of agreed-upon health
91 status indicators between the individual and the health insurer,
92 including, but not limited to, reduction in weight, body mass
93 index, and smoking cessation. Any rebate provided by the health
94 insurer is presumed to be appropriate unless credible data
95 demonstrates otherwise, or unless such rebate program requires
96 the insured to incur costs to qualify for the rebate which equal
97 or exceed the value of the rebate, but in no event shall the
98 rebate exceed 10 percent of paid premiums.

99 (2) The premium rebate authorized by this section shall be
100 effective for an insured on an annual basis, unless the
101 individual fails to maintain or improve his or her health status
102 while participating in an approved wellness program, or credible
103 evidence demonstrates that the individual is not participating
104 in the approved wellness program.

105 (3) Rebates or rewards are permitted pursuant to s.
106 626.9541(4).

107 Section 3. Section 627.65626, Florida Statutes, is amended
108 to read:

109 627.65626 Insurance rebates or rewards for healthy
110 lifestyles.—

111 (1) Any rate, rating schedule, or rating manual for a
112 health insurance policy that provides creditable coverage as
113 defined in s. 627.6561(5) filed with the office shall provide
114 for an appropriate rebate of premiums paid in the last policy
115 year, contract year, or calendar year when the majority of
116 members of a health plan have enrolled and maintained

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117 participation in any health wellness, maintenance, or
118 improvement program offered by the group policyholder and health
119 plan. The rebate may be based upon premiums paid in the last
120 calendar year or policy year. The group must provide evidence of
121 demonstrative maintenance or improvement of the enrollees'
122 health status as determined by assessments of agreed-upon health
123 status indicators between the policyholder and the health
124 insurer, including, but not limited to, reduction in weight,
125 body mass index, and smoking cessation. The group or health
126 insurer may contract with a third-party administrator to
127 assemble and report the health status required in this
128 subsection between the policyholder and the health insurer. Any
129 rebate provided by the health insurer is presumed to be
130 appropriate unless credible data demonstrates otherwise, or
131 unless the rebate program requires the insured to incur costs to
132 qualify for the rebate which equal or exceed the value of the
133 rebate, but the rebate may not exceed 10 percent of paid
134 premiums.

135 (2) The premium rebate authorized by this section shall be
136 effective for an insured on an annual basis unless the number of
137 participating members on the policy renewal anniversary becomes
138 less than the majority of the members eligible for participation
139 in the wellness program.

140 (3) Rebates or rewards are permitted pursuant to s.
141 626.9541(4).

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

144 641.31 Health maintenance contracts.—

145 (40) A health maintenance organization that issues

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146 individual or group contracts may offer a reward or premium
147 rebate pursuant to s. 626.9541(4) for a healthy lifestyle
148 program.

149 ~~(a) Any group rate, rating schedule, or rating manual for a~~
150 ~~health maintenance organization policy, which provides~~
151 ~~creditable coverage as defined in s. 627.6561(5), filed with the~~
152 ~~office shall provide for an appropriate rebate of premiums paid~~
153 ~~in the last policy year, contract year, or calendar year when~~
154 ~~the majority of members of a health plan are enrolled in and~~
155 ~~have maintained participation in any health wellness,~~
156 ~~maintenance, or improvement program offered by the group~~
157 ~~contract holder. The group must provide evidence of~~
158 ~~demonstrative maintenance or improvement of his or her health~~
159 ~~status as determined by assessments of agreed-upon health status~~
160 ~~indicators between the group and the health insurer, including,~~
161 ~~but not limited to, reduction in weight, body mass index, and~~
162 ~~smoking cessation. Any rebate provided by the health maintenance~~
163 ~~organization is presumed to be appropriate unless credible data~~
164 ~~demonstrates otherwise, or unless the rebate program requires~~
165 ~~the insured to incur costs to qualify for the rebate which~~
166 ~~equals or exceeds the value of the rebate but the rebate may not~~
167 ~~exceed 10 percent of paid premiums.~~

168 ~~(b) The premium rebate authorized by this section shall be~~
169 ~~effective for a subscriber on an annual basis, unless the number~~
170 ~~of participating members on the contract renewal anniversary~~
171 ~~becomes fewer than the majority of the members eligible for~~
172 ~~participation in the wellness program.~~

173 ~~(c) A health maintenance organization that issues~~
174 ~~individual contracts may offer a premium rebate, as provided~~

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175 ~~under this section, for a healthy lifestyle program.~~

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

178 641.3903 Unfair methods of competition and unfair or
179 deceptive acts or practices defined.—The following are defined
180 as unfair methods of competition and unfair or deceptive acts or
181 practices:

182 (15) EXCEPTION FOR WELLNESS OR HEALTH IMPROVEMENT
183 PROGRAMS.—

184 (a) Authorization to offer rewards or incentives for
185 participation.—An organization issuing a group or individual
186 health benefit plan may offer a voluntary wellness or health
187 improvement program and may encourage or reward participation in
188 the program by authorizing rewards or incentives, including, but
189 not limited to, merchandise, gift cards, debit cards, premium
190 discounts or rebates, contributions to a member's health savings
191 account, or modifications to copayment, deductible, or
192 coinsurance amounts.

193 (b) Verification of medical condition by nonparticipants.—
194 An organization may require a health benefit plan member to
195 provide verification, such as an affirming statement from the
196 member's physician, that the member's medical condition makes it
197 unreasonably difficult or inadvisable to participate in the
198 wellness or health improvement program. A reward or incentive
199 offered under this subsection is not a violation of this section
200 if the program is disclosed in the contract or certificate. This
201 subsection does not prohibit an organization from offering other
202 incentives or rewards for adherence to a wellness or health
203 improvement program if otherwise authorized by state or federal

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204 law.

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