

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Trujillo offered the following:

2
3 **Amendment (with directory and title amendments)**

4 Remove lines 109-284 and insert:

5 (3) The agency shall adopt rules to establish a process to
6 be used by the resolution organization in considering claim
7 disputes submitted by a provider or health plan which must
8 include:

9 (a) That the resolution organization review and consider
10 all documentation submitted by both the health plan and the
11 provider;

12 (b) That the resolution organization's recommendation make
13 findings of fact;

14 (c) That either party may request that the resolution

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15 organization conduct an evidentiary hearing in which both sides
16 can present evidence and examine witnesses, and for which the
17 cost of the hearing is equally shared by the parties;

18 (d) That the resolution organization may not communicate
19 ex parte with either the health plan or the provider during the
20 dispute resolution;

21 (e) That the resolution organization's written
22 recommendation, including findings of fact relating to the
23 calculation under s. 641.513(5) for the recommended amount due
24 for the disputed claim, include any evidence relied upon; and

25 (f) That ~~the issuance by~~ the resolution organization ~~issue~~
26 ~~of a written recommendation, supported by findings of fact,~~ to
27 the agency within 60 days after the requested information is
28 received by the resolution organization within the timeframes
29 specified by the resolution organization. In no event shall the
30 review time exceed 90 days following receipt of the initial
31 claim dispute submission by the resolution organization.

32 (4) Within 30 days after receipt of the recommendation of
33 the resolution organization, the agency shall adopt the
34 recommendation as a final order. The final order is subject to
35 judicial review pursuant to s. 120.68.

36 Section 4. Paragraph (oo) is added to subsection (1) of
37 section 456.072, Florida Statutes, to read:

38 456.072 Grounds for discipline; penalties; enforcement.—

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39 (1) The following acts shall constitute grounds for which
40 the disciplinary actions specified in subsection (2) may be
41 taken:

42 (oo) Willfully failing to comply with s. 627.64194 or s.
43 641.513 with such frequency as to indicate a general business
44 practice.

45 Section 5. Paragraph (tt) is added to subsection (1) of
46 section 458.331, Florida Statutes, to read:

47 458.331 Grounds for disciplinary action; action by the
48 board and department.—

49 (1) The following acts constitute grounds for denial of a
50 license or disciplinary action, as specified in s. 456.072(2):

51 (tt) Willfully failing to comply with s. 627.64194 or s.
52 641.513 with such frequency as to indicate a general business
53 practice.

54 Section 6. Paragraph (vv) is added to subsection (1) of
55 section 459.015, Florida Statutes, to read:

56 459.015 Grounds for disciplinary action; action by the
57 board and department.—

58 (1) The following acts constitute grounds for denial of a
59 license or disciplinary action, as specified in s. 456.072(2):

60 (vv) Willfully failing to comply with s. 627.64194 or s.
61 641.513 with such frequency as to indicate a general business
62 practice.

63 Section 7. Paragraph (gg) is added to subsection (1) of
64 section 626.9541, Florida Statutes, to read:

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65 626.9541 Unfair methods of competition and unfair or
66 deceptive acts or practices defined.—

67 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
68 ACTS.—The following are defined as unfair methods of competition
69 and unfair or deceptive acts or practices:

70 (gg) Out-of-network reimbursement.—Willfully failing to
71 comply with s. 627.64194 with such frequency as to indicate a
72 general business practice.

73 Section 8. Section 627.64194, Florida Statutes, is created
74 to read:

75 627.64194 Coverage requirements for services provided by
76 nonparticipating providers; payment collection limitations.—

77 (1) As used in this section, the term:

78 (a) "Emergency services" means emergency services and
79 care, as defined in s. 641.47(8), which are provided in a
80 facility.

81 (b) "Facility" means a licensed facility as defined in s.
82 395.002(16) and an urgent care center as defined in s.
83 395.002(30).

84 (c) "Insured" means a person who is covered under an
85 individual or group health insurance policy delivered or issued
86 for delivery in this state by an insurer authorized to transact
87 business in this state.

88 (d) "Nonemergency services" means the services and care
89 that are not emergency services.

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90 (e) "Nonparticipating provider" means a provider who is
91 not a preferred provider as defined in s. 627.6471 or a provider
92 who is not an exclusive provider as defined in s. 627.6472. For
93 purposes of covered emergency services under this section, a
94 facility licensed under chapter 395 or an urgent care center
95 defined in s. 395.002(30) is a nonparticipating provider if the
96 facility or center has not contracted with an insurer to provide
97 emergency services to its insureds at a specified rate.

98 (f) "Participating provider" means a preferred provider as
99 defined in s. 627.6471 or an exclusive provider as defined in s.
100 627.6472.

101 (2) An insurer is solely liable for payment of fees to a
102 nonparticipating provider of covered emergency services provided
103 to an insured in accordance with the coverage terms of the
104 health insurance policy, and such insured is not liable for
105 payment of fees for covered services to a nonparticipating
106 provider of emergency services, other than applicable
107 copayments, coinsurance, and deductibles. An insurer must
108 provide coverage for emergency services that:

109 (a) May not require prior authorization.

110 (b) Must be provided regardless of whether the services
111 are furnished by a participating provider or a nonparticipating
112 provider.

113 (c) May impose a coinsurance amount, copayment, or
114 limitation of benefits requirement for a nonparticipating

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115 provider only if the same requirement applies to a participating
116 provider.

117
118 The provisions of s. 627.638 apply to this subsection.

119 (3) An insurer is solely liable for payment of fees to a
120 nonparticipating provider of covered nonemergency services
121 provided to an insured in accordance with the coverage terms of
122 the health insurance policy, and such insured is not liable for
123 payment of fees to a nonparticipating provider, other than
124 applicable copayments, coinsurance, and deductibles, for covered
125 nonemergency services that are:

126 (a) Provided in a facility that has a contract for the
127 nonemergency services with the insurer which the facility would
128 be otherwise obligated to provide under contract with the
129 insurer; and

130 (b) Provided when the insured does not have the ability
131 and opportunity to choose a participating provider at the
132 facility who is available to treat the insured.

133
134 The provisions of s. 627.638 apply to this subsection.

135 (4) An insurer must reimburse a nonparticipating provider
136 of services under subsections (2) and (3) as specified in s.
137 641.513(5), reduced only by insured cost-share responsibilities
138 as specified in the health insurance policy, within the
139 applicable timeframe provided in s. 627.6131.

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140 (5) A nonparticipating provider of emergency services as
141 provided in subsection (2) or a nonparticipating provider of
142 nonemergency services as provided in subsection (3) may not be
143 reimbursed an amount greater than the amount provided in
144 subsection (4) and may not collect or attempt to collect from
145 the insured, directly or indirectly, any excess amount, other
146 than copayments, coinsurance, and deductibles. This section does
147 not prohibit a nonparticipating provider from collecting or
148 attempting to collect from the insured an amount due for the
149 provision of noncovered services.

150 (6) Any dispute with regard to the reimbursement to the
151 nonparticipating provider of emergency or nonemergency services
152 as provided in subsection (4) shall be resolved in a court of
153 competent jurisdiction or through the voluntary dispute
154 resolution process in s. 408.7057.

155 Section 9. Subsection (2) of section 627.6471, Florida
156 Statutes, is amended to read:

157 627.6471 Contracts for reduced rates of payment;
158 limitations; coinsurance and deductibles.—

159 (2) Any insurer issuing a policy of health insurance in
160 this state, which insurance includes coverage for the services
161 of a preferred provider, must provide each policyholder and
162 certificateholder with a current list of preferred providers and
163 must make the list available on its website. The list must
164 include, when applicable and reported, a listing by specialty of
165 the names, addresses, and telephone numbers of all participating

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166 providers, including facilities, and, in the case of physicians,
167 must also include board certifications, languages spoken, and
168 any affiliations with participating hospitals. Information
169 posted on the insurer's website must be updated on at least a
170 calendar-month basis with additions or terminations of providers
171 from the insurer's network or reported changes in physicians'
172 hospital affiliations ~~for public inspection during regular~~
173 ~~business hours at the principal office of the insurer within the~~
174 ~~state.~~

175 Section 10. Effective upon this act becoming a law,
176 subsection (7) is added to section 627.6471, Florida Statutes,
177 to read:

178 627.6471 Contracts for reduced rates of payment;
179 limitations; coinsurance and deductibles.—

180 (7) Any policy issued under this section after January 1,
181 2017, must include the following disclosure: "WARNING: LIMITED
182 BENEFITS WILL BE PAID WHEN NONPARTICIPATING PROVIDERS ARE USED.
183 You should be aware that when you elect to utilize the services
184 of a nonparticipating provider for a covered nonemergency
185 service, benefit payments to the provider are not based upon the
186 amount the provider charges. The basis of the payment will be
187 determined according to your policy's out-of-network
188 reimbursement benefit. Nonparticipating providers may bill
189 insureds for any difference in the amount. YOU MAY BE REQUIRED
190 TO PAY MORE THAN THE COINSURANCE OR COPAYMENT AMOUNT.
191 Participating providers have agreed to accept discounted

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192 payments for services with no additional billing to you other
193 than coinsurance, copayment, and deductible amounts. You may
194 obtain further information about the providers who have
195 contracted with your insurance plan by consulting your insurer's
196 website or contacting your insurer or agent directly."

197 Section 11. Subsection (15) is added to section 627.662,
198 Florida Statutes, to read:

199 627.662 Other provisions applicable.—The following
200 provisions apply to group health insurance, blanket health
201 insurance, and franchise health insurance:

202 (15) Section 627.64194, relating to coverage requirements
203 for services provided by nonparticipating providers and payment
204 collection limitations.

205 Section 12. Except as otherwise expressly provided in this
206 act and except for this section, which shall take effect upon
207 this act becoming a law, this act shall take effect July 1,
208 2016.

210 -----

D I R E C T O R Y A M E N D M E N T

211 Remove lines 84-85 and insert:
212 section 408.7057, Florida Statutes, and subsections (3) and (4)
213 of that section are amended, to read:
214

216 -----

T I T L E A M E N D M E N T

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218 Remove line 15 and insert:
219 specified dispute resolution program; requiring the
220 Agency for Health Care Administration to include in
221 its rules additional requirements relating to a
222 resolution organization's process in considering
223 certain claim disputes; requiring a

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