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LEGISLATIVE ACTION

Senate

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House

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Floor: WD/2R

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05/04/2017 08:30 PM

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Senator Mayfield moved the following:

Senate Amendment (with title amendment)

Delete line 82

and insert:

Section 2. Effective January 1, 2018, section 627.42393,
Florida Statutes, is created to read:

627.42393 Insurance policies; limiting changes to
prescription drug formularies.-

(1) Other than at the time of coverage renewal, an
individual or group insurance policy that is delivered, issued
for delivery, renewed, amended, or continued in this state and



898364

12 that provides medical, major medical, or similar comprehensive
13 coverage may not:

14 (a) Remove a covered prescription drug from its list of
15 covered drugs during the policy year unless the United States
16 Food and Drug Administration has issued a statement about the
17 drug which calls into question the clinical safety of the drug,
18 or the manufacturer of the drug has notified the United States
19 Food and Drug Administration of a manufacturing discontinuance
20 or potential discontinuance of the drug as required by s. 506C
21 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

22 (b) Reclassify a drug to a more restrictive drug tier or
23 increase the amount that an insured must pay for a copayment,
24 coinsurance, or deductible for prescription drug benefits, or
25 reclassify a drug to a higher cost-sharing tier during the
26 policy year.

27 (2) This section does not prohibit the addition of
28 prescription drugs to the list of drugs covered under the policy
29 during the policy year.

30 (3) This section does not apply to a grandfathered health
31 plan as defined in s. 627.402 or to benefits set forth in s.
32 627.6513(1)-(14).

33 (4) This section does not alter or amend s. 465.025, which
34 provides conditions under which a pharmacist may substitute a
35 generically equivalent drug product for a brand name drug
36 product.

37 (5) This section does not alter or amend s. 465.0252, which
38 provides conditions under which a pharmacist may dispense a
39 substitute biological product for the prescribed biological
40 product.



898364

41 Section 3. Effective January 1, 2018, Paragraph (e) of
42 subsection (5) of section 627.6699, Florida Statutes, is amended
43 to read:

44 627.6699 Employee Health Care Access Act.—

45 (5) AVAILABILITY OF COVERAGE.—

46 (e) All health benefit plans issued under this section must
47 comply with the following conditions:

48 1. For employers who have fewer than two employees, a late
49 enrollee may be excluded from coverage for no longer than 24
50 months if he or she was not covered by creditable coverage
51 continually to a date not more than 63 days before the effective
52 date of his or her new coverage.

53 2. Any requirement used by a small employer carrier in
54 determining whether to provide coverage to a small employer
55 group, including requirements for minimum participation of
56 eligible employees and minimum employer contributions, must be
57 applied uniformly among all small employer groups having the
58 same number of eligible employees applying for coverage or
59 receiving coverage from the small employer carrier, except that
60 a small employer carrier that participates in, administers, or
61 issues health benefits pursuant to s. 381.0406 which do not
62 include a preexisting condition exclusion may require as a
63 condition of offering such benefits that the employer has had no
64 health insurance coverage for its employees for a period of at
65 least 6 months. A small employer carrier may vary application of
66 minimum participation requirements and minimum employer
67 contribution requirements only by the size of the small employer
68 group.

69 3. In applying minimum participation requirements with



898364

70 respect to a small employer, a small employer carrier shall not
71 consider as an eligible employee employees or dependents who
72 have qualifying existing coverage in an employer-based group
73 insurance plan or an ERISA qualified self-insurance plan in
74 determining whether the applicable percentage of participation
75 is met. However, a small employer carrier may count eligible
76 employees and dependents who have coverage under another health
77 plan that is sponsored by that employer.

78 4. A small employer carrier shall not increase any
79 requirement for minimum employee participation or any
80 requirement for minimum employer contribution applicable to a
81 small employer at any time after the small employer has been
82 accepted for coverage, unless the employer size has changed, in
83 which case the small employer carrier may apply the requirements
84 that are applicable to the new group size.

85 5. If a small employer carrier offers coverage to a small
86 employer, it must offer coverage to all the small employer's
87 eligible employees and their dependents. A small employer
88 carrier may not offer coverage limited to certain persons in a
89 group or to part of a group, except with respect to late
90 enrollees.

91 6. A small employer carrier may not modify any health
92 benefit plan issued to a small employer with respect to a small
93 employer or any eligible employee or dependent through riders,
94 endorsements, or otherwise to restrict or exclude coverage for
95 certain diseases or medical conditions otherwise covered by the
96 health benefit plan.

97 7. An initial enrollment period of at least 30 days must be
98 provided. An annual 30-day open enrollment period must be



898364

99 offered to each small employer's eligible employees and their
100 dependents. A small employer carrier must provide special
101 enrollment periods as required by s. 627.65615.

102 8. A small employer carrier must limit changes to
103 prescription drug formularies as required by s. 627.42393.

104 Section 4. Effective January 1, 2018, subsection (36) of
105 section 641.31, Florida Statutes, is amended to read:

106 641.31 Health maintenance contracts.—

107 (36) A health maintenance organization may increase the
108 copayment for any benefit, or delete, amend, or limit any of the
109 benefits to which a subscriber is entitled under the group
110 contract only, upon written notice to the contract holder at
111 least 45 days in advance of the time of coverage renewal. The
112 health maintenance organization may amend the contract with the
113 contract holder, with such amendment to be effective immediately
114 at the time of coverage renewal. The written notice to the
115 contract holder must ~~shall~~ specifically identify any deletions,
116 amendments, or limitations to any of the benefits provided in
117 the group contract during the current contract period which will
118 be included in the group contract upon renewal. This subsection
119 does not apply to any increases in benefits. The 45-day notice
120 requirement does ~~shall~~ not apply if benefits are amended,
121 deleted, or limited at the request of the contract holder.

122 (a) Other than at the time of coverage renewal, a health
123 maintenance organization that provides medical, major medical,
124 or similar comprehensive coverage may not:

125 1. Remove a covered prescription drug from its list of
126 covered drugs during the contract year unless the United States
127 Food and Drug Administration has issued a statement about the



128 drug which calls into question the clinical safety of the drug,
129 or the manufacturer of the drug has notified the United States
130 Food and Drug Administration of a manufacturing discontinuance
131 or potential discontinuance of the drug as required by s. 506C
132 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

133 2. Reclassify a drug to a more restrictive drug tier or
134 increase the amount that an insured must pay for a copayment,
135 coinsurance, or deductible for prescription drug benefits, or
136 reclassify a drug to a higher cost-sharing tier during the
137 contract year.

138 (b) This subsection does not:

139 1. Prohibit the addition of prescription drugs to the list
140 of drugs covered during the contract year.

141 2. Apply to a grandfathered health plan as defined in s.
142 627.402 or to benefits set forth in s. 627.6513(1)-(14).

143 3. Alter or amend s. 465.025, which provides conditions
144 under which a pharmacist may substitute a generically equivalent
145 drug product for a brand name drug product.

146 4. Alter or amend s. 465.0252, which provides conditions
147 under which a pharmacist may dispense a substitute biological
148 product for the prescribed biological product.

149 Section 5. The Legislature finds that the creation of s.
150 627.42393, Florida Statutes, and the amendments to ss. 627.6699
151 and 641.31, Florida Statutes, made by this act fulfill an
152 important state interest.

153 Section 6. Except as otherwise expressly provided in this
154 act, this act shall take effect July 1, 2017.

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



898364

157 And the title is amended as follows:

158 Delete lines 2 - 13

159 and insert:

160 An act relating to health care; creating s. 624.27,
161 F.S.; providing definitions; specifying that a direct
162 primary care agreement does not constitute insurance
163 and is not subject to the Florida Insurance Code;
164 specifying that entering into a direct primary care
165 agreement does not constitute the business of
166 insurance and is not subject to the code; providing
167 that a certificate of authority is not required to
168 market, sell, or offer to sell a direct primary care
169 agreement; specifying requirements for a direct
170 primary care agreement; creating s. 627.42393, F.S.;
171 limiting, under specified circumstances, changes to a
172 health insurance policy prescription drug formulary
173 during a policy year; providing construction and
174 applicability; amending s. 627.6699, F.S.; requiring
175 small employer carriers to limit changes to
176 prescription drug formularies under certain
177 circumstances; amending s. 641.31, F.S.; limiting,
178 under specified circumstances, changes to a health
179 maintenance contract prescription drug formulary
180 during a contract year; providing construction and
181 applicability; providing a declaration of important
182 state interest; providing effective dates.