

By Senator Steube

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1 A bill to be entitled
 2 An act relating to health insurance; amending s.
 3 624.155, F.S.; providing a civil remedy for a health
 4 insurer who violates the Patient Savings Act; creating
 5 s. 627.6387, F.S.; providing a short title; providing
 6 definitions; providing health insurer website
 7 requirements; requiring an insurer to provide good
 8 faith estimates of costs for certain health care
 9 services upon request by an insured; requiring an
 10 insurer to implement a shared savings incentive
 11 program by a specified date; providing procedures and
 12 requirements; providing notification requirements;
 13 providing reporting requirements; providing penalties;
 14 requiring the Office of Insurance Regulation to make
 15 and submit an annual report; authorizing the office to
 16 adopt rules; providing an effective date.

17
 18 Be It Enacted by the Legislature of the State of Florida:

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 20 Section 1. Subsection (1) of section 624.155, Florida
 21 Statutes, is amended to read:

22 624.155 Civil remedy.—

23 (1) Any person may bring a civil action against an insurer
 24 when such person is damaged:

25 (a) By a violation of any of the following provisions by
 26 the insurer:

- 27 1. Section 626.9541(1)(i), (o), or (x);
- 28 2. Section 626.9551;
- 29 3. Section 626.9705;
- 30 4. Section 626.9706;
- 31 5. Section 626.9707; ~~or~~
- 32 6. Section 627.7283; or

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33 7. Section 627.6387.

34 (b) By the commission of any of the following acts by the
35 insurer:

36 1. Not attempting in good faith to settle claims when,
37 under all the circumstances, it could and should have done so,
38 had it acted fairly and honestly toward its insured and with due
39 regard for her or his interests;

40 2. Making claims payments to insureds or beneficiaries not
41 accompanied by a statement setting forth the coverage under
42 which payments are being made; or

43 3. Except as to liability coverages, failing to promptly
44 settle claims, when the obligation to settle a claim has become
45 reasonably clear, under one portion of the insurance policy
46 coverage in order to influence settlements under other portions
47 of the insurance policy coverage.

48
49 Notwithstanding the provisions of the above to the contrary, a
50 person pursuing a remedy under this section need not prove that
51 such act was committed or performed with such frequency as to
52 indicate a general business practice.

53 Section 2. Section 627.6387, Florida Statutes, is created
54 to read:

55 627.6387 Shared savings incentive program.-

56 (1) This section may be cited as the "Patient Savings Act".

57 (2) As used in this section, the term:

58 (a) "Average price" means the average amount paid to an in-
59 network health care provider for a shoppable health care service
60 within a 1-year period or as determined by another method
61 approved by the Office of Insurance Regulation.

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62 (b) "Contracted amount" means the amount agreed to be paid
63 by the health insurer pursuant to a policy, contract, or
64 certificate of insurance to a health care provider for shoppable
65 health care services covered by the policy, contract, or
66 certificate of insurance, including any facility fees charged by
67 the provider.

68 (c) "Health care provider" means hospitals, ambulatory
69 surgical centers, and other medical facilities licensed under
70 chapter 395; home health agencies licensed under chapter 400;
71 physicians licensed under chapter 458; physician assistants
72 licensed under chapter 458 or chapter 459; osteopathic
73 physicians licensed under chapter 459; chiropractic physicians
74 licensed under chapter 460; podiatric physicians licensed under
75 chapter 461; naturopaths licensed under chapter 462; dentists
76 licensed under chapter 466; nurses licensed under part I of
77 chapter 464; midwives licensed under chapter 467; occupational
78 therapists licensed under chapter 468; radiological personnel
79 certified under chapter 468; clinical laboratories licensed
80 under chapter 483; physical therapists and physical therapist
81 assistants licensed under chapter 486; blood banks, plasma
82 centers, industrial clinics, and renal dialysis facilities; or
83 professional associations, partnerships, corporations, joint
84 ventures, or other associations for professional activity by
85 health care providers.

86 (d) "Health insurer" means an authorized insurer offering
87 health insurance as defined in s. 624.603 or a health
88 maintenance organization as defined in s. 641.19(12). The term
89 includes a person with a self-insurance plan that provides
90 health insurance benefits.

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91 (e) "Shared savings incentive program" means a cash
92 incentive program established by a health insurer pursuant to
93 this section.

94 (f) "Shoppable health care service" means a nonemergency
95 health care service for which an insured may receive a cash
96 payment under a shared savings incentive program. Shoppable
97 health care services include:

98 1. Clinical laboratory services.

99 2. Infusion therapy.

100 3. Inpatient and outpatient surgical procedures.

101 4. Obstetrical and gynecological services.

102 5. Outpatient nonsurgical diagnostic tests and procedures.

103 6. Physical and occupational therapy services.

104 7. Radiology and imaging services.

105 (3) A health insurer's website must provide a method for an
106 insured or prospective insured to request and obtain information
107 on the contracted amount for shoppable health care services from
108 a health care provider and to compare the average price among
109 health care providers.

110 (4) Upon the request of an insured, a health insurer must
111 provide a good faith estimate of the contracted amount and the
112 estimated amount of copayments, deductibles, and other cost-
113 sharing responsibilities for health care services and procedures
114 within 2 working days after the request for both in-network and
115 out-of-network providers. The health insurer must notify the
116 insured that the estimate may differ from the actual amount the
117 insured will be responsible to pay due to unforeseen
118 circumstances that arise out of the proposed nonemergency
119 service or procedure.

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120 (5) For the plan year beginning January 1, 2018, a health
121 insurer must implement a shared savings incentive program to
122 provide cash payments to an insured when the insured obtains a
123 shoppable health care service at a price that is less than the
124 average price for that service.

125 (a) The amount of the shared savings incentive program
126 payment may be calculated as a percentage between the contracted
127 amount and the average price, or by an alternative method
128 approved by the office.

129 (b) The amount of the cash payment to the insured must be
130 at least 50 percent of the health insurer's saved costs for each
131 shoppable health care service paid to the health care provider
132 as compared with the average price.

133 (c) If an insured elects to receive a shoppable health care
134 service from an out-of-network health care provider for a price
135 that is less than the average price, the health insurer must
136 treat such service as if the service is provided by an in-
137 network health care provider for purposes of calculating the
138 shared savings incentive program payment.

139 (d) A health insurer is not required to provide a cash
140 payment under the shared savings incentive program to an insured
141 when the health insurer's saved cost is \$50 or less.

142 (e) A cash payment made by an insurer in accordance with
143 this section is not an administrative expense of the insurer for
144 rate development or rate filing purposes.

145 (6) The shared savings incentive program must be a
146 component part of the policy, contract, or certificate of
147 insurance provided by the health insurer. Annually and at the
148 time of enrollment or renewal, a health insurer must notify its

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149 insureds of the shared savings incentive program.

150 (7) A health insurer must file a description of the shared
151 savings incentive program with the office on a form prescribed
152 by the office. The office must review the filing to determine if
153 the program complies with the requirements of this section.

154 (8) A health insurer must file an annual report to the
155 office of its shared savings incentive program. The report must
156 include:

157 (a) The total number of payments made pursuant to this
158 section for the calendar year.

159 (b) The shoppable health care services by category for
160 which payments were made.

161 (c) The average amount of payments.

162 (d) The total amount saved by the health insurer when
163 compared with the average prices for each shoppable health
164 service category.

165 (e) The total number of insureds and the percentage of
166 total insureds who participated.

167 (9) (a) The office may impose an administrative penalty of
168 no more than \$2,500 per violation per day upon a health insurer
169 for failure to comply with this section. A fine imposed under
170 this section may be in addition to other penalties or fines
171 authorized by the insurance code.

172 (b) If a health insurer fails to meet the filing
173 requirements under this section and does not submit the filing
174 within 30 days after the date the filing is due, the office may
175 order the insurer to discontinue the issuance of policies,
176 contracts, or certificates of insurance until the filing
177 requirements have been fulfilled.

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178 (c) The office may revoke or suspend for at least 6 months
179 the certificate of authority of a health insurer for failure to
180 comply with this section.

181 (10) The office must submit an annual report that
182 summarizes the reports filed by health insurers required by
183 subsection (8). The report must be delivered to the President of
184 the Senate and the Speaker of the House of Representatives by
185 April 1, 2019, and each year thereafter.

186 (11) The office may adopt rules necessary to implement and
187 enforce this section.

188 Section 3. This act shall take effect upon becoming a law.