



635224

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Rules (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 88 - 230

and insert:

627.402, to benefits specified in s. 627.6513(1)-(14), or to any policy issued or delivered between March 23, 2010, and December 31, 2013, inclusive.

(c) Alter or amend s. 465.025, which provides conditions under which a pharmacist may substitute a generically equivalent drug product for a brand name drug product.

(d) Alter or amend s. 465.0252, which provides conditions



635224

12 under which a pharmacist may dispense a substitute biological
13 product for the prescribed biological product.

14 (e) Apply to a Medicaid managed care plan under part IV of
15 chapter 409.

16 (f) Apply if a drug manufacturer increases the list price
17 of a prescription drug on the health insurer's formulary to the
18 health insurer or the pharmacy benefit manager after November 1
19 of the year before the health insurer's earliest required rate
20 submission date to applicable state and federal rate review
21 authorities for the succeeding calendar or policy year. A health
22 insurer shall maintain a record of any change in its formulary
23 under this paragraph.

24 Section 2. Paragraph (e) of subsection (5) of section
25 627.6699, Florida Statutes, is amended to read:

26 627.6699 Employee Health Care Access Act.—

27 (5) AVAILABILITY OF COVERAGE.—

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

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

35 2. Any requirement used by a small employer carrier in
36 determining whether to provide coverage to a small employer
37 group, including requirements for minimum participation of
38 eligible employees and minimum employer contributions, must be
39 applied uniformly among all small employer groups having the
40 same number of eligible employees applying for coverage or



635224

41 receiving coverage from the small employer carrier, except that
42 a small employer carrier that participates in, administers, or
43 issues health benefits pursuant to s. 381.0406 which do not
44 include a preexisting condition exclusion may require as a
45 condition of offering such benefits that the employer has had no
46 health insurance coverage for its employees for a period of at
47 least 6 months. A small employer carrier may vary application of
48 minimum participation requirements and minimum employer
49 contribution requirements only by the size of the small employer
50 group.

51 3. In applying minimum participation requirements with
52 respect to a small employer, a small employer carrier shall not
53 consider as an eligible employee employees or dependents who
54 have qualifying existing coverage in an employer-based group
55 insurance plan or an ERISA qualified self-insurance plan in
56 determining whether the applicable percentage of participation
57 is met. However, a small employer carrier may count eligible
58 employees and dependents who have coverage under another health
59 plan that is sponsored by that employer.

60 4. A small employer carrier shall not increase any
61 requirement for minimum employee participation or any
62 requirement for minimum employer contribution applicable to a
63 small employer at any time after the small employer has been
64 accepted for coverage, unless the employer size has changed, in
65 which case the small employer carrier may apply the requirements
66 that are applicable to the new group size.

67 5. If a small employer carrier offers coverage to a small
68 employer, it must offer coverage to all the small employer's
69 eligible employees and their dependents. A small employer



635224

70 carrier may not offer coverage limited to certain persons in a
71 group or to part of a group, except with respect to late
72 enrollees.

73 6. A small employer carrier may not modify any health
74 benefit plan issued to a small employer with respect to a small
75 employer or any eligible employee or dependent through riders,
76 endorsements, or otherwise to restrict or exclude coverage for
77 certain diseases or medical conditions otherwise covered by the
78 health benefit plan.

79 7. An initial enrollment period of at least 30 days must be
80 provided. An annual 30-day open enrollment period must be
81 offered to each small employer's eligible employees and their
82 dependents. A small employer carrier must provide special
83 enrollment periods as required by s. 627.65615.

84 8. A small employer carrier shall comply with s. 627.42393
85 for any change to a prescription drug formulary.

86 Section 3. Subsection (36) of section 641.31, Florida
87 Statutes, is amended to read:

88 641.31 Health maintenance contracts.—

89 (36) Except as provided in paragraphs (a), (b), and (c), a
90 health maintenance organization may increase the copayment for
91 any benefit, or delete, amend, or limit any of the benefits to
92 which a subscriber is entitled under the group contract only,
93 upon written notice to the contract holder at least 45 days in
94 advance of the time of coverage renewal. The health maintenance
95 organization may amend the contract with the contract holder,
96 with such amendment to be effective immediately at the time of
97 coverage renewal. The written notice to the contract holder must
98 ~~shall~~ specifically identify any deletions, amendments, or



635224

99 limitations to any of the benefits provided in the group
100 contract during the current contract period which will be
101 included in the group contract upon renewal. This subsection
102 does not apply to any increases in benefits. The 45-day notice
103 requirement does ~~shall~~ not apply if benefits are amended,
104 deleted, or limited at the request of the contract holder.

105 (a) At least 60 days before the effective date of any
106 change to a prescription drug formulary during a contract year,
107 the health maintenance organization shall:

108 1. Provide general notification of the change in the
109 formulary to current and prospective subscribers in a readily
110 accessible format on the health maintenance organization's
111 website; and

112 2. Notify, electronically or by first-class mail, any
113 subscriber currently receiving coverage for a prescription drug
114 for which the formulary change modifies coverage and the
115 subscriber's treating physician, including information on the
116 specific drugs involved and a statement that the submission of a
117 notice of medical necessity by the subscriber's treating
118 physician to the health maintenance organization at least 30
119 days before the effective date of the formulary change will
120 result in continuation of coverage at the existing level.

121 (b) The notice provided by the treating physician to the
122 insurer must include a completed one-page form in which the
123 treating physician certifies to the health maintenance
124 organization that coverage of the prescription drug for the
125 subscriber is medically necessary. The treating physician shall
126 submit the notice electronically or by first-class mail. The
127 health maintenance organization may provide the treating



635224

128 physician with access to an electronic portal through which the
129 treating physician may electronically file the notice. The
130 commission shall prescribe a form by rule for the notice.

131 (c) If the treating physician certifies to the health
132 maintenance organization, in accordance with paragraph (b), that
133 the prescription drug is medically necessary for the subscriber,
134 the health maintenance organization:

135 1. Must authorize coverage for the prescribed drug based
136 solely on the treating physician's certification that coverage
137 is medically necessary; and

138 2. May not modify the coverage related to the covered drug
139 by:

140 a. Increasing the out-of-pocket costs for the covered drug;

141 b. Moving the covered drug to a more restrictive tier; or

142 c. Denying a subscriber coverage of the drug for which the

143 subscriber has been previously approved for coverage by the
144 health maintenance organization.

145 (d) Paragraphs (a), (b), and (c) do not:

146 1. Prohibit the addition of prescription drugs to the list
147 of drugs covered under the contract during the contract year.

148 2. Apply to a grandfathered health plan as defined in s.
149 627.402 or to benefits specified in s. 627.6513(1)-(14).

150 3. Alter or amend s. 465.025, which provides conditions
151 under which a pharmacist may substitute a generically equivalent
152 drug product for a brand name drug product.

153 4. Alter or amend s. 465.0252, which provides conditions
154 under which a pharmacist may dispense a substitute biological
155 product for the prescribed biological product.

156 5. Apply to a Medicaid managed care plan under part IV of



635224

157 chapter 409.

158 6. Apply if a drug manufacturer increases the list price of
159 a prescription drug on the health maintenance organization's
160 formulary to the health maintenance organization or the pharmacy
161 benefit manager after November 1 of the year before the health
162 maintenance organization's earliest required rate submission
163 date to applicable state and federal rate review authorities for
164 the succeeding calendar or policy year. A health maintenance
165 organization shall maintain a record of any change in its
166 formulary under this subparagraph.

167
168 ===== T I T L E A M E N D M E N T =====

169 And the title is amended as follows:

170 Delete lines 18 - 36

171 and insert:

172 applicability; requiring health insurers to maintain a
173 record of certain formulary changes; amending s.
174 627.6699, F.S.; requiring small employer carriers to
175 comply with certain requirements for any change to a
176 prescription drug formulary under the health benefit
177 plan; amending s. 641.31, F.S.; requiring health
178 maintenance organizations to provide certain notices
179 to current and prospective subscribers within a
180 certain timeframe before the effective date of any
181 change to a prescription drug formulary during a
182 contract year; specifying requirements for a notice of
183 medical necessity that a subscriber's treating
184 physician may submit to the health maintenance
185 organization within a certain timeframe; specifying



635224

186 means by which the notice is to be submitted;
187 requiring the commission to adopt a certain rule;
188 specifying a requirement and prohibited acts relating
189 to coverage changes by a health maintenance
190 organization if the treating physician provides
191 certain certification; providing construction and
192 applicability; requiring health maintenance
193 organizations to maintain a record of certain
194 formulary changes; providing a