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LEGISLATIVE ACTION

Senate

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House

Floor: 2a/AD/2R

04/25/2019 05:12 PM

Senator Mayfield moved the following:

Senate Amendment to Substitute Amendment (636826)

Delete lines 14 - 126

and insert:

in its formulary during a calendar year. By March 1 annually, a health insurer shall submit a report to the office delineating such changes made in the previous calendar year. The annual report must include, at a minimum:

(a) A list of all drugs that were removed from a formulary and the reasons for the removal;

(b) A list of all drugs that were moved to a tier that



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12 resulted in additional out-of-pocket costs to insureds;

13 (c) The number of insureds notified by the insurer of a
14 change in formulary; and

15 (d) The increased cost, by dollar amount, incurred by
16 insureds because of such change in the formulary.

17 (3) By May 1 annually, the office shall:

18 (a) Compile the data in such annual reports submitted by
19 health insurers and prepare a report summarizing the data
20 submitted;

21 (b) Make the report publicly accessible on its website; and

22 (c) Submit the report to the Governor, the President of the
23 Senate, and the Speaker of the House of Representatives.

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



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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



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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 paragraph (a), a health
90 maintenance organization may increase the copayment for any
91 benefit, or delete, amend, or limit any of the benefits to which
92 a subscriber is entitled under the group contract only, upon
93 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



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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 provide general
108 notification of the change in the formulary to current and
109 prospective subscribers in a readily accessible format on the
110 health maintenance organization's website and notify,
111 electronically or by first-class mail, any subscriber currently
112 receiving coverage for a prescription drug for which the
113 formulary change modifies coverage and the subscriber's treating
114 physician, including information on the specific drugs involved.

115 (b) A health maintenance organization shall maintain a
116 record of any change in its formulary during a calendar year. By
117 March 1 annually, a health maintenance organization shall submit
118 a report to the office delineating such changes made in the
119 previous calendar year. The annual report must include, at a