

1 A bill to be entitled
2 An act relating to health insurance cost sharing;
3 creating s. 627.6383, F.S.; defining the term "cost-
4 sharing requirement"; requiring specified individual
5 health insurers and their pharmacy benefit managers to
6 apply payments by or on behalf of insureds toward the
7 total contributions of the insureds' cost-sharing
8 requirements; providing applicability; amending s.
9 627.6385, F.S.; requiring specified individual health
10 insurers to disclose on their websites and in their
11 policies their applications of payments by or on
12 behalf of policyholders toward the policyholders'
13 total contributions to cost-sharing requirements;
14 providing applicability; amending ss. 627.64741,
15 627.6572, and 641.314, F.S.; requiring pharmacy
16 benefit managers to apply payments by or on behalf of
17 insureds and subscribers toward the insureds' and
18 subscribers' total contributions to cost-sharing
19 requirements; providing applicability; providing
20 disclosure requirements; creating s. 627.65715, F.S.,
21 and amending s. 641.31, F.S.; defining the term "cost-
22 sharing requirement"; requiring specified group health
23 insurers and health maintenance organizations and
24 their pharmacy benefit managers to apply payments by
25 or on behalf of insureds and subscribers toward the

26 total contributions of the insureds' and subscribers'
 27 cost-sharing requirements, respectively; providing
 28 disclosure requirements; providing applicability;
 29 amending s. 627.6699, F.S.; providing requirements for
 30 small employer carriers; amending s. 409.967, F.S.;
 31 conforming a cross-reference; amending s. 641.185,
 32 F.S.; conforming a provision to changes made by the
 33 act; providing a declaration of important state
 34 interest; providing an effective date.

35

36 Be It Enacted by the Legislature of the State of Florida:

37

38 Section 1. Section 627.6383, Florida Statutes, is created
 39 to read:

40 627.6383 Cost-sharing requirements.-

41 (1) As used in this section, the term "cost-sharing
 42 requirement" means a dollar limit, deductible, copayment,
 43 coinsurance, or any other out-of-pocket expense imposed on an
 44 insured, including, but not limited to, the annual limitation on
 45 cost sharing subject to 42 U.S.C. s. 18022.

46 (2)(a) Each health insurer issuing, delivering, or
 47 renewing a policy in this state which provides prescription drug
 48 coverage or each pharmacy benefit manager on behalf of such
 49 health insurer must apply any amount paid by an insured or by
 50 another person on behalf of the insured toward the insured's

51 total contribution to any cost-sharing requirement.

52 (b) The amount paid by or on behalf of the insured which
53 is applied toward the insured's total contribution to any cost-
54 sharing requirement under paragraph (a) includes, but is not
55 limited to, any payment with, or any discount through, financial
56 assistance, a manufacturer copay card, a product voucher, or any
57 other reduction in out-of-pocket expenses made by or on behalf
58 of the insured for a prescription drug.

59 (3) This section applies to any health insurance policy
60 issued, delivered, or renewed in this state on or after January
61 1, 2023.

62 Section 2. Subsections (2) and (3) of section 627.6385,
63 Florida Statutes, are renumbered as subsections (3) and (4),
64 respectively, present subsection (2) is amended, and a new
65 subsection (2) is added to that section, to read:

66 627.6385 Disclosures to policyholders; calculations of
67 cost sharing.—

68 (2) Each health insurer issuing, delivering, or renewing a
69 policy in this state which provides prescription drug coverage,
70 regardless of whether the prescription drug benefits are
71 administered or managed by the health insurer or by a pharmacy
72 benefit manager on behalf of the health insurer, shall disclose
73 on its website that any amount paid by a policyholder or by
74 another person on behalf of the policyholder shall be applied
75 toward the policyholder's total contribution to any cost-sharing

76 requirement pursuant to s. 627.6383. This subsection applies to
 77 any policy issued, delivered, or renewed in this state on or
 78 after January 1, 2023.

79 ~~(3)(2)~~ Each health insurer shall include in every policy
 80 delivered or issued for delivery to any person in the state or
 81 in materials provided as required by s. 627.64725 notice that
 82 the information required by this section is available
 83 electronically and the address of the website where the
 84 information can be accessed. In addition, each health insurer
 85 issuing, delivering, or renewing a policy in this state which
 86 provides prescription drug coverage, regardless of whether the
 87 prescription drug benefits are administered or managed by the
 88 health insurer or by a pharmacy benefit manager on behalf of the
 89 health insurer, shall include in every policy that is issued,
 90 delivered, or renewed to any person in this state on or after
 91 January 1, 2023, the disclosure that any amount paid by a
 92 policyholder or by another person on behalf of the policyholder
 93 shall be applied toward the policyholder's total contribution to
 94 any cost-sharing requirement pursuant to s. 627.6383.

95 Section 3. Paragraph (c) is added to subsection (2) of
 96 section 627.64741, Florida Statutes, to read:

97 627.64741 Pharmacy benefit manager contracts.—

98 (2) A contract between a health insurer and a pharmacy
 99 benefit manager must require that the pharmacy benefit manager:

100 (c)1. Apply any amount paid by an insured or by another

101 person on behalf of the insured toward the insured's total
102 contribution to any cost-sharing requirement pursuant to s.
103 627.6383. This subparagraph applies to any insured whose
104 insurance policy is issued, delivered, or renewed in this state
105 on or after January 1, 2023.

106 2. Disclose to every insured whose insurance policy is
107 issued, delivered, or renewed in this state on or after January
108 1, 2023, that the pharmacy benefit manager shall apply any
109 amount paid by the insured or by another person on behalf of the
110 insured toward the insured's total contribution to any cost-
111 sharing requirement pursuant to s. 627.6383.

112 Section 4. Section 627.65715, Florida Statutes, is created
113 to read:

114 627.65715 Cost-sharing requirements.-

115 (1) As used in this section, the term "cost-sharing
116 requirement" means a dollar limit, deductible, copayment,
117 coinsurance, or any other out-of-pocket expense imposed on an
118 insured, including, but not limited to, the annual limitation on
119 cost sharing subject to 42 U.S.C. s. 18022.

120 (2)(a) Each insurer issuing, delivering, or renewing a
121 policy in this state which provides prescription drug coverage
122 or each pharmacy benefit manager on behalf of such insurer must
123 apply any amount paid by an insured or by another person on
124 behalf of the insured toward the insured's total contribution to
125 any cost-sharing requirement.

126 (b) The amount paid by or on behalf of the insured which
127 is applied toward the insured's total contribution to any cost-
128 sharing requirement under paragraph (a) includes, but is not
129 limited to, any payment with, or any discount through, financial
130 assistance, a manufacturer copay card, a product voucher, or any
131 other reduction in out-of-pocket expenses made by or on behalf
132 of the insured for a prescription drug.

133 (3) Each insurer issuing, delivering, or renewing a policy
134 in this state which provides prescription drug coverage,
135 regardless of whether the prescription drug benefits are
136 administered or managed by the insurer or by a pharmacy benefit
137 manager on behalf of the insurer, shall disclose, on its website
138 and in every policy issued, delivered, or renewed in this state
139 on or after January 1, 2023, that any amount paid by an insured
140 or by another person on behalf of the insured shall be applied
141 toward the insured's total contribution to any cost-sharing
142 requirement.

143 (4) This section applies to any group health insurance
144 policy issued, delivered, or renewed in this state on or after
145 January 1, 2023.

146 Section 5. Paragraph (c) is added to subsection (2) of
147 section 627.6572, Florida Statutes, to read:

148 627.6572 Pharmacy benefit manager contracts.—

149 (2) A contract between a health insurer and a pharmacy
150 benefit manager must require that the pharmacy benefit manager:

151 (c)1. Apply any amount paid by an insured or by another
 152 person on behalf of the insured toward the insured's total
 153 contribution to any cost-sharing requirement pursuant to s.
 154 627.65715. This subparagraph applies to any insured whose
 155 insurance policy is issued, delivered, or renewed in this state
 156 on or after January 1, 2023.

157 2. Disclose to every insured whose insurance policy is
 158 issued, delivered, or renewed in this state on or after January
 159 1, 2023, that the pharmacy benefit manager shall apply any
 160 amount paid by the insured or by another person on behalf of the
 161 insured toward the insured's total contribution to any cost-
 162 sharing requirement pursuant to s. 627.65715.

163 Section 6. Paragraph (e) of subsection (5) of section
 164 627.6699, Florida Statutes, is amended to read:

165 627.6699 Employee Health Care Access Act.—

166 (5) AVAILABILITY OF COVERAGE.—

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

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

174 2. Any requirement used by a small employer carrier in
 175 determining whether to provide coverage to a small employer

176 group, including requirements for minimum participation of
177 eligible employees and minimum employer contributions, must be
178 applied uniformly among all small employer groups having the
179 same number of eligible employees applying for coverage or
180 receiving coverage from the small employer carrier, except that
181 a small employer carrier that participates in, administers, or
182 issues health benefits pursuant to s. 381.0406 which do not
183 include a preexisting condition exclusion may require as a
184 condition of offering such benefits that the employer has had no
185 health insurance coverage for its employees for a period of at
186 least 6 months. A small employer carrier may vary application of
187 minimum participation requirements and minimum employer
188 contribution requirements only by the size of the small employer
189 group.

190 3. In applying minimum participation requirements with
191 respect to a small employer, a small employer carrier shall not
192 consider as an eligible employee employees or dependents who
193 have qualifying existing coverage in an employer-based group
194 insurance plan or an ERISA qualified self-insurance plan in
195 determining whether the applicable percentage of participation
196 is met. However, a small employer carrier may count eligible
197 employees and dependents who have coverage under another health
198 plan that is sponsored by that employer.

199 4. A small employer carrier shall not increase any
200 requirement for minimum employee participation or any

201 requirement for minimum employer contribution applicable to a
202 small employer at any time after the small employer has been
203 accepted for coverage, unless the employer size has changed, in
204 which case the small employer carrier may apply the requirements
205 that are applicable to the new group size.

206 5. If a small employer carrier offers coverage to a small
207 employer, it must offer coverage to all the small employer's
208 eligible employees and their dependents. A small employer
209 carrier may not offer coverage limited to certain persons in a
210 group or to part of a group, except with respect to late
211 enrollees.

212 6. A small employer carrier may not modify any health
213 benefit plan issued to a small employer with respect to a small
214 employer or any eligible employee or dependent through riders,
215 endorsements, or otherwise to restrict or exclude coverage for
216 certain diseases or medical conditions otherwise covered by the
217 health benefit plan.

218 7. An initial enrollment period of at least 30 days must
219 be provided. An annual 30-day open enrollment period must be
220 offered to each small employer's eligible employees and their
221 dependents. A small employer carrier must provide special
222 enrollment periods as required by s. 627.65615.

223 8. A small employer carrier shall comply with s. 627.65715
224 with respect to contribution to cost-sharing requirements as
225 defined in subsection (1) of that section.

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226 Section 7. Subsection (48) is added to section 641.31,
227 Florida Statutes, to read:

228 641.31 Health maintenance contracts.—

229 (48) (a) As used in this subsection, the term "cost-sharing
230 requirement" means a dollar limit, deductible, copayment,
231 coinsurance, or any other out-of-pocket expense imposed on a
232 subscriber, including, but not limited to, the annual limitation
233 on cost sharing subject to 42 U.S.C. s. 18022.

234 (b)1. Each health maintenance organization issuing,
235 delivering, or renewing a health maintenance contract or
236 certificate in this state which provides prescription drug
237 coverage or each pharmacy benefit manager on behalf of such
238 health maintenance organization must apply any amount paid by a
239 subscriber or by another person on behalf of the subscriber
240 toward the subscriber's total contribution to any cost-sharing
241 requirement.

242 2. The amount paid by or on behalf of the subscriber which
243 is applied toward the subscriber's total contribution to any
244 cost-sharing requirement under subparagraph 1. includes, but is
245 not limited to, any payment with, or any discount through,
246 financial assistance, a manufacturer copay card, a product
247 voucher, or any other reduction in out-of-pocket expenses made
248 by or on behalf of the subscriber for a prescription drug.

249 (c) Each health maintenance organization issuing,
250 delivering, or renewing a health maintenance contract or

251 certificate in this state which provides prescription drug
252 coverage, regardless of whether the prescription drug benefits
253 are administered or managed by the health maintenance
254 organization or by a pharmacy benefit manager on behalf of the
255 health maintenance organization, shall disclose, on its website
256 and in every subscriber's health maintenance contract,
257 certificate, or member handbook issued, delivered, or renewed in
258 this state on or after January 1, 2023, that any amount paid by
259 a subscriber or by another person on behalf of the subscriber
260 shall be applied toward the subscriber's total contribution to
261 any cost-sharing requirement.

262 (d) This subsection applies to any health maintenance
263 contract or certificate issued, delivered, or renewed in this
264 state on or after January 1, 2023.

265 Section 8. Paragraph (c) is added to subsection (2) of
266 section 641.314, Florida Statutes, to read:

267 641.314 Pharmacy benefit manager contracts.—

268 (2) A contract between a health maintenance organization
269 and a pharmacy benefit manager must require that the pharmacy
270 benefit manager:

271 (c)1. Apply any amount paid by a subscriber or by another
272 person on behalf of the subscriber toward the subscriber's total
273 contribution to any cost-sharing requirement pursuant to s.
274 641.31(48). This subparagraph applies to any subscriber whose
275 health maintenance contract or certificate is issued, delivered,

276 or renewed in this state on or after January 1, 2023.

277 2. Disclose to every subscriber whose health maintenance
 278 contract or certificate is issued, delivered, or renewed in this
 279 state on or after January 1, 2023, that the pharmacy benefit
 280 manager shall apply any amount paid by the subscriber or by
 281 another person on behalf of the subscriber toward the
 282 subscriber's total contribution to any cost-sharing requirement
 283 pursuant to s. 641.31(48).

284 Section 9. Paragraph (o) of subsection (2) of section
 285 409.967, Florida Statutes, is amended to read:

286 409.967 Managed care plan accountability.—

287 (2) The agency shall establish such contract requirements
 288 as are necessary for the operation of the statewide managed care
 289 program. In addition to any other provisions the agency may deem
 290 necessary, the contract must require:

291 (o) Transparency.—Managed care plans shall comply with ss.
 292 627.6385(4) ~~ss. 627.6385(3)~~ and 641.54(7).

293 Section 10. Paragraph (k) of subsection (1) of section
 294 641.185, Florida Statutes, is amended to read:

295 641.185 Health maintenance organization subscriber
 296 protections.—

297 (1) With respect to the provisions of this part and part
 298 III, the principles expressed in the following statements serve
 299 as standards to be followed by the commission, the office, the
 300 department, and the Agency for Health Care Administration in

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301 exercising their powers and duties, in exercising administrative
302 discretion, in administrative interpretations of the law, in
303 enforcing its provisions, and in adopting rules:

304 (k) A health maintenance organization subscriber shall be
305 given a copy of the applicable health maintenance contract,
306 certificate, or member handbook specifying: all the provisions,
307 disclosure, and limitations required pursuant to s. 641.31(1) and
308 and (4), and (48); the covered services, including those
309 services, medical conditions, and provider types specified in
310 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and
311 641.513; and where and in what manner services may be obtained
312 pursuant to s. 641.31(4).

313 Section 11. The Legislature finds that this act fulfills
314 an important state interest.

315 Section 12. This act shall take effect July 1, 2022.