

By Senator Wright

14-00657-22

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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 benefits managers
6 to apply payments by or on behalf of insureds toward
7 the 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 s. 627.64741, F.S.;
15 requiring that contracts require pharmacy benefits
16 managers to apply payments by or on behalf of insureds
17 toward the insureds' total contributions to cost-
18 sharing requirements; providing applicability;
19 providing disclosure requirements; creating s.
20 627.65715, F.S.; defining the term "cost-sharing
21 requirement"; requiring specified group health
22 insurers and their pharmacy benefits managers to apply
23 payments by or on behalf of insureds toward the total
24 contributions of the insureds' cost-sharing
25 requirements; providing disclosure requirements;
26 providing applicability; amending s. 627.6572, F.S.;
27 requiring that contracts require pharmacy benefits
28 managers to apply payments by or on behalf of insureds
29 toward the insureds' total contributions to cost-

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30 sharing requirements; providing applicability;
31 providing disclosure requirements; amending s.
32 627.6699, F.S.; providing contribution to cost-sharing
33 requirements for small employer carriers; amending s.
34 641.31, F.S.; defining the term "cost-sharing
35 requirement"; requiring specified health maintenance
36 organizations and their pharmacy benefits managers to
37 apply payments by or on behalf of subscribers toward
38 the total contributions of the subscribers' cost-
39 sharing requirements; providing disclosure
40 requirements; providing applicability; amending s.
41 641.314, F.S.; requiring that contracts require
42 pharmacy benefits managers to apply payments by or on
43 behalf of subscribers toward the subscribers' total
44 contributions to cost-sharing requirements; providing
45 applicability; providing disclosure requirements;
46 amending s. 409.967, F.S.; conforming a cross-
47 reference; amending s. 641.185, F.S.; conforming a
48 provision to changes made by the act; providing a
49 declaration of important state interest; providing an
50 effective date.

51

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

53

54 Section 1. Section 627.6383, Florida Statutes, is created
55 to read:

56 627.6383 Cost-sharing requirements.—

57 (1) As used in this section, the term "cost-sharing
58 requirement" means a dollar limit, deductible, copayment,

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59 coinsurance, or any other out-of-pocket expense imposed on an
60 insured, including, but not limited to, the annual limitation on
61 cost sharing subject to 42 U.S.C. s. 18022.

62 (2) (a) Each health insurer issuing, delivering, or renewing
63 a policy in this state which provides prescription drug
64 coverage, or each pharmacy benefits manager on behalf of such
65 health insurer, shall apply any amount paid by an insured or by
66 another person on behalf of the insured toward the insured's
67 total contribution to any cost-sharing requirement.

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

75 (3) This section applies to any health insurance policy
76 issued, delivered, or renewed in this state on or after January
77 1, 2023.

78 Section 2. Present subsections (2) and (3) of section
79 627.6385, Florida Statutes, are redesignated as subsections (3)
80 and (4), respectively, a new subsection (2) is added to that
81 section, and present subsection (2) of that section is amended,
82 to read:

83 627.6385 Disclosures to policyholders; calculations of cost
84 sharing.—

85 (2) Each health insurer issuing, delivering, or renewing a
86 policy in this state which provides prescription drug coverage,
87 regardless of whether the prescription drug benefits are

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88 administered or managed by the health insurer or by a pharmacy
89 benefits manager on behalf of the health insurer, shall disclose
90 on its website that any amount paid by a policyholder or by
91 another person on behalf of the policyholder must be applied
92 toward the policyholder's total contribution to any cost-sharing
93 requirement pursuant to s. 627.6383. This subsection applies to
94 any policy issued, delivered, or renewed in this state on or
95 after January 1, 2023.

96 (3)(2) Each health insurer shall include in every policy
97 delivered or issued for delivery to any person in this the state
98 or in materials provided as required by s. 627.64725 a notice
99 that the information required by this section is available
100 electronically and the website address ~~of the website~~ where the
101 information can be accessed. In addition, each health insurer
102 issuing, delivering, or renewing a policy in this state which
103 provides prescription drug coverage, regardless of whether the
104 prescription drug benefits are administered or managed by the
105 health insurer or by a pharmacy benefits manager on behalf of
106 the health insurer, shall include in every policy that is
107 issued, delivered, or renewed to any person in this state on or
108 after January 1, 2023, the disclosure that any amount paid by a
109 policyholder or by another person on behalf of the policyholder
110 must be applied toward the policyholder's total contribution to
111 any cost-sharing requirement pursuant to s. 627.6383.

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

114 627.64741 Pharmacy benefit manager contracts.—

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

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117 (c)1. Apply any amount paid by an insured or by another
118 person on behalf of the insured toward the insured's total
119 contribution to any cost-sharing requirement pursuant to s.
120 627.6383. This subparagraph applies to any insured whose
121 insurance policy is issued, delivered, or renewed in this state
122 on or after January 1, 2023.

123 2. Disclose to every insured whose insurance policy is
124 issued, delivered, or renewed in this state on or after January
125 1, 2023, that the pharmacy benefits manager shall apply any
126 amount paid by the insured or by another person on behalf of the
127 insured toward the insured's total contribution to any cost-
128 sharing requirement pursuant to s. 627.6383.

129 Section 4. Section 627.65715, Florida Statutes, is created
130 to read:

131 627.65715 Cost-sharing requirements.-

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

137 (2) (a) Each insurer issuing, delivering, or renewing a
138 policy in this state which provides prescription drug coverage,
139 or each pharmacy benefits manager on behalf of such insurer,
140 shall apply any amount paid by an insured or by another person
141 on behalf of the insured toward the insured's total contribution
142 to any cost-sharing requirement.

143 (b) The amount paid by or on behalf of the insured which is
144 applied toward the insured's total contribution to any cost-
145 sharing requirement under paragraph (a) includes, but is not

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146 limited to, any payment with, or any discount through, financial
147 assistance, a manufacturer copay card, a product voucher, or any
148 other reduction in out-of-pocket expenses made by or on behalf
149 of the insured for a prescription drug.

150 (3) Each insurer issuing, delivering, or renewing a policy
151 in this state which provides prescription drug coverage,
152 regardless of whether the prescription drug benefits are
153 administered or managed by the insurer or by a pharmacy benefits
154 manager on behalf of the insurer, shall disclose, on its website
155 and in every policy issued, delivered, or renewed in this state
156 on or after January 1, 2023, that any amount paid by an insured
157 or by another person on behalf of the insured must be applied
158 toward the insured's total contribution to any cost-sharing
159 requirement.

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

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

165 627.6572 Pharmacy benefit manager contracts.—

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

168 (c)1. Apply any amount paid by an insured or by another
169 person on behalf of the insured toward the insured's total
170 contribution to any cost-sharing requirement pursuant to s.
171 627.65715. This subparagraph applies to any insured whose
172 insurance policy is issued, delivered, or renewed in this state
173 on or after January 1, 2023.

174 2. Disclose to every insured whose insurance policy is

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175 issued, delivered, or renewed in this state on or after January
176 1, 2023, that the pharmacy benefits manager shall apply any
177 amount paid by the insured or by another person on behalf of the
178 insured toward the insured's total contribution to any cost-
179 sharing requirement pursuant to s. 627.65715.

180 Section 6. Paragraph (e) of subsection (5) of section
181 627.6699, Florida Statutes, is amended to read:

182 627.6699 Employee Health Care Access Act.—

183 (5) AVAILABILITY OF COVERAGE.—

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

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

191 2. Any requirement used by a small employer carrier in
192 determining whether to provide coverage to a small employer
193 group, including requirements for minimum participation of
194 eligible employees and minimum employer contributions, must be
195 applied uniformly among all small employer groups having the
196 same number of eligible employees applying for coverage or
197 receiving coverage from the small employer carrier, except that
198 a small employer carrier that participates in, administers, or
199 issues health benefits pursuant to s. 381.0406 which do not
200 include a preexisting condition exclusion may require as a
201 condition of offering such benefits that the employer has had no
202 health insurance coverage for its employees for a period of at
203 least 6 months. A small employer carrier may vary application of

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204 minimum participation requirements and minimum employer
205 contribution requirements only by the size of the small employer
206 group.

207 3. In applying minimum participation requirements with
208 respect to a small employer, a small employer carrier may ~~shall~~
209 not consider as an eligible employee employees or dependents who
210 have qualifying existing coverage in an employer-based group
211 insurance plan or an ERISA qualified self-insurance plan in
212 determining whether the applicable percentage of participation
213 is met. However, a small employer carrier may count eligible
214 employees and dependents who have coverage under another health
215 plan that is sponsored by that employer.

216 4. A small employer carrier may ~~shall~~ not increase any
217 requirement for minimum employee participation or any
218 requirement for minimum employer contribution applicable to a
219 small employer at any time after the small employer has been
220 accepted for coverage, unless the employer size has changed, in
221 which case the small employer carrier may apply the requirements
222 that are applicable to the new group size.

223 5. If a small employer carrier offers coverage to a small
224 employer, it must offer coverage to all the small employer's
225 eligible employees and their dependents. A small employer
226 carrier may not offer coverage limited to certain persons in a
227 group or to part of a group, except with respect to late
228 enrollees.

229 6. A small employer carrier may not modify any health
230 benefit plan issued to a small employer with respect to a small
231 employer or any eligible employee or dependent through riders,
232 endorsements, or otherwise to restrict or exclude coverage for

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233 certain diseases or medical conditions otherwise covered by the
234 health benefit plan.

235 7. An initial enrollment period of at least 30 days must be
236 provided. An annual 30-day open enrollment period must be
237 offered to each small employer's eligible employees and their
238 dependents. A small employer carrier must provide special
239 enrollment periods as required by s. 627.65615.

240 8. A small employer carrier shall comply with s. 627.65715
241 with respect to contribution to cost-sharing requirements, as
242 defined in that section.

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

245 641.31 Health maintenance contracts.—

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

251 (b)1. Each health maintenance organization issuing,
252 delivering, or renewing a health maintenance contract or
253 certificate in this state which provides prescription drug
254 coverage, or each pharmacy benefits manager on behalf of such
255 health maintenance organization, shall apply any amount paid by
256 a subscriber or by another person on behalf of the subscriber
257 toward the subscriber's total contribution to any cost-sharing
258 requirement.

259 2. The amount paid by or on behalf of the subscriber which
260 is applied toward the subscriber's total contribution to any
261 cost-sharing requirement under subparagraph 1. includes, but is

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262 not limited to, any payment with, or any discount through,
263 financial assistance, a manufacturer copay card, a product
264 voucher, or any other reduction in out-of-pocket expenses made
265 by or on behalf of the subscriber for a prescription drug.

266 (c) Each health maintenance organization issuing,
267 delivering, or renewing a health maintenance contract or
268 certificate in this state which provides prescription drug
269 coverage, regardless of whether the prescription drug benefits
270 are administered or managed by the health maintenance
271 organization or by a pharmacy benefits manager on behalf of the
272 health maintenance organization, shall disclose, on its website
273 and in every subscriber's health maintenance contract,
274 certificate, or member handbook issued, delivered, or renewed in
275 this state on or after January 1, 2023, that any amount paid by
276 a subscriber or by another person on behalf of the subscriber
277 must be applied toward the subscriber's total contribution to
278 any cost-sharing requirement.

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

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

284 641.314 Pharmacy benefit manager contracts.—

285 (2) A contract between a health maintenance organization
286 and a pharmacy benefit manager must require that the pharmacy
287 benefit manager:

288 (c)1. Apply any amount paid by a subscriber or by another
289 person on behalf of the subscriber toward the subscriber's total
290 contribution to any cost-sharing requirement pursuant to s.

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291 641.31(48). This subparagraph applies to any subscriber whose
292 health maintenance contract or certificate is issued, delivered,
293 or renewed in this state on or after January 1, 2023.

294 2. Disclose to every subscriber whose health maintenance
295 contract or certificate is issued, delivered, or renewed in this
296 state on or after January 1, 2023, that the pharmacy benefits
297 manager shall apply any amount paid by the subscriber or by
298 another person on behalf of the subscriber toward the
299 subscriber's total contribution to any cost-sharing requirement
300 pursuant to s. 641.31(48).

301 Section 9. Paragraph (o) of subsection (2) of section
302 409.967, Florida Statutes, is amended to read:

303 409.967 Managed care plan accountability.—

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

308 (o) *Transparency.*—Managed care plans shall comply with ss.
309 627.6385(4) and 641.54(7) ~~ss. 627.6385(3) and 641.54(7)~~.

310 Section 10. Paragraph (k) of subsection (1) of section
311 641.185, Florida Statutes, is amended to read:

312 641.185 Health maintenance organization subscriber
313 protections.—

314 (1) With respect to the provisions of this part and part
315 III, the principles expressed in the following statements serve
316 as standards to be followed by the commission, the office, the
317 department, and the Agency for Health Care Administration in
318 exercising their powers and duties, in exercising administrative
319 discretion, in administrative interpretations of the law, in

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320 enforcing its provisions, and in adopting rules:

321 (k) A health maintenance organization subscriber shall be
322 given a copy of the applicable health maintenance contract,
323 certificate, or member handbook specifying: all the provisions,
324 disclosure, and limitations required pursuant to s. 641.31(1),
325 ~~and (4), and (48)~~; the covered services, including those
326 services, medical conditions, and provider types specified in
327 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and
328 641.513; and where and in what manner services may be obtained
329 pursuant to s. 641.31(4).

330 Section 11. The Legislature finds that this act fulfills an
331 important state interest.

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