

1 A bill to be entitled
2 An act relating to savings and out-of-pocket expenses
3 in health insurance; amending ss. 627.6387, 627.6648,
4 and 641.31076, F.S.; revising the definition of the
5 term "shoppable health care service"; requiring,
6 rather than authorizing, individual health insurers,
7 group health insurers, and health maintenance
8 organizations, respectively, to offer shared savings
9 incentive programs; revising the minimum amount of
10 shared savings incentives; amending s. 627.6471, F.S.;
11 conforming provisions to changes made by the act;
12 requiring individual health insurers to apply payments
13 for services by nonpreferred providers toward
14 insureds' annual deductibles and out-of-pocket limits
15 under certain circumstances; creating s. 627.65613,
16 F.S.; defining the term "preferred provider";
17 requiring group health insurers to apply payments for
18 services by nonpreferred providers toward insureds'
19 annual deductibles and out-of-pocket limits under
20 certain circumstances; amending s. 641.31, F.S.;
21 requiring health maintenance organizations to apply
22 payments for services by out-of-network providers
23 toward subscribers' annual deductibles and out-of-
24 pocket limits under certain circumstances; defining
25 the terms "in-network provider" and "out-of-network

26 provider"; providing an effective date.

27

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

29

30 Section 1. Paragraph (e) of subsection (2) and subsection
31 (3) of section 627.6387, Florida Statutes, are amended to read:

32 627.6387 Shared savings incentive program.—

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

34 (e) "Shoppable health care service" means a lower-cost,
35 high-quality nonemergency health care service for which a shared
36 savings incentive is available for insureds under a health
37 insurer's shared savings incentive program. Shoppable health
38 care services may be provided within or outside this state and
39 include, but are not limited to:

- 40 1. Clinical laboratory services.
- 41 2. Infusion therapy.
- 42 3. Inpatient and outpatient surgical procedures.
- 43 4. Obstetrical and gynecological services.
- 44 5. Inpatient and outpatient nonsurgical diagnostic tests
45 and procedures.
- 46 6. Physical and occupational therapy services.
- 47 7. Radiology and imaging services.
- 48 8. Prescription drugs.
- 49 9. Services provided through telehealth.
- 50 10. The items and services listed in Table 1-500 Items and

51 Services List as published in Volume 85, No. 219 of the Federal
52 Register, pages 72182-72190 (2020).

53 ~~11.10.~~ Any additional services published by the Agency for
54 Health Care Administration that have the most significant price
55 variation pursuant to s. 408.05(3)(m).

56 (3) A health insurer shall ~~may~~ offer a shared savings
57 incentive program to provide incentives to an insured when the
58 insured obtains a shoppable health care service from the health
59 insurer's shared savings list. An insured may not be required to
60 participate in a shared savings incentive program. In offering a
61 shared savings incentive program, a health insurer ~~that offers a~~
62 ~~shared savings incentive program~~ must:

63 (a) Establish the program as a component part of the
64 policy or certificate of insurance provided by the health
65 insurer and notify the insureds and the office at least 30 days
66 before program termination.

67 (b) File a description of the program on a form prescribed
68 by commission rule. The office must review the filing and
69 determine whether the shared savings incentive program complies
70 with this section.

71 (c) Notify an insured annually and at the time of renewal,
72 and an applicant for insurance at the time of enrollment, of the
73 availability of the shared savings incentive program and the
74 procedure to participate in the program.

75 (d) Publish on a web page easily accessible to insureds

76 | and to applicants for insurance a list of shoppable health care
 77 | services and health care providers and the shared savings
 78 | incentive amount applicable for each service. A shared savings
 79 | incentive may not be less than 25 percent of the difference in
 80 | cost compared to the second-lowest cost in-network amount paid
 81 | for that service in the rating area ~~savings generated by the~~
 82 | ~~insured's participation in any shared savings incentive offered~~
 83 | ~~by the health insurer~~. The baseline for the savings calculation
 84 | is the average in-network amount paid for that service in the
 85 | most recent 12-month period or some other methodology
 86 | established by the health insurer and approved by the office.

87 | (e) At least quarterly, credit or deposit the shared
 88 | savings incentive amount to the insured's account as a return or
 89 | reduction in premium, or credit the shared savings incentive
 90 | amount to the insured's flexible spending account, health
 91 | savings account, or health reimbursement account, or reward the
 92 | insured directly with cash or a cash equivalent.

93 | (f) Submit an annual report to the office within 90
 94 | business days after the close of each plan year. At a minimum,
 95 | the report must include the following information:

96 | 1. The number of insureds who participated in the program
 97 | during the plan year and the number of instances of
 98 | participation.

99 | 2. The total cost of services provided as a part of the
 100 | program.

101 3. The total value of the shared savings incentive
 102 payments made to insureds participating in the program and the
 103 values distributed as premium reductions, credits to flexible
 104 spending accounts, credits to health savings accounts, or
 105 credits to health reimbursement accounts.

106 4. An inventory of the shoppable health care services
 107 offered by the health insurer.

108 Section 2. Subsection (7) of section 627.6471, Florida
 109 Statutes, is renumbered as subsection (8), subsection (4) is
 110 amended, and a new subsection (7) is added to that section, to
 111 read:

112 627.6471 Contracts for reduced rates of payment;
 113 limitations; coinsurance and deductibles.—

114 (4) Except as otherwise provided in subsection (7), any
 115 policy that provides schedules of payments for services provided
 116 by preferred providers that differ from the schedules of
 117 payments for services provided by nonpreferred providers is
 118 subject to the following limitations:

119 (a) The amount of any annual deductible per covered person
 120 or per family for treatment in a facility that is not a
 121 preferred provider may not exceed four times the amount of a
 122 corresponding annual deductible for treatment in a facility that
 123 is a preferred provider.

124 (b) If the policy has no deductible for treatment in a
 125 preferred provider facility, the deductible for treatment

126 received in a facility that is not a preferred provider facility
 127 may not exceed \$500 per covered person per visit.

128 (c) The amount of any annual deductible per covered person
 129 or per family for treatment, other than inpatient treatment, by
 130 a provider that is not a preferred provider may not exceed four
 131 times the amount of a corresponding annual deductible for
 132 treatment, other than inpatient treatment, by a preferred
 133 provider.

134 (d) If the policy has no deductible for treatment by a
 135 preferred provider, the annual deductible for treatment received
 136 from a provider which is not a preferred provider shall not
 137 exceed \$500 per covered person.

138 (e) The percentage amount of any coinsurance to be paid by
 139 an insured to a provider that is not a preferred provider may
 140 not exceed by more than 50 percentage points the percentage
 141 amount of any coinsurance payment to be paid to a preferred
 142 provider.

143 (f) The amount of any deductible and payment of
 144 coinsurance paid by the insured must be applied to the reduced
 145 charge negotiated between the insurer and the preferred
 146 provider.

147 (g) Notwithstanding the limitations of deductibles and
 148 coinsurance provisions in this section, an insurer may require
 149 the insured to pay a reasonable copayment per visit for
 150 inpatient or outpatient services.

151 (h) If any service or treatment is not within the scope of
 152 services provided by the network of preferred providers, but is
 153 within the scope of services or treatment covered by the policy,
 154 the service or treatment shall be reimbursed at a rate not less
 155 than 10 percentage points lower than the percentage rate paid to
 156 preferred providers. The reimbursement rate must be applied to
 157 the usual and customary charges in the area.

158 (7) Notwithstanding any other provision of law, any
 159 insurer issuing a policy of health insurance in this state shall
 160 apply the payment for a service rendered to an insured by a
 161 nonpreferred provider toward the insured's annual deductible and
 162 out-of-pocket limitation as if the service had been rendered by
 163 a preferred provider if all of the following apply:

164 (a) The insured requests that the insurer apply the
 165 payment for the service rendered to the insured by the
 166 nonpreferred provider toward the insured's annual deductible and
 167 out-of-pocket limitation.

168 (b) The service rendered to the insured by the
 169 nonpreferred provider is a service within the scope of services
 170 covered under the insured's policy.

171 (c) The amount that the nonpreferred provider charged the
 172 insured for the service is the same or less than:

- 173 1. The lowest cost that the insured's preferred provider
 174 network charges for the service in the relevant rating area; or
 175 2. The 25th percentile of the statewide average amount for

176 the service based on the data reported on the Florida Health
 177 Price Finder website.

178 Section 3. Section 627.65613, Florida Statutes, is created
 179 to read:

180 627.65613 Nonpreferred provider services; deductibles and
 181 out-of-pocket limitations.-

182 (1) As used in this section, the term "preferred provider"
 183 means any licensed health care provider, including, but not
 184 limited to, an optometrist, a podiatric physician, and a
 185 chiropractic physician, with whom the insurer has directly or
 186 indirectly contracted for an alternative or a reduced rate of
 187 payment.

188 (2) Notwithstanding any other provision of law, any
 189 insurer issuing a policy of health insurance in this state shall
 190 apply the payment for a service rendered to an insured by a
 191 nonpreferred provider toward the insured's annual deductible and
 192 out-of-pocket limitation as if the service had been rendered by
 193 a preferred provider if all of the following apply:

194 (a) The insured requests that the insurer apply the
 195 payment for the service rendered to the insured by the
 196 nonpreferred provider toward the insured's annual deductible and
 197 out-of-pocket limitation.

198 (b) The service rendered to the insured by the
 199 nonpreferred provider is a service within the scope of services
 200 covered under the insured's policy.

201 (c) The amount that the nonpreferred provider charged the
 202 insured for the service is the same or less than:

203 1. The lowest cost that the insured's preferred provider
 204 network charges for the service in the relevant rating area; or

205 2. The 25th percentile of the statewide average amount for
 206 the service based on the data reported on the Florida Health
 207 Price Finder website.

208 Section 4. Paragraph (e) of subsection (2) and subsection
 209 (3) of section 627.6648, Florida Statutes, are amended to read:

210 627.6648 Shared savings incentive program.—

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

212 (e) "Shoppable health care service" means a lower-cost,
 213 high-quality nonemergency health care service for which a shared
 214 savings incentive is available for insureds under a health
 215 insurer's shared savings incentive program. Shoppable health
 216 care services may be provided within or outside this state and
 217 include, but are not limited to:

- 218 1. Clinical laboratory services.
- 219 2. Infusion therapy.
- 220 3. Inpatient and outpatient surgical procedures.
- 221 4. Obstetrical and gynecological services.
- 222 5. Inpatient and outpatient nonsurgical diagnostic tests
 223 and procedures.
- 224 6. Physical and occupational therapy services.
- 225 7. Radiology and imaging services.

226 8. Prescription drugs.

227 9. Services provided through telehealth.

228 10. The items and services listed in Table 1-500 Items and

229 Services List as published in Volume 85, No. 219 of the Federal

230 Register, pages 72182-72190 (2020).

231 11.10. Any additional services published by the Agency for

232 Health Care Administration that have the most significant price

233 variation pursuant to s. 408.05(3)(m).

234 (3) A health insurer shall ~~may~~ offer a shared savings

235 incentive program to provide incentives to an insured when the

236 insured obtains a shoppable health care service from the health

237 insurer's shared savings list. An insured may not be required to

238 participate in a shared savings incentive program. In offering a

239 shared savings incentive program, a health insurer ~~that offers a~~

240 ~~shared savings incentive program~~ must:

241 (a) Establish the program as a component part of the

242 policy or certificate of insurance provided by the health

243 insurer and notify the insureds and the office at least 30 days

244 before program termination.

245 (b) File a description of the program on a form prescribed

246 by commission rule. The office must review the filing and

247 determine whether the shared savings incentive program complies

248 with this section.

249 (c) Notify an insured annually and at the time of renewal,

250 and an applicant for insurance at the time of enrollment, of the

251 availability of the shared savings incentive program and the
252 procedure to participate in the program.

253 (d) Publish on a web page easily accessible to insureds
254 and to applicants for insurance a list of shoppable health care
255 services and health care providers and the shared savings
256 incentive amount applicable for each service. A shared savings
257 incentive may not be less than 25 percent of the difference in
258 cost compared to the second-lowest cost in-network amount paid
259 for that service in the rating area ~~savings generated by the~~
260 ~~insured's participation in any shared savings incentive offered~~
261 ~~by the health insurer~~. The baseline for the savings calculation
262 is the average in-network amount paid for that service in the
263 most recent 12-month period or some other methodology
264 established by the health insurer and approved by the office.

265 (e) At least quarterly, credit or deposit the shared
266 savings incentive amount to the insured's account as a return or
267 reduction in premium, or credit the shared savings incentive
268 amount to the insured's flexible spending account, health
269 savings account, or health reimbursement account, or reward the
270 insured directly with cash or a cash equivalent.

271 (f) Submit an annual report to the office within 90
272 business days after the close of each plan year. At a minimum,
273 the report must include the following information:

274 1. The number of insureds who participated in the program
275 during the plan year and the number of instances of

276 participation.

277 2. The total cost of services provided as a part of the
278 program.

279 3. The total value of the shared savings incentive
280 payments made to insureds participating in the program and the
281 values distributed as premium reductions, credits to flexible
282 spending accounts, credits to health savings accounts, or
283 credits to health reimbursement accounts.

284 4. An inventory of the shoppable health care services
285 offered by the health insurer.

286 Section 5. Subsection (2) of section 641.31, Florida
287 Statutes, is amended to read:

288 641.31 Health maintenance contracts.—

289 (2) (a) The rates charged by any health maintenance
290 organization to its subscribers shall not be excessive,
291 inadequate, or unfairly discriminatory or follow a rating
292 methodology that is inconsistent, indeterminate, or ambiguous or
293 encourages misrepresentation or misunderstanding. The
294 commission, in accordance with generally accepted actuarial
295 practice as applied to health maintenance organizations, may
296 define by rule what constitutes excessive, inadequate, or
297 unfairly discriminatory rates and may require whatever
298 information it deems necessary to determine that a rate or
299 proposed rate meets the requirements of this subsection.

300 (b) Notwithstanding any other provision of law, a health

301 maintenance organization entering into a contract in this state
 302 with a subscriber shall apply the payment for a service rendered
 303 to the subscriber by an out-of-network provider toward the
 304 subscriber's annual deductible and out-of-pocket limitation as
 305 if the service had been rendered by an in-network provider if
 306 all of the following apply:

307 1. The subscriber requests that the health maintenance
 308 organization apply the payment for the service rendered to the
 309 subscriber by the out-of-network provider toward the
 310 subscriber's annual deductible and out of-pocket limitation.

311 2. The service rendered to the subscriber by the out-of-
 312 network provider is a service within the scope of services
 313 covered under the subscriber's contract.

314 3. The amount that the out-of-network provider charged the
 315 subscriber for the service is the same or less than:

316 a. The lowest cost that the subscriber's provider network
 317 charges for the service in the relevant rating area; or

318 b. The 25th percentile of the statewide average amount for
 319 the service based on the data reported on the Florida Health
 320 Price Finder website.

321
 322 As used in this paragraph, the term "in-network provider" means
 323 a health care provider that is in the health maintenance
 324 organization's provider network, and the term "out-of-network
 325 provider" means a health care provider that is not in the health

326 maintenance organization's provider network.

327 Section 6. Paragraph (e) of subsection (2) and subsection
328 (3) of section 641.31076, Florida Statutes, are amended to read:

329 641.31076 Shared savings incentive program.—

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

331 (e) "Shoppable health care service" means a lower-cost,
332 high-quality nonemergency health care service for which a shared
333 savings incentive is available for subscribers under a health
334 maintenance organization's shared savings incentive program.

335 Shoppable health care services may be provided within or outside
336 this state and include, but are not limited to:

- 337 1. Clinical laboratory services.
- 338 2. Infusion therapy.
- 339 3. Inpatient and outpatient surgical procedures.
- 340 4. Obstetrical and gynecological services.
- 341 5. Inpatient and outpatient nonsurgical diagnostic tests
342 and procedures.
- 343 6. Physical and occupational therapy services.
- 344 7. Radiology and imaging services.
- 345 8. Prescription drugs.
- 346 9. Services provided through telehealth.
- 347 10. The items and services listed in Table 1–500 Items and
348 Services List as published in Volume 85, No. 219 of the Federal
349 Register, pages 72182–72190 (2020).

350 11.10. Any additional services published by the Agency for

351 Health Care Administration that have the most significant price
352 variation pursuant to s. 408.05(3)(m).

353 (3) A health maintenance organization shall ~~may~~ offer a
354 shared savings incentive program to provide incentives to a
355 subscriber when the subscriber obtains a shoppable health care
356 service from the health maintenance organization's shared
357 savings list. A subscriber may not be required to participate in
358 a shared savings incentive program. In offering a shared savings
359 incentive program, a health maintenance organization that offers
360 a shared savings incentive program must:

361 (a) Establish the program as a component part of the
362 contract of coverage provided by the health maintenance
363 organization and notify the subscribers and the office at least
364 30 days before program termination.

365 (b) File a description of the program on a form prescribed
366 by commission rule. The office must review the filing and
367 determine whether the shared savings incentive program complies
368 with this section.

369 (c) Notify a subscriber annually and at the time of
370 renewal, and an applicant for coverage at the time of
371 enrollment, of the availability of the shared savings incentive
372 program and the procedure to participate in the program.

373 (d) Publish on a web page easily accessible to subscribers
374 and to applicants for coverage a list of shoppable health care
375 services and health care providers and the shared savings

376 incentive amount applicable for each service. A shared savings
377 incentive may not be less than 25 percent of the difference in
378 cost compared to the second-lowest cost in-network amount paid
379 for that service in the rating area ~~savings generated by the~~
380 ~~subscriber's participation in any shared savings incentive~~
381 ~~offered by the health maintenance organization~~. The baseline for
382 the savings calculation is the average in-network amount paid
383 for that service in the most recent 12-month period or some
384 other methodology established by the health maintenance
385 organization and approved by the office.

386 (e) At least quarterly, credit or deposit the shared
387 savings incentive amount to the subscriber's account as a return
388 or reduction in premium, or credit the shared savings incentive
389 amount to the subscriber's flexible spending account, health
390 savings account, or health reimbursement account, or reward the
391 subscriber directly with cash or a cash equivalent.

392 (f) Submit an annual report to the office within 90
393 business days after the close of each plan year. At a minimum,
394 the report must include the following information:

395 1. The number of subscribers who participated in the
396 program during the plan year and the number of instances of
397 participation.

398 2. The total cost of services provided as a part of the
399 program.

400 3. The total value of the shared savings incentive

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401 | payments made to subscribers participating in the program and
402 | the values distributed as premium reductions, credits to
403 | flexible spending accounts, credits to health savings accounts,
404 | or credits to health reimbursement accounts.

405 | 4. An inventory of the shoppable health care services
406 | offered by the health maintenance organization.

407 | Section 7. This act shall take effect July 1, 2023.