

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1545 Health Insurance Identification Cards

SPONSOR(S): Stevenson

TIED BILLS: **IDEN./SIM. BILLS:**

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|-------------------------------------|---------------|----------------|--|
| 1) Insurance & Banking Subcommittee | 13 Y, 0 N | Sellas | Lloyd |
| 2) Commerce Committee | | | |

SUMMARY ANALYSIS

The Department of Financial Services (DFS) has broad duties, including insurance consumer assistance and protection. DFS conducts insurance-related consumer outreach through its Division of Consumer Services (DCS). DCS provides education, information, and assistance to consumers for all products or services regulated by DFS or the Financial Services Commission. The Florida Insurance Code (Code) regulates the insurance industry in Florida and is primarily administered by the Florida Office of Insurance Regulation (OIR).

The Code requires certain content for prescription identification cards, health benefit plan identification cards, and health management organization identification cards (collectively referred to as health-related identification cards). This requirement includes required information such as the insured’s name, identification number, and policy/group number.

The bill requires that health plans regulated by the state of Florida print the letters “FL” on the back left of the health-related identification card accompanied with a quick response (QR) code that links to DCS consumer complaint website. For health plans regulated by the federal government, the letters “FED” must be printed on the back of the health-related identification card accompanied with a QR code that links to consumer complaint website of the Centers for Medicare and Medicaid Services.

The bill has no impact on state and local government and an indeterminant negative fiscal impact on the private sector.

The bill has an effective date of January 1, 2024.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Department of Financial Services and Division of Consumer Finance

The Department of Financial Services (DFS) has a number of regulatory responsibilities over the Florida insurance market. DFS conducts insurance-related consumer outreach through its Division of Consumer Services (DCS). DCS provides education, information, and assistance to consumers for all products or services regulated by DFS or the Financial Services Commission (via the Office of Insurance Regulation).¹ The divisions' duties specifically include:

- Receiving consumer questions and complaints;
- Educating the public about insurance-related topics;
- Providing mediation to resolve disputes between a consumer and insurance company; and
- Serving as a conduit for referrals for further legal action by DFS.²

Office of Insurance Regulation

The Office of Insurance Regulation (OIR) is the primary regulator over the transaction of insurance in the state, in accordance with the Florida Insurance Code (Code). The Life and Health Unit of OIR provides financial, conduct, and product oversight of health insurers, health maintenance organizations, and other regulated entities providing health care coverage pursuant to various chapters of the Code. The following laws constitute the Code:³

Chapter 624, F.S. – Insurance Code: Administration and General Provisions

Chapter 626, F.S. – Insurance Field Representatives and Operations

Chapter 627, F.S. – Insurance Rates and Contracts

Chapter 631, F.S. – Insurer Insolvency; Guaranty of Payment

Chapter 632, F.S. – Fraternal Benefit Societies

Chapter 636, F.S. – Prepaid Limited Health Service Organizations and Discount Medical Plan Organizations

Chapter 641, F.S. – Health Care Service Programs

Chapter 651, F.S. – Continuing Care Contracts

OIR regulatory activities include licensing, rate and form approval, market conduct review, issuing certificates of authority, ensuring solvency, and administrative supervision.

Health Insurance

Health insurance is the insurance of human beings against bodily injury or disablement by accident or sickness, including the expenses associated with such injury, disablement, or sickness.⁴ Individuals purchase health insurance coverage with the purpose of managing anticipated expenses related to health or protecting themselves from unexpected medical bills or large health care costs. Managed care systems combine the delivery and financing of health care services by limiting the choice of doctors and hospitals. In return for this limited choice, however, medical care is less costly due to the

¹ DFS, *Department of Financial Services Long Range Program Plan: Fiscal Years 2020-21 through 2024-25*, 15 (Sept. 30, 2019), available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=19566&DocType=PDF> (last visited March 23, 2023).

² S. 624.307(10)(a), F.S.

³ S. 624.01, F.S.

⁴ S. 624.603, F.S.

managed care network's ability to control health care services.⁵ Some common forms of managed care are preferred provider organizations⁶ and health maintenance organizations⁷ (HMO).

There are three types of health-related identification cards that require specific information to be printed on the card under Florida law. This includes prescription benefits identification cards,⁸ health benefit plans identification cards,⁹ and health management organization identification cards.¹⁰ Some of the statutorily required information on these cards include the insured's name, identification number, and group number.¹¹ This information is provided to "improve patient care by minimizing confusion, eliminating unnecessary work, decreasing patient wait time, and improving business efficiencies."¹²

ERISA

The federal Employee Retirement and Income Security Act (ERISA) was passed in 1974 and prevents states from directly regulating employee welfare benefits, including employer-sponsored health plans.¹³ Even though ERISA preempts state regulation over employer-sponsored health plans, states retain regulatory power over insurance carriers and health maintenance organizations (HMOs).¹⁴ However, employers that choose to "self-fund" are not subject to traditional state insurance laws. ERISA has directly contributed to the current legal environment where a sizeable portion of health insurance plans are regulated by the federal government.¹⁵

Effect of the Bill

The bill specifies additional information that must be included on prescription identification cards, health benefit plan identification cards, and health maintenance organization identification cards. If the insurance plan is subject to state regulation the identification card must include the letters "FL" on the back left of the card and a quick response (QR) code that links to the consumer complaint website of DCS. If the insurance plan is subject to Federal regulation the identification card must include the letters "FED" on the back left of the card and a QR code that links to the consumer complaint website of the Centers for Medicare and Medicaid Services. Finally, the bill allows for DFS to adopt rules to implement necessary changes to the consumer complaint website and hotline of DCS.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 627.4302, F.S., relating to identification cards for processing prescription drug claims.
- Section 2:** Amends s. 627.642, F.S., relating to outline of coverage.
- Section 3:** Amends s. 627.657, F.S., relating to provisions of group health insurance policies.
- Section 4:** Amends s. 641.31, F.S., relating to health maintenance contracts.
- Section 5:** Provides an effective date of January 1, 2024.

⁵ MedlinePlus, *Managed Care*, <https://medlineplus.gov/managedcare.html> (last visited March 23, 2023).

⁶ See s. 627.6471, F.S.

⁷ See part I of chapter 641, F.S.

⁸ See s. 627.4302., F.S.

⁹ Health benefit plan is defined in s. 627.6699(3)(k). See ss. 627.642 and 627.657, F.S.

¹⁰ See s. 641.31, F.S.

¹¹ See s. 627.4302(2), F.S.

¹² S. 627.4302(1), F.S.

¹³ Kaiser Family Foundation, *ERISA Plans*, <https://www.kff.org/wp-content/uploads/sites/3/2015/06/c11.pdf> (last visited March 23, 2023).

¹⁴ *Id.*

¹⁵ U.S. Department of Labor, *Fact Sheet: What Is ERISA*, <https://www.dol.gov/agencies/ebsa/about-ebsa/our-activities/resource-center/fact-sheets/what-is-erisa> (last visited March 23, 2023). As of 2013 ERISA covered 141 million individuals. *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.¹⁶

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private businesses will be required to add content to health-related identification cards that are not currently required. This will have an indeterminate negative impact as businesses will need to comply with the bill's requirements.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill provides DFS with the authority necessary to implement the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

It is unclear what power, if any, the state has to regulate the identification cards of federally regulated health plans. Additionally, the Centers for Medicare and Medicaid Services is the regulator for Medicare plans but does not regulate self-funded plans. Self-funded plans are regulated by the Department of Labor and would be the appropriate resource for individuals with a self-funded plan to refer to.

¹⁶ While health insurance cards issued under the authority of the Division of State Group Insurance, for current and former state employees, and the Agency for Health Care Administration, for Medicaid and other state health program beneficiaries, will need to comply with the bill, this will be done as new and replacement cards are issued. This should mitigate any fiscal impact on the state.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES