

By Senator Wright

8-00117-23

202346__

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 construction; providing
9 applicability; amending s. 627.6385, F.S.; providing
10 disclosure requirements; providing applicability;
11 amending s. 627.64741, F.S.; requiring specified
12 contracts to require pharmacy benefit managers to
13 apply payments by or on behalf of insureds toward the
14 insureds' total contributions to cost-sharing
15 requirements; providing applicability; providing
16 disclosure requirements; creating s. 627.65715, F.S.;
17 defining the term "cost-sharing requirement";
18 requiring specified group health insurers and their
19 pharmacy benefit managers to apply payments by or on
20 behalf of insureds toward the total contributions of
21 the insureds' cost-sharing requirements; providing
22 construction; providing disclosure requirements;
23 providing applicability; amending s. 627.6572, F.S.;
24 requiring specified contracts to require pharmacy
25 benefit managers to apply payments by or on behalf of
26 insureds toward the insureds' total contributions to
27 cost-sharing requirements; providing applicability;
28 providing disclosure requirements; amending s.
29 627.6699, F.S.; requiring small employer carriers to

8-00117-23

202346__

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

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Section 627.6383, Florida Statutes, is created
53 to read:

54 627.6383 Cost-sharing requirements.—

55 (1) As used in this section, the term "cost-sharing
56 requirement" means a dollar limit, a deductible, a copayment,
57 coinsurance, or any other out-of-pocket expense imposed on an
58 insured, including, but not limited to, the annual limitation on

8-00117-23

202346__

59 cost sharing subject to 42 U.S.C. s. 18022.

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

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

73 (3) This section applies to any health insurance policy
74 issued, delivered, or renewed in this state on or after January
75 1, 2024.

76 Section 2. Present subsections (2) and (3) of section
77 627.6385, Florida Statutes, are redesignated as subsections (3)
78 and (4), respectively, a new subsection (2) is added to that
79 section, and present subsection (2) of that section is amended,
80 to read:

81 627.6385 Disclosures to policyholders; calculations of cost
82 sharing.—

83 (2) Each health insurer issuing, delivering, or renewing a
84 policy in this state which provides prescription drug coverage,
85 regardless of whether the prescription drug benefits are
86 administered or managed by the health insurer or by a pharmacy
87 benefit manager on behalf of the health insurer, shall disclose

8-00117-23

202346__

88 on its website that any amount paid by a policyholder or by
89 another person on behalf of the policyholder must be applied
90 toward the policyholder's total contribution to any cost-sharing
91 requirement pursuant to s. 627.6383. This subsection applies to
92 any policy issued, delivered, or renewed in this state on or
93 after January 1, 2024.

94 (3)~~(2)~~ Each health insurer shall include in every policy
95 delivered or issued for delivery to any person in ~~this the~~ state
96 or in materials provided as required by s. 627.64725 a notice
97 that the information required by this section is available
98 electronically and the website address ~~of the website~~ where the
99 information can be accessed. In addition, each health insurer
100 issuing, delivering, or renewing a policy in this state which
101 provides prescription drug coverage, regardless of whether the
102 prescription drug benefits are administered or managed by the
103 health insurer or by a pharmacy benefit manager on behalf of the
104 health insurer, shall include in every policy that is issued,
105 delivered, or renewed to any person in this state on or after
106 January 1, 2024, the disclosure that any amount paid by a
107 policyholder or by another person on behalf of the policyholder
108 must be applied toward the policyholder's total contribution to
109 any cost-sharing requirement pursuant to s. 627.6383.

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

112 627.64741 Pharmacy benefit manager contracts.—

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

115 (c)1. Apply any amount paid by an insured or by another
116 person on behalf of the insured toward the insured's total

8-00117-23

202346__

117 contribution to any cost-sharing requirement pursuant to s.
118 627.6383. This subparagraph applies to any insured whose
119 insurance policy is issued, delivered, or renewed in this state
120 on or after January 1, 2024.

121 2. Disclose to every insured whose insurance policy is
122 issued, delivered, or renewed in this state on or after January
123 1, 2024, that the pharmacy benefit manager shall apply any
124 amount paid by the insured or by another person on behalf of the
125 insured toward the insured's total contribution to any cost-
126 sharing requirement pursuant to s. 627.6383.

127 Section 4. Section 627.65715, Florida Statutes, is created
128 to read:

129 627.65715 Cost-sharing requirements.-

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

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

141 (b) The amount paid by or on behalf of the insured which is
142 applied toward the insured's total contribution to any cost-
143 sharing requirement under paragraph (a) includes, but is not
144 limited to, any payment with or any discount through financial
145 assistance, a manufacturer copay card, a product voucher, or any

8-00117-23

202346__

146 other reduction in out-of-pocket expenses made by or on behalf
147 of the insured for a prescription drug.

148 (3) Each insurer issuing, delivering, or renewing a policy
149 in this state which provides prescription drug coverage,
150 regardless of whether the prescription drug benefits are
151 administered or managed by the insurer or by a pharmacy benefit
152 manager on behalf of the insurer, shall disclose on its website
153 and in every policy issued, delivered, or renewed in this state
154 on or after January 1, 2024, that any amount paid by an insured
155 or by another person on behalf of the insured must be applied
156 toward the insured's total contribution to any cost-sharing
157 requirement.

158 (4) This section applies to any group health insurance
159 policy issued, delivered, or renewed in this state on or after
160 January 1, 2024.

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

163 627.6572 Pharmacy benefit manager contracts.—

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

166 (c)1. Apply any amount paid by an insured or by another
167 person on behalf of the insured toward the insured's total
168 contribution to any cost-sharing requirement pursuant to s.
169 627.65715. This subparagraph applies to any insured whose
170 insurance policy is issued, delivered, or renewed in this state
171 on or after January 1, 2024.

172 2. Disclose to every insured whose insurance policy is
173 issued, delivered, or renewed in this state on or after January
174 1, 2024, that the pharmacy benefit manager shall apply any

8-00117-23

202346__

175 amount paid by the insured or by another person on behalf of the
176 insured toward the insured's total contribution to any cost-
177 sharing requirement pursuant to s. 627.65715.

178 Section 6. Paragraph (e) of subsection (5) of section
179 627.6699, Florida Statutes, is amended to read:

180 627.6699 Employee Health Care Access Act.—

181 (5) AVAILABILITY OF COVERAGE.—

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

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

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

8-00117-23

202346__

204 group.

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

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

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

227 6. A small employer carrier may not modify any health
228 benefit plan issued to a small employer with respect to a small
229 employer or any eligible employee or dependent through riders,
230 endorsements, or otherwise to restrict or exclude coverage for
231 certain diseases or medical conditions otherwise covered by the
232 health benefit plan.

8-00117-23

202346__

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

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

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

243 641.31 Health maintenance contracts.—

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

249 (b) 1. 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, or each pharmacy benefit manager on behalf of such
253 health maintenance organization, shall apply any amount paid by
254 a subscriber or by another person on behalf of the subscriber
255 toward the subscriber's total contribution to any cost-sharing
256 requirement.

257 2. The amount paid by or on behalf of the subscriber which
258 is applied toward the subscriber's total contribution to any
259 cost-sharing requirement under subparagraph 1. includes, but is
260 not limited to, any payment with or any discount through
261 financial assistance, a manufacturer copay card, a product

8-00117-23

202346__

262 voucher, or any other reduction in out-of-pocket expenses made
263 by or on behalf of the subscriber for a prescription drug.

264 (c) Each health maintenance organization issuing,
265 delivering, or renewing a health maintenance contract or
266 certificate in this state which provides prescription drug
267 coverage, regardless of whether the prescription drug benefits
268 are administered or managed by the health maintenance
269 organization or by a pharmacy benefit manager on behalf of the
270 health maintenance organization, shall disclose on its website
271 and in every subscriber's health maintenance contract,
272 certificate, or member handbook issued, delivered, or renewed in
273 this state on or after January 1, 2024, that any amount paid by
274 a subscriber or by another person on behalf of the subscriber
275 must be applied toward the subscriber's total contribution to
276 any cost-sharing requirement.

277 (d) This subsection applies to any health maintenance
278 contract or certificate issued, delivered, or renewed in this
279 state on or after January 1, 2024.

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

282 641.314 Pharmacy benefit manager contracts.—

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

286 (c)1. Apply any amount paid by a subscriber or by another
287 person on behalf of the subscriber toward the subscriber's total
288 contribution to any cost-sharing requirement pursuant to s.
289 641.31(48). This subparagraph applies to any subscriber whose
290 health maintenance contract or certificate is issued, delivered,

8-00117-23

202346__

291 or renewed in this state on or after January 1, 2024.

292 2. Disclose to every subscriber whose health maintenance
293 contract or certificate is issued, delivered, or renewed in this
294 state on or after January 1, 2024, that the pharmacy benefit
295 manager shall apply any amount paid by the subscriber or by
296 another person on behalf of the subscriber toward the
297 subscriber's total contribution to any cost-sharing requirement
298 pursuant to s. 641.31(48).

299 Section 9. Paragraph (o) of subsection (2) of section
300 409.967, Florida Statutes, is amended to read:

301 409.967 Managed care plan accountability.—

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

306 (o) *Transparency.*—Managed care plans shall comply with ss.
307 627.6385(4) and 641.54(7) ~~ss. 627.6385(3) and 641.54(7).~~

308 Section 10. Paragraph (k) of subsection (1) of section
309 641.185, Florida Statutes, is amended to read:

310 641.185 Health maintenance organization subscriber
311 protections.—

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

319 (k) A health maintenance organization subscriber shall be

8-00117-23

202346__

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

328 Section 11. The Legislature finds that this act fulfills an
329 important state interest.

330 Section 12. This act shall take effect July 1, 2023.