

By Senator Wright

8-00104-24

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

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

55
56 Be It Enacted by the Legislature of the State of Florida:

57
58 Section 1. Section 627.6383, Florida Statutes, is created

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59 to read:

60 627.6383 Cost-sharing requirements.-

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

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

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

79 (3) This section applies to any health insurance policy
 80 issued, delivered, or renewed in this state on or after January
 81 1, 2025.

82 Section 2. Present subsections (2) and (3) of section
 83 627.6385, Florida Statutes, are redesignated as subsections (3)
 84 and (4), respectively, a new subsection (2) is added to that
 85 section, and present subsection (2) of that section is amended,
 86 to read:

87 627.6385 Disclosures to policyholders; calculations of cost

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88 sharing.-

89 (2) Each health insurer issuing, delivering, or renewing a
90 policy that provides prescription drug coverage in this state,
91 regardless of whether the prescription drug benefits are
92 administered or managed by the health insurer or by a pharmacy
93 benefit manager on behalf of the health insurer, shall disclose
94 on its website that any amount paid by a policyholder or by
95 another person on behalf of the policyholder must be applied
96 toward the policyholder's total contribution to any cost-sharing
97 requirement pursuant to s. 627.6383. This subsection applies to
98 any policy issued, delivered, or renewed in this state on or
99 after January 1, 2025.

100 (3)~~(2)~~ Each health insurer shall include in every policy
101 delivered or issued for delivery to any person in this the state
102 or in materials provided as required by s. 627.64725 a notice
103 that the information required by this section is available
104 electronically and the website address of the website where the
105 information can be accessed. In addition, each health insurer
106 issuing, delivering, or renewing a policy that provides
107 prescription drug coverage in this state, regardless of whether
108 the prescription drug benefits are administered or managed by
109 the health insurer or by a pharmacy benefit manager on behalf of
110 the health insurer, shall include in every policy issued,
111 delivered, or renewed to any person in this state on or after
112 January 1, 2025, the disclosure that any amount paid by a
113 policyholder or by another person on behalf of the policyholder
114 must be applied toward the policyholder's total contribution to
115 any cost-sharing requirement pursuant to s. 627.6383.

116 Section 3. Paragraph (c) is added to subsection (2) of

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117 section 627.64741, Florida Statutes, to read:

118 627.64741 Pharmacy benefit manager contracts.-

119 (2) In addition to the requirements of part VII of chapter
120 626, a contract between a health insurer and a pharmacy benefit
121 manager must require that the pharmacy benefit manager:

122 (c)1. Apply any amount paid by an insured or by another
123 person on behalf of the insured toward the insured's total
124 contribution to any cost-sharing requirement pursuant to s.
125 627.6383. This subparagraph applies to any insured whose
126 insurance policy is issued, delivered, or renewed in this state
127 on or after January 1, 2025.

128 2. Disclose to every insured whose insurance policy is
129 issued, delivered, or renewed in this state on or after January
130 1, 2025, that the pharmacy benefit manager shall apply any
131 amount paid by the insured or by another person on behalf of the
132 insured toward the insured's total contribution to any cost-
133 sharing requirement pursuant to s. 627.6383.

134 Section 4. Section 627.65715, Florida Statutes, is created
135 to read:

136 627.65715 Cost-sharing requirements.-

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

142 (2) (a) Each insurer issuing, delivering, or renewing a
143 policy that provides prescription drug coverage in this state,
144 or each pharmacy benefit manager on behalf of such insurer,
145 shall apply any amount paid by an insured or by another person

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146 on behalf of the insured toward the insured's total contribution
147 to any cost-sharing requirement.

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

155 (3) Each insurer issuing, delivering, or renewing a policy
156 that provides prescription drug coverage in this state,
157 regardless of whether the prescription drug benefits are
158 administered or managed by the insurer or by a pharmacy benefit
159 manager on behalf of the insurer, shall disclose on its website
160 and in every policy issued, delivered, or renewed in this state
161 on or after January 1, 2025, that any amount paid by an insured
162 or by another person on behalf of the insured must be applied
163 toward the insured's total contribution to any cost-sharing
164 requirement.

165 (4) This section applies to any group health insurance
166 policy issued, delivered, or renewed in this state on or after
167 January 1, 2025.

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

170 627.6572 Pharmacy benefit manager contracts.—

171 (2) In addition to the requirements of part VII of chapter
172 626, a contract between a health insurer and a pharmacy benefit
173 manager must require that the pharmacy benefit manager:

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

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175 person on behalf of the insured toward the insured's total
176 contribution to any cost-sharing requirement pursuant to s.
177 627.65715. This subparagraph applies to any insured whose
178 insurance policy is issued, delivered, or renewed in this state
179 on or after January 1, 2025.

180 2. Disclose to every insured whose insurance policy is
181 issued, delivered, or renewed in this state on or after January
182 1, 2025, that the pharmacy benefit manager shall apply any
183 amount paid by the insured or by another person on behalf of the
184 insured toward the insured's total contribution to any cost-
185 sharing requirement pursuant to s. 627.65715.

186 Section 6. Paragraph (e) of subsection (5) of section
187 627.6699, Florida Statutes, is amended to read:

188 627.6699 Employee Health Care Access Act.—

189 (5) AVAILABILITY OF COVERAGE.—

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

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

197 2. Any requirement used by a small employer carrier in
198 determining whether to provide coverage to a small employer
199 group, including requirements for minimum participation of
200 eligible employees and minimum employer contributions, must be
201 applied uniformly among all small employer groups having the
202 same number of eligible employees applying for coverage or
203 receiving coverage from the small employer carrier, except that

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204 a small employer carrier that participates in, administers, or
205 issues health benefits pursuant to s. 381.0406 which do not
206 include a preexisting condition exclusion may require as a
207 condition of offering such benefits that the employer has had no
208 health insurance coverage for its employees for a period of at
209 least 6 months. A small employer carrier may vary application of
210 minimum participation requirements and minimum employer
211 contribution requirements only by the size of the small employer
212 group.

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

222 4. A small employer carrier may ~~shall~~ not increase any
223 requirement for minimum employee participation or any
224 requirement for minimum employer contribution applicable to a
225 small employer at any time after the small employer has been
226 accepted for coverage, unless the employer size has changed, in
227 which case the small employer carrier may apply the requirements
228 that are applicable to the new group size.

229 5. If a small employer carrier offers coverage to a small
230 employer, it must offer coverage to all the small employer's
231 eligible employees and their dependents. A small employer
232 carrier may not offer coverage limited to certain persons in a

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233 group or to part of a group, except with respect to late
234 enrollees.

235 6. A small employer carrier may not modify any health
236 benefit plan issued to a small employer with respect to a small
237 employer or any eligible employee or dependent through riders,
238 endorsements, or otherwise to restrict or exclude coverage for
239 certain diseases or medical conditions otherwise covered by the
240 health benefit plan.

241 7. An initial enrollment period of at least 30 days must be
242 provided. An annual 30-day open enrollment period must be
243 offered to each small employer's eligible employees and their
244 dependents. A small employer carrier must provide special
245 enrollment periods as required by s. 627.65615.

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

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

251 641.31 Health maintenance contracts.—

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

257 (b)1. Each health maintenance organization issuing,
258 delivering, or renewing a health maintenance contract or
259 certificate that provides prescription drug coverage in this
260 state, or each pharmacy benefit manager on behalf of such health
261 maintenance organization, shall apply any amount paid by a

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262 subscriber or by another person on behalf of the subscriber
263 toward the subscriber's total contribution to any cost-sharing
264 requirement.

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

272 (c) Each health maintenance organization issuing,
273 delivering, or renewing a health maintenance contract or
274 certificate that provides prescription drug coverage in this
275 state, regardless of whether the prescription drug benefits are
276 administered or managed by the health maintenance organization
277 or by a pharmacy benefit manager on behalf of the health
278 maintenance organization, shall disclose on its website and in
279 every subscriber's health maintenance contract, certificate, or
280 member handbook issued, delivered, or renewed in this state on
281 or after January 1, 2025, that any amount paid by a subscriber
282 or by another person on behalf of the subscriber must be applied
283 toward the subscriber's total contribution to any cost-sharing
284 requirement.

285 (d) This subsection applies to any health maintenance
286 contract or certificate issued, delivered, or renewed in this
287 state on or after January 1, 2025.

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

290 641.314 Pharmacy benefit manager contracts.—

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291 (2) In addition to the requirements of part VII of chapter
292 626, a contract between a health maintenance organization and a
293 pharmacy benefit manager must require that the pharmacy benefit
294 manager:

295 (c)1. Apply any amount paid by a subscriber or by another
296 person on behalf of the subscriber toward the subscriber's total
297 contribution to any cost-sharing requirement pursuant to s.
298 641.31(48). This subparagraph applies to any subscriber whose
299 health maintenance contract or certificate is issued, delivered,
300 or renewed in this state on or after January 1, 2025.

301 2. Disclose to every subscriber whose health maintenance
302 contract or certificate is issued, delivered, or renewed in this
303 state on or after January 1, 2025, that the pharmacy benefit
304 manager shall apply any amount paid by the subscriber or by
305 another person on behalf of the subscriber toward the
306 subscriber's total contribution to any cost-sharing requirement
307 pursuant to s. 641.31(48).

308 Section 9. Paragraph (o) of subsection (2) of section
309 409.967, Florida Statutes, is amended to read:

310 409.967 Managed care plan accountability.—

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

315 (o) *Transparency.*—Managed care plans shall comply with ss.
316 627.6385(4) and 641.54(7) ~~ss. 627.6385(3) and 641.54(7)~~.

317 Section 10. Paragraph (k) of subsection (1) of section
318 641.185, Florida Statutes, is amended to read:

319 641.185 Health maintenance organization subscriber

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320 protections.-

321 (1) With respect to the provisions of this part and part
322 III, the principles expressed in the following statements serve
323 as standards to be followed by the commission, the office, the
324 department, and the Agency for Health Care Administration in
325 exercising their powers and duties, in exercising administrative
326 discretion, in administrative interpretations of the law, in
327 enforcing its provisions, and in adopting rules:

328 (k) A health maintenance organization subscriber shall be
329 given a copy of the applicable health maintenance contract,
330 certificate, or member handbook specifying~~+~~ all the provisions,
331 disclosure, and limitations required pursuant to s. 641.31(1),
332 and (4), and (48); the covered services, including those
333 services, medical conditions, and provider types specified in
334 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and
335 641.513; and where and in what manner services may be obtained
336 pursuant to s. 641.31(4).

337 Section 11. The Legislature finds that this act fulfills an
338 important state interest.

339 Section 12. This act shall take effect July 1, 2024.