

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

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

51 effective date.

52

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

54

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

57 627.6383 Cost-sharing requirements.-

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

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

70 1. Does not have a generic equivalent; or

71 2. Has a generic equivalent and the insured has obtained
72 authorization for the prescription drug through any of the
73 following:

74 a. Prior authorization from the health insurer or pharmacy
75 benefit manager.

76 b. A step-therapy protocol.

77 c. The exception or appeal process of the health insurer
 78 or pharmacy benefit manager.

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

86 (3) This section applies to any health insurance policy
 87 issued, delivered, or renewed in this state on or after January
 88 1, 2025.

89 Section 2. Subsections (2) and (3) of section 627.6385,
 90 Florida Statutes, are renumbered as subsections (3) and (4),
 91 respectively, present subsection (2) of that section is amended,
 92 and a new subsection (2) is added to that section, to read:

93 627.6385 Disclosures to policyholders; calculations of
 94 cost sharing.—

95 (2) Each health insurer issuing, delivering, or renewing a
 96 policy in this state which provides prescription drug coverage,
 97 regardless of whether the prescription drug benefits are
 98 administered or managed by the health insurer or by a pharmacy
 99 benefit manager on behalf of the health insurer, shall disclose
 100 on its website that any amount paid by a policyholder or by

101 another person on behalf of the policyholder must be applied
 102 toward the policyholder's total contribution to any cost-sharing
 103 requirement pursuant to s. 627.6383. This subsection applies to
 104 any policy issued, delivered, or renewed in this state on or
 105 after January 1, 2025.

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

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

124 627.64741 Pharmacy benefit manager contracts.—

125 (2) In addition to the requirements of part VII of chapter

126 626, a contract between a health insurer and a pharmacy benefit
127 manager must require that the pharmacy benefit manager:

128 (c)1. Apply any amount paid by an insured or by another
129 person on behalf of the insured toward the insured's total
130 contribution to any cost-sharing requirement pursuant to s.
131 627.6383. This subparagraph applies to any insured whose
132 insurance policy is issued, delivered, or renewed in this state
133 on or after January 1, 2025.

134 2. Disclose to every insured whose insurance policy is
135 issued, delivered, or renewed in this state on or after January
136 1, 2025, that the pharmacy benefit manager shall apply any
137 amount paid by the insured or by another person on behalf of the
138 insured toward the insured's total contribution to any cost-
139 sharing requirement pursuant to s. 627.6383.

140 Section 4. Section 627.65715, Florida Statutes, is created
141 to read:

142 627.65715 Cost-sharing requirements.—

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

148 (2)(a) Each insurer issuing, delivering, or renewing a
149 policy in this state which provides prescription drug coverage,
150 or each pharmacy benefit manager on behalf of such insurer,

151 shall apply any amount paid for a prescription drug by an
 152 insured or by another person on behalf of the insured toward the
 153 insured's total contribution to any cost-sharing requirement, if
 154 the prescription drug:

155 1. Does not have a generic equivalent; or
 156 2. Has a generic equivalent and the insured has obtained
 157 authorization for the prescription drug through any of the
 158 following:

159 a. Prior authorization from the health insurer or pharmacy
 160 benefit manager.

161 b. A step-therapy protocol.

162 c. The exception or appeal process of the health insurer
 163 or pharmacy benefit manager.

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

171 (3) Each insurer issuing, delivering, or renewing a policy
 172 in this state which provides prescription drug coverage,
 173 regardless of whether the prescription drug benefits are
 174 administered or managed by the insurer or by a pharmacy benefit
 175 manager on behalf of the insurer, shall disclose on its website

176 and in every policy issued, delivered, or renewed in this state
177 on or after January 1, 2025, that any amount paid by an insured
178 or by another person on behalf of the insured must be applied
179 toward the insured's total contribution to any cost-sharing
180 requirement.

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

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

186 627.6572 Pharmacy benefit manager contracts.—

187 (2) In addition to the requirements of part VII of chapter
188 626, a contract between a health insurer and a pharmacy benefit
189 manager must require that the pharmacy benefit manager:

190 (c)1. Apply any amount paid by an insured or by another
191 person on behalf of the insured toward the insured's total
192 contribution to any cost-sharing requirement pursuant to s.
193 627.65715. This subparagraph applies to any insured whose
194 insurance policy is issued, delivered, or renewed in this state
195 on or after January 1, 2025.

196 2. Disclose to every insured whose insurance policy is
197 issued, delivered, or renewed in this state on or after January
198 1, 2025, that the pharmacy benefit manager shall apply any
199 amount paid by the insured or by another person on behalf of the
200 insured toward the insured's total contribution to any cost-

201 sharing requirement pursuant to s. 627.65715.

202 Section 6. Paragraph (e) of subsection (5) of section
203 627.6699, Florida Statutes, is amended to read:

204 627.6699 Employee Health Care Access Act.—

205 (5) AVAILABILITY OF COVERAGE.—

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

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

213 2. Any requirement used by a small employer carrier in
214 determining whether to provide coverage to a small employer
215 group, including requirements for minimum participation of
216 eligible employees and minimum employer contributions, must be
217 applied uniformly among all small employer groups having the
218 same number of eligible employees applying for coverage or
219 receiving coverage from the small employer carrier, except that
220 a small employer carrier that participates in, administers, or
221 issues health benefits pursuant to s. 381.0406 which do not
222 include a preexisting condition exclusion may require as a
223 condition of offering such benefits that the employer has had no
224 health insurance coverage for its employees for a period of at
225 least 6 months. A small employer carrier may vary application of

226 minimum participation requirements and minimum employer
227 contribution requirements only by the size of the small employer
228 group.

229 3. In applying minimum participation requirements with
230 respect to a small employer, a small employer carrier may ~~shall~~
231 not consider as an eligible employee employees or dependents who
232 have qualifying existing coverage in an employer-based group
233 insurance plan or an ERISA qualified self-insurance plan in
234 determining whether the applicable percentage of participation
235 is met. However, a small employer carrier may count eligible
236 employees and dependents who have coverage under another health
237 plan that is sponsored by that employer.

238 4. A small employer carrier may ~~shall~~ not increase any
239 requirement for minimum employee participation or any
240 requirement for minimum employer contribution applicable to a
241 small employer at any time after the small employer has been
242 accepted for coverage, unless the employer size has changed, in
243 which case the small employer carrier may apply the requirements
244 that are applicable to the new group size.

245 5. If a small employer carrier offers coverage to a small
246 employer, it must offer coverage to all the small employer's
247 eligible employees and their dependents. A small employer
248 carrier may not offer coverage limited to certain persons in a
249 group or to part of a group, except with respect to late
250 enrollees.

251 6. A small employer carrier may not modify any health
 252 benefit plan issued to a small employer with respect to a small
 253 employer or any eligible employee or dependent through riders,
 254 endorsements, or otherwise to restrict or exclude coverage for
 255 certain diseases or medical conditions otherwise covered by the
 256 health benefit plan.

257 7. An initial enrollment period of at least 30 days must
 258 be provided. An annual 30-day open enrollment period must be
 259 offered to each small employer's eligible employees and their
 260 dependents. A small employer carrier must provide special
 261 enrollment periods as required by s. 627.65615.

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

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

267 641.31 Health maintenance contracts.—

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

273 (b)1. Each health maintenance organization issuing,
 274 delivering, or renewing a health maintenance contract or
 275 certificate in this state which provides prescription drug

276 coverage, or each pharmacy benefit manager on behalf of such
277 health maintenance organization, shall apply any amount paid for
278 a prescription drug by a subscriber or by another person on
279 behalf of the subscriber toward the subscriber's total
280 contribution to any cost-sharing requirement if the prescription
281 drug:

282 a. Does not have a generic equivalent; or

283 b. Has a generic equivalent and the subscriber has
284 obtained authorization for the prescription drug through any of
285 the following:

286 (I) Prior authorization from the health maintenance
287 organization or pharmacy benefit manager.

288 (II) A step-therapy protocol.

289 (III) The exception or appeal process of the health
290 maintenance organization or pharmacy benefit manager.

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

298 (c) Each health maintenance organization issuing,
299 delivering, or renewing a health maintenance contract or
300 certificate in this state which provides prescription drug

301 coverage, regardless of whether the prescription drug benefits
302 are administered or managed by the health maintenance
303 organization or by a pharmacy benefit manager on behalf of the
304 health maintenance organization, shall disclose on its website
305 and in every subscriber's health maintenance contract,
306 certificate, or member handbook issued, delivered, or renewed in
307 this state on or after January 1, 2025, that any amount paid by
308 a subscriber or by another person on behalf of the subscriber
309 must be applied toward the subscriber's total contribution to
310 any cost-sharing requirement.

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

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

316 641.314 Pharmacy benefit manager contracts.—

317 (2) In addition to the requirements of part VII of chapter
318 626, a contract between a health maintenance organization and a
319 pharmacy benefit manager must require that the pharmacy benefit
320 manager:

321 (c)1. Apply any amount paid by a subscriber or by another
322 person on behalf of the subscriber toward the subscriber's total
323 contribution to any cost-sharing requirement pursuant to s.
324 641.31(48). This subparagraph applies to any subscriber whose
325 health maintenance contract or certificate is issued, delivered,

326 or renewed in this state on or after January 1, 2025.

327 2. Disclose to every subscriber whose health maintenance
 328 contract or certificate is issued, delivered, or renewed in this
 329 state on or after January 1, 2025, that the pharmacy benefit
 330 manager shall apply any amount paid by the subscriber or by
 331 another person on behalf of the subscriber toward the
 332 subscriber's total contribution to any cost-sharing requirement
 333 pursuant to s. 641.31(48).

334 Section 9. Paragraph (o) of subsection (2) of section
 335 409.967, Florida Statutes, is amended to read:

336 409.967 Managed care plan accountability.—

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

341 (o) Transparency.—Managed care plans shall comply with ss.
 342 627.6385(4) and 641.54(7) ~~ss. 627.6385(3) and 641.54(7)~~.

343 Section 10. Paragraph (k) of subsection (1) of section
 344 641.185, Florida Statutes, is amended to read:

345 641.185 Health maintenance organization subscriber
 346 protections.—

347 (1) With respect to the provisions of this part and part
 348 III, the principles expressed in the following statements serve
 349 as standards to be followed by the commission, the office, the
 350 department, and the Agency for Health Care Administration in

351 exercising their powers and duties, in exercising administrative
352 discretion, in administrative interpretations of the law, in
353 enforcing its provisions, and in adopting rules:

354 (k) A health maintenance organization subscriber shall be
355 given a copy of the applicable health maintenance contract,
356 certificate, or member handbook specifying: all the provisions,
357 disclosure, and limitations required pursuant to s. 641.31(1) and
358 and (4), and (48); the covered services, including those
359 services, medical conditions, and provider types specified in
360 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and
361 641.513; and where and in what manner services may be obtained
362 pursuant to s. 641.31(4).

363 Section 11. The Legislature finds that this act fulfills
364 an important state interest.

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