A bill to be entitled

An act relating to health insurance cost sharing; creating s. 627.6383, F.S.; defining the term "cost-sharing requirement"; requiring specified individual health insurers and their pharmacy benefit managers to apply payments for prescription drugs by or on behalf of insureds toward the total contributions of the insureds' cost-sharing requirements under certain circumstances; providing construction; providing applicability; amending s. 627.6385, F.S.; providing disclosure requirements; providing applicability; amending s. 627.64741, F.S.; requiring specified contracts to require pharmacy benefit managers to apply payments by or on behalf of insureds toward the insureds' total contributions to cost-sharing requirements; providing applicability; providing disclosure requirements; creating s. 627.65715, F.S.; defining the term "cost-sharing requirement"; requiring specified group health insurers and their pharmacy benefit managers to apply payments for prescription drugs by or on behalf of insureds toward the total contributions of the insureds' cost-sharing requirements under certain circumstances; providing construction; providing disclosure requirements; providing applicability; amending s. 627.6572, F.S.;

requiring specified contracts to require pharmacy benefit managers to apply payments by or on behalf of insureds toward the insureds' total contributions to cost-sharing requirements; providing applicability; providing disclosure requirements; amending s. 627.6699, F.S.; making technical changes; requiring small employer carriers to comply with certain cost-sharing requirements; amending s. 641.31, F.S.; defining the term "cost-sharing requirement"; requiring specified health maintenance organizations and their pharmacy benefit managers to apply payments for prescription drugs by or on behalf of subscribers toward the total contributions of the subscribers' cost-sharing requirements under certain circumstances; providing construction; providing disclosure requirements; providing applicability; amending s. 641.314, F.S.; requiring specified contracts to require pharmacy benefit managers to apply payments by or on behalf of subscribers toward the subscribers' total contributions to cost-sharing requirements; providing applicability; providing disclosure requirements; amending s. 409.967, F.S.; conforming a cross-reference; amending s. 641.185, F.S.; conforming a provision to changes made by the act; providing a declaration of important state interest; providing an

effective date.

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

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

627.6383 Cost-sharing requirements.—

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

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

1. Does not have a generic equivalent; or

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

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

b. A step-therapy protocol.

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

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

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

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

627.6385 Disclosures to policyholders; calculations of cost sharing.—

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

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

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

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

627.64741 Pharmacy benefit manager contracts.—

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

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

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

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

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

627.65715 Cost-sharing requirements.—

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

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

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

1. Does not have a generic equivalent; or

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

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

b. A step-therapy protocol.

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

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

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

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

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

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

627.6572 Pharmacy benefit manager contracts.—

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

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

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

sharing requirement pursuant to s. 627.65715.

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

627.6699 Employee Health Care Access Act.—

(5) AVAILABILITY OF COVERAGE.—

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

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

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

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

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

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

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

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

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

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

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

641.31 Health maintenance contracts.—

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

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

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

a. Does not have a generic equivalent; or

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

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

(II) A step-therapy protocol.

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

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

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

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

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

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

641.314 Pharmacy benefit manager contracts.—

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

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

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

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

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

409.967 Managed care plan accountability.—

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

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

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

641.185 Health maintenance organization subscriber protections.—

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

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

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

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

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