

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 436

INTRODUCER: Senators Altman and Soto

SUBJECT: Payment for Services Provided by Licensed Psychologists

DATE: April 4, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<b>Favorable</b>
2.	<u>Peterson</u>	<u>Stovall</u>	<u>HP</u>	<b>Pre-meeting</b>
3.	_____	_____	<u>AHS</u>	_____
4.	_____	_____	<u>AP</u>	_____

**I. Summary:**

SB 436 adds licensed psychologists to the list of non-network providers to whom an insurer must make direct payment for medical services when authorized by an insured. The bill adds psychologists and school psychologists to the list of health care providers who are protected by a shorter timeframe during which health insurers or health maintenance organizations (HMOs) can file a claim for overpayment and who are subject to a 12-month time period for submitting claims for underpayment against health insurers or HMOs.

**II. Present Situation:**

**Claims of Overpayment and Underpayment**

Sections 627.6131 and 641.3155, F.S., respectively, set forth required provisions for contracts between a health insurer or health maintenance organization (HMO), and a health care provider related to payment of claims. By contract, a health insurer or HMO must submit any claim for overpayment to a health care provider within 30 months from the date of payment. The provider then has 40 days to pay, deny, or contest the claim. However, claims for overpayment against physicians, chiropractors, podiatrists, and dentists are excepted from the 30-month timeframe and must be submitted instead within 12 months after payment.<sup>1</sup> The law also requires these same providers to submit a claim of underpayment 12 months after receiving payment.<sup>2</sup>

**Assignment of Benefits for Health Insurance Claims**

Prior to the 2009 Legislative Session, s. 627.638(2), F.S., required that, when specifically authorized by the insured, a health insurer was required to make direct payment to any

<sup>1</sup> Sections 627.6131(18) and 641.3155(16), F.S.

<sup>2</sup> Sections 627.6131(19) and 641.3155(17), F.S.

recognized hospital, licensed ambulance provider, physician, or dentist, “unless otherwise provided in the insurance contract.” An insurance contract could not, however, prohibit direct payment for emergency services or emergency medical transportation services by an out-of-network provider.

In 2009, the Legislature amended s. 627.638(2), F.S., to remove the qualifying language “unless otherwise provided in the insurance contract” and to add “other person[s] who provided the services in accordance with the provisions of the policy” to the list of specified professionals who are entitled to direct payment for services when directed by the insured. The law also removed the distinction between emergency and non-emergency services.<sup>3</sup> The effect of this legislation was to require an insurer to make direct payment to any provider not under contract if the insured makes a written assignment of benefits.

### **Practice of Psychology**

Chapter 490, F.S., sets forth the provisions for the regulation of the practice of psychology and school psychology by the Board of Psychology. “Practice of psychology” means the observation, description, evaluation, interpretation, and modification of human behavior by the use of scientific and applied psychological principles, methods, and procedures, for the purpose of describing, preventing, alleviating, or eliminating symptomatic, maladaptive, or undesired behavior, and of enhancing interpersonal behavioral health and mental or psychological health.<sup>4</sup> “Practice of school psychology” means the rendering or offering to render to an individual, a group, an organization, a government agency, or the public any of the following services—assessment, counseling, consultation, and development of programs.<sup>5</sup> To become licensed as a psychologist or school psychologist, a person must submit a completed application form and required fees; provide proof of completing the required education and meeting the experience requirement; and pass the required portions of the examination.<sup>6</sup>

### **III. Effect of Proposed Changes:**

The bill amends ss. 627.6131 and 641.355, F.S., to add psychologists and school psychologists in the list of health care providers:

- To whom an insurer or HMO must submit a claim for overpayment within 12 months after payment of the claim; and,
- Who must submit a claim for underpayment to an insurer or HMO within 12 months after receipt of payment of the claim.

The bill amends s. 627.638, F.S., to include psychologists in the list of specifically named providers not under contract to whom an insurer must make direct payment when authorized by the patient.

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<sup>3</sup> Chapter 2009-124, s. 2, Laws of Fla.

<sup>4</sup> Section 490.003(4), F.S.

<sup>5</sup> Section 490.003(5), F.S.

<sup>6</sup> Sections 490.005 and 490.006, F.S., provide for licensure by examination or endorsement, respectively. An applicant for licensure by endorsement must still pass those portions of the examination pertaining to the Florida rules and laws governing the practice of psychology or school psychology.

The bill has an effective date of July 1, 2014.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

SB 436 reduces the “look back” period for an insurer or HMO to submit claims to psychologists and school psychologists for overpayment. This should help these practitioners to manage cash flow and may result in fewer claims.

Health insurance carriers and HMOs will incur some administrative costs for revising health insurance forms to allow for the selection of a psychologist for direct payment for services rendered for hospital and emergency medical services

C. Government Sector Impact:

When identical legislation was considered by the Legislature during the 2013 Session, the Office of Insurance Regulation anticipated an increase in health form review as a result of the additional category of providers eligible for direct payment on any health insurance form, but indicated that the increased form review costs could be absorbed within current resources.<sup>7</sup> The office has not submitted a fiscal analysis of SB 436.

**VI. Technical Deficiencies:**

None.

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<sup>7</sup> Office of Insurance Regulation, *Senate Bill 144 Analysis* (Feb. 6, 2013) (on file with the Senate Committee on Health Policy).

**VII. Related Issues:**

Section 627.638(2), F.S., requires that, if specifically authorized by the insured, a health insurer must directly pay all licensed hospitals, licensed ambulance providers, physicians, dentists, and “other person[s] who provide services” in accordance with the provisions of the insurance policy. The term “other person who provided the services” appears to be a catch-all provision that covers all health care providers, including psychologists and school psychologists.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 627.6131, 641.3155, and 627.638.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.