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1
2 An act relating to health care services; amending s.
3 627.6686, F.S.; requiring a specified health insurance
4 plan to provide specified coverage for treatment of
5 Down syndrome; amending s. 641.31098, F.S.; requiring
6 a specified health maintenance contract to provide
7 specified health maintenance contract to provide
8 specified coverage for treatment of Down syndrome;
9 enacting s. 627.42392, F.S.; requiring a health
10 insurer or a pharmacy benefits manager to only use a
11 certain form; providing requirements for such form;
12 providing legislative intent that the enactment of s.
13 627.42392(2), F.S., made by this act controls;
14 amending s. 395.003, F.S.; requiring hospitals,
15 ambulatory surgical centers, specialty hospitals, and
16 urgent care centers to comply with certain provisions
17 as a condition of licensure; amending s. 395.301,
18 F.S.; requiring a hospital to post on its website
19 certain information regarding health insurers, health
20 maintenance organizations, health care practitioners,
21 and practice groups that it contracts with, and a
22 specified disclosure statement; amending s. 408.7057,
23 F.S.; providing requirements for settlement offers
24 between certain providers and health plans in a
25 specified dispute resolution program; requiring the
26 Agency for Health Care Administration to include in



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27 | its rules additional requirements relating to a
28 | resolution organization's process in considering
29 | certain claim disputes; requiring a final order to be
30 | subject to judicial review; amending ss. 456.072,
31 | 458.331, and 459.015, F.S.; providing additional acts
32 | that constitute grounds for denial of a license or
33 | disciplinary action to which penalties apply; amending
34 | s. 626.9541, F.S.; specifying an additional unfair
35 | method of competition and unfair or deceptive act or
36 | practice; creating s. 627.64194, F.S.; defining terms;
37 | providing that an insurer is solely liable for payment
38 | of certain fees to a nonparticipating provider;
39 | providing limitations and requirements for
40 | reimbursements by an insurer to a nonparticipating
41 | provider; providing that certain disputes relating to
42 | reimbursement of a nonparticipating provider shall be
43 | resolved in a court of competent jurisdiction or
44 | through a specified voluntary dispute resolution
45 | process; amending s. 627.6471, F.S.; requiring an
46 | insurer that issues a policy including coverage for
47 | the services of a preferred provider to post on its
48 | website certain information about participating
49 | providers and physicians; requiring that specified
50 | notice be included in policies issued after a
51 | specified date which provide coverage for the services
52 | of a preferred provider; amending s. 627.662, F.S.;



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53 providing applicability of provisions relating to
54 coverage for services and payment collection
55 limitations to group health insurance, blanket health
56 insurance, and franchise health insurance; providing
57 effective dates.

58

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

60

61 Section 1. Paragraph (b) of subsection (3) of section
62 627.6686, Florida Statutes, is amended to read:

63 627.6686 Coverage for individuals with autism spectrum
64 disorder required; exception.—

65 (3) A health insurance plan issued or renewed on or after
66 April 1, 2009, shall provide coverage to an eligible individual
67 for:

68 (b) Treatment of autism spectrum disorder and Down
69 syndrome through speech therapy, occupational therapy, physical
70 therapy, and applied behavior analysis. Applied behavior
71 analysis services shall be provided by an individual certified
72 pursuant to s. 393.17 or an individual licensed under chapter
73 490 or chapter 491.

74 Section 2. Paragraph (b) of subsection (3) of section
75 641.31098, Florida Statutes, is amended to read:

76 641.31098 Coverage for individuals with developmental
77 disabilities.—

78 (3) A health maintenance contract issued or renewed on or



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79 after April 1, 2009, shall provide coverage to an eligible
80 individual for:

81 (b) Treatment of autism spectrum disorder and Down
82 syndrome, through speech therapy, occupational therapy, physical
83 therapy, and applied behavior analysis services. Applied
84 behavior analysis services shall be provided by an individual
85 certified pursuant to s. 393.17 or an individual licensed under
86 chapter 490 or chapter 491.

87 Section 3. Notwithstanding the enactment of subsection (2)
88 made to s. 627.42392, Florida Statutes, by HB 423, 1st Eng.,
89 2016 Regular Session, subsection (2) of s. 627.42392, Florida
90 Statutes, is enacted to read:

91 (2) Notwithstanding any other provision of law, effective
92 January 1, 2017 or six (6) months after the effective date of
93 the rule adopting the prior authorization form, whichever is
94 later, a health insurer, or a pharmacy benefits manager on
95 behalf of the health insurer, which does not provide an
96 electronic prior authorization process for use by its contracted
97 providers, shall only use the prior authorization form that
98 has been approved by the Financial Services Commission for
99 granting a prior authorization for a medical procedure, course
100 of treatment, or prescription drug benefit. Such form may not
101 exceed two pages in length, excluding any instructions or
102 guiding documentation, and must include all clinical
103 documentation necessary for health insurer to make a decision.
104 At a minimum, the form must include: (1) sufficient patient



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105 information to identify the member, date of birth, full name,
106 and Health Plan ID number; (2) Provider name, address and phone
107 number; (3) the medical procedure, course of treatment, or
108 prescription drug benefit being requested, including the medical
109 reason therefor, and all services tried and failed; (4) any
110 laboratory documentation required; and (5) an attestation that
111 all information provided is true and accurate.

112 Section 4. It is the intent of the Legislature that the
113 enactment of s. 627.42392(2), Florida Statutes, made by this act
114 shall control over the enactment of that subsection made by HB
115 423, 1st Eng., 2016 Regular Session, regardless of the order in
116 which the bills are enacted.

117 Section 5. Paragraph (d) is added to subsection (5) of
118 section 395.003, Florida Statutes, to read:

119 395.003 Licensure; denial, suspension, and revocation.—

120 (5)

121 (d) A hospital, an ambulatory surgical center, a specialty
122 hospital, or an urgent care center shall comply with ss.
123 627.64194 and 641.513 as a condition of licensure.

124 Section 6. Subsection (13) is added to section 395.301,
125 Florida Statutes, to read:

126 395.301 Itemized patient bill; form and content prescribed
127 by the agency; patient admission status notification.—

128 (13) A hospital shall post on its website:

129 (a) The names and hyperlinks for direct access to the
130 websites of all health insurers and health maintenance



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131 organizations for which the hospital contracts as a network
132 provider or participating provider.

133 (b) A statement that:

134 1. Services may be provided in the hospital by the
135 facility as well as by other health care practitioners who may
136 separately bill the patient;

137 2. Health care practitioners who provide services in the
138 hospital may or may not participate with the same health
139 insurers or health maintenance organizations as the hospital;
140 and

141 3. Prospective patients should contact the health care
142 practitioner who will provide services in the hospital to
143 determine which health insurers and health maintenance
144 organizations the practitioner participates in as a network
145 provider or preferred provider.

146 (c) As applicable, the names, mailing addresses, and
147 telephone numbers of the health care practitioners and medical
148 practice groups with which it contracts to provide services in
149 the hospital, and instructions on how to contact the
150 practitioners and groups to determine which health insurers and
151 health maintenance organizations they participate in as network
152 providers or preferred providers.

153 Section 7. Paragraph (h) is added to subsection (2) of
154 section 408.7057, Florida Statutes, and subsections (3) and (4)
155 of that section are amended, to read:

156 408.7057 Statewide provider and health plan claim dispute



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157 resolution program.—

158 (2)

159 (h) Either the contracted or noncontracted provider or the
160 health plan may make an offer to settle the claim dispute when
161 it submits a request for a claim dispute and supporting
162 documentation. The offer to settle the claim dispute must state
163 its total amount, and the party to whom it is directed has 15
164 days to accept the offer once it is received. If the party
165 receiving the offer does not accept the offer and the final
166 order amount is more than 90 percent or less than 110 percent of
167 the offer amount, the party receiving the offer must pay the
168 final order amount to the offering party and is deemed a
169 nonprevailing party for purposes of this section. The amount of
170 an offer made by a contracted or noncontracted provider to
171 settle an alleged underpayment by the health plan must be
172 greater than 110 percent of the reimbursement amount the
173 provider received. The amount of an offer made by a health plan
174 to settle an alleged overpayment to the provider must be less
175 than 90 percent of the alleged overpayment amount by the health
176 plan. Both parties may agree to settle the disputed claim at any
177 time, for any amount, regardless of whether an offer to settle
178 was made or rejected.

179 (3) The agency shall adopt rules to establish a process to
180 be used by the resolution organization in considering claim
181 disputes submitted by a provider or health plan which must
182 include:



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183 (a) That the resolution organization review and consider
184 all documentation submitted by both the health plan and the
185 provider;

186 (b) That the resolution organization's recommendation make
187 findings of fact;

188 (c) That either party may request that the resolution
189 organization conduct an evidentiary hearing in which both sides
190 can present evidence and examine witnesses, and for which the
191 cost of the hearing is equally shared by the parties;

192 (d) That the resolution organization may not communicate
193 ex parte with either the health plan or the provider during the
194 dispute resolution;

195 (e) That the resolution organization's written
196 recommendation, including findings of fact relating to the
197 calculation under s. 641.513(5) for the recommended amount due
198 for the disputed claim, include any evidence relied upon; and

199 (f) That ~~the issuance by~~ the resolution organization ~~issue~~
200 ~~of a written recommendation, supported by findings of fact,~~ to
201 the agency within 60 days after the requested information is
202 received by the resolution organization within the timeframes
203 specified by the resolution organization. In no event shall the
204 review time exceed 90 days following receipt of the initial
205 claim dispute submission by the resolution organization.

206 (4) Within 30 days after receipt of the recommendation of
207 the resolution organization, the agency shall adopt the
208 recommendation as a final order. The final order is subject to



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209 judicial review pursuant to s. 120.68.

210 Section 8. Paragraph (oo) is added to subsection (1) of
211 section 456.072, Florida Statutes, to read:

212 456.072 Grounds for discipline; penalties; enforcement.—

213 (1) The following acts shall constitute grounds for which
214 the disciplinary actions specified in subsection (2) may be
215 taken:

216 (oo) Willfully failing to comply with s. 627.64194 or s.
217 641.513 with such frequency as to indicate a general business
218 practice.

219 Section 9. Paragraph (tt) is added to subsection (1) of
220 section 458.331, Florida Statutes, to read:

221 458.331 Grounds for disciplinary action; action by the
222 board and department.—

223 (1) The following acts constitute grounds for denial of a
224 license or disciplinary action, as specified in s. 456.072(2):

225 (tt) Willfully failing to comply with s. 627.64194 or s.
226 641.513 with such frequency as to indicate a general business
227 practice.

228 Section 10. Paragraph (vv) is added to subsection (1) of
229 section 459.015, Florida Statutes, to read:

230 459.015 Grounds for disciplinary action; action by the
231 board and department.—

232 (1) The following acts constitute grounds for denial of a
233 license or disciplinary action, as specified in s. 456.072(2):

234 (vv) Willfully failing to comply with s. 627.64194 or s.



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235 641.513 with such frequency as to indicate a general business
236 practice.

237 Section 11. Paragraph (gg) is added to subsection (1) of
238 section 626.9541, Florida Statutes, to read:

239 626.9541 Unfair methods of competition and unfair or
240 deceptive acts or practices defined.—

241 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
242 ACTS.—The following are defined as unfair methods of competition
243 and unfair or deceptive acts or practices:

244 (gg) Out-of-network reimbursement.—Willfully failing to
245 comply with s. 627.64194 with such frequency as to indicate a
246 general business practice.

247 Section 12. Section 627.64194, Florida Statutes, is
248 created to read:

249 627.64194 Coverage requirements for services provided by
250 nonparticipating providers; payment collection limitations.—

251 (1) As used in this section, the term:

252 (a) "Emergency services" means emergency services and
253 care, as defined in s. 641.47(8), which are provided in a
254 facility.

255 (b) "Facility" means a licensed facility as defined in s.
256 395.002(16) and an urgent care center as defined in s.
257 395.002(30).

258 (c) "Insured" means a person who is covered under an
259 individual or group health insurance policy delivered or issued
260 for delivery in this state by an insurer authorized to transact



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261 business in this state.

262 (d) "Nonemergency services" means the services and care
263 that are not emergency services.

264 (e) "Nonparticipating provider" means a provider who is
265 not a preferred provider as defined in s. 627.6471 or a provider
266 who is not an exclusive provider as defined in s. 627.6472. For
267 purposes of covered emergency services under this section, a
268 facility licensed under chapter 395 or an urgent care center
269 defined in s. 395.002(30) is a nonparticipating provider if the
270 facility has not contracted with an insurer to provide emergency
271 services to its insureds at a specified rate.

272 (f) "Participating provider" means, for purposes of this
273 section, a preferred provider as defined in s. 627.6471 or an
274 exclusive provider as defined in s. 627.6472.

275 (2) An insurer is solely liable for payment of fees to a
276 nonparticipating provider of covered emergency services provided
277 to an insured in accordance with the coverage terms of the
278 health insurance policy, and such insured is not liable for
279 payment of fees for covered services to a nonparticipating
280 provider of emergency services, other than applicable
281 copayments, coinsurance, and deductibles. An insurer must
282 provide coverage for emergency services that:

283 (a) May not require prior authorization.

284 (b) Must be provided regardless of whether the services
285 are furnished by a participating provider or a nonparticipating
286 provider.



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287 (c) May impose a coinsurance amount, copayment, or
288 limitation of benefits requirement for a nonparticipating
289 provider only if the same requirement applies to a participating
290 provider.

291

292 The provisions of s. 627.638 apply to this subsection.

293 (3) An insurer is solely liable for payment of fees to a
294 nonparticipating provider of covered nonemergency services
295 provided to an insured in accordance with the coverage terms of
296 the health insurance policy, and such insured is not liable for
297 payment of fees to a nonparticipating provider, other than
298 applicable copayments, coinsurance, and deductibles, for covered
299 nonemergency services that are:

300 (a) Provided in a facility that has a contract for the
301 nonemergency services with the insurer which the facility would
302 be otherwise obligated to provide under contract with the
303 insurer; and

304 (b) Provided when the insured does not have the ability
305 and opportunity to choose a participating provider at the
306 facility who is available to treat the insured.

307

308 The provisions of s. 627.638 apply to this subsection.

309 (4) An insurer must reimburse a nonparticipating provider
310 of services under subsections (2) and (3) as specified in s.
311 641.513(5), reduced only by insured cost share responsibilities
312 as specified in the health insurance policy, within the



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313 applicable timeframe provided in s. 627.6131.

314 (5) A nonparticipating provider of emergency services as
315 provided in subsection (2) or a nonparticipating provider of
316 nonemergency services as provided in subsection (3) may not be
317 reimbursed an amount greater than the amount provided in
318 subsection (4) and may not collect or attempt to collect from
319 the insured, directly or indirectly, any excess amount, other
320 than copayments, coinsurance, and deductibles. This section does
321 not prohibit a nonparticipating provider from collecting or
322 attempting to collect from the insured an amount due for the
323 provision of noncovered services.

324 (6) Any dispute with regard to the reimbursement to the
325 nonparticipating provider of emergency or nonemergency services
326 as provided in subsection (4) shall be resolved in a court of
327 competent jurisdiction or through the voluntary dispute
328 resolution process in s. 408.7057.

329 Section 13. Subsection (2) of section 627.6471, Florida
330 Statutes, is amended to read:

331 627.6471 Contracts for reduced rates of payment;
332 limitations; coinsurance and deductibles.—

333 (2) Any insurer issuing a policy of health insurance in
334 this state, which insurance includes coverage for the services
335 of a preferred provider, must provide each policyholder and
336 certificateholder with a current list of preferred providers and
337 must make the list available on its website. The list must
338 include, when applicable and reported, a listing by specialty of



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339 the names, addresses, and telephone numbers of all participating
340 providers, including facilities, and, in the case of physicians,
341 must also include board certifications, languages spoken, and
342 any affiliations with participating hospitals. Information
343 posted on the insurer's website must be updated on at least a
344 calendar-month basis with additions or terminations of providers
345 from the insurer's network or reported changes in physicians'
346 hospital affiliations ~~for public inspection during regular~~
347 ~~business hours at the principal office of the insurer within the~~
348 ~~state.~~

349 Section 14. Effective upon this act becoming a law,
350 subsection (7) is added to section 627.6471, Florida Statutes,
351 to read:

352 627.6471 Contracts for reduced rates of payment;
353 limitations; coinsurance and deductibles.—

354 (7) Any policy issued under this section after January 1,
355 2017, must include the following disclosure: "WARNING: LIMITED
356 BENEFITS WILL BE PAID WHEN NONPARTICIPATING PROVIDERS ARE USED.
357 You should be aware that when you elect to utilize the services
358 of a nonparticipating provider for a covered nonemergency
359 service, benefit payments to the provider are not based upon the
360 amount the provider charges. The basis of the payment will be
361 determined according to your policy's out-of-network
362 reimbursement benefit. Nonparticipating providers may bill
363 insureds for any difference in the amount. YOU MAY BE REQUIRED
364 TO PAY MORE THAN THE COINSURANCE OR COPAYMENT AMOUNT.



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365 Participating providers have agreed to accept discounted
366 payments for services with no additional billing to you other
367 than coinsurance, copayment, and deductible amounts. You may
368 obtain further information about the providers who have
369 contracted with your insurance plan by consulting your insurer's
370 website or contacting your insurer or agent directly."

371 Section 15. Subsection (15) is added to section 627.662,
372 Florida Statutes, to read:

373 627.662 Other provisions applicable.—The following
374 provisions apply to group health insurance, blanket health
375 insurance, and franchise health insurance:

376 (15) Section 627.64194, relating to coverage requirements
377 for services provided by nonparticipating providers and payment
378 collection limitations.

379 Section 16. Except as otherwise expressly provided in this
380 act and except for this section, which shall take effect upon
381 this act becoming a law, this act shall take effect July 1,
382 2016.

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