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LEGISLATIVE ACTION

Senate

.

House

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Floor: WD/3R

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05/04/2017 08:43 PM

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Senator Mayfield moved the following:

1 **Senate Amendment to Amendment (655868) (with title**
2 **amendment)**

3
4 Between lines 1003 and 1004
5 insert:

6 Section 21. Effective January 1, 2018, section 627.42394,
7 Florida Statutes, is created to read:

8 627.42394 Insurance policies; limiting changes to
9 prescription drug formularies.-

10 (1) Other than at the time of coverage renewal, an
11 individual or group insurance policy that is delivered, issued



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12 for delivery, renewed, amended, or continued in this state and
13 that provides medical, major medical, or similar comprehensive
14 coverage may not:

15 (a) Remove a covered prescription drug from its list of
16 covered drugs during the policy year unless the United States
17 Food and Drug Administration has issued a statement about the
18 drug which calls into question the clinical safety of the drug,
19 or the manufacturer of the drug has notified the United States
20 Food and Drug Administration of a manufacturing discontinuance
21 or potential discontinuance of the drug as required by s. 506C
22 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

23 (b) Reclassify a drug to a more restrictive drug tier;
24 increase the amount that an insured must pay for a copayment,
25 coinsurance, or deductible for prescription drug benefits; or
26 reclassify a drug to a higher cost-sharing tier during the
27 policy year.

28 (2) This section does not prohibit the addition of
29 prescription drugs to the list of drugs covered under the policy
30 during the policy year.

31 (3) This section does not apply to a grandfathered health
32 plan as defined in s. 627.402 or to benefits set forth in s.
33 627.6513(1)-(14).

34 (4) This section does not alter or amend s. 465.025, which
35 provides conditions under which a pharmacist may substitute a
36 generically equivalent drug product for a brand name drug
37 product.

38 (5) This section does not alter or amend s. 465.0252, which
39 provides conditions under which a pharmacist may dispense a
40 substitute biological product for the prescribed biological



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41 product.

42 Section 22. Effective January 1, 2018, paragraph (e) of
43 subsection (5) of section 627.6699, Florida Statutes, is amended
44 to read:

45 627.6699 Employee Health Care Access Act.—

46 (5) AVAILABILITY OF COVERAGE.—

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

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

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



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

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

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

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

98 7. An initial enrollment period of at least 30 days must be



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99 provided. An annual 30-day open enrollment period must be
100 offered to each small employer's eligible employees and their
101 dependents. A small employer carrier must provide special
102 enrollment periods as required by s. 627.65615.

103 8. A small employer carrier must limit changes to
104 prescription drug formularies as required by s. 627.42394.

105 Section 23. Effective January 1, 2018, subsection (36) of
106 section 641.31, Florida Statutes, is amended to read:

107 641.31 Health maintenance contracts.—

108 (36) A health maintenance organization may increase the
109 copayment for any benefit, or delete, amend, or limit any of the
110 benefits to which a subscriber is entitled under the group
111 contract only, upon written notice to the contract holder at
112 least 45 days in advance of the time of coverage renewal. The
113 health maintenance organization may amend the contract with the
114 contract holder, with such amendment to be effective immediately
115 at the time of coverage renewal. The written notice to the
116 contract holder must ~~shall~~ specifically identify any deletions,
117 amendments, or limitations to any of the benefits provided in
118 the group contract during the current contract period which will
119 be included in the group contract upon renewal. This subsection
120 does not apply to any increases in benefits. The 45-day notice
121 requirement does ~~shall~~ not apply if benefits are amended,
122 deleted, or limited at the request of the contract holder.

123 (a) Other than at the time of coverage renewal, a health
124 maintenance organization that provides medical, major medical,
125 or similar comprehensive coverage may not:

126 1. Remove a covered prescription drug from its list of
127 covered drugs during the contract year unless the United States



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128 Food and Drug Administration has issued a statement about the
129 drug which calls into question the clinical safety of the drug,
130 or the manufacturer of the drug has notified the United States
131 Food and Drug Administration of a manufacturing discontinuance
132 or potential discontinuance of the drug as required by s. 506C
133 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. s. 356c.

134 2. Reclassify a drug to a more restrictive drug tier or
135 increase the amount that an insured must pay for a copayment,
136 coinsurance, or deductible for prescription drug benefits, or
137 reclassify a drug to a higher cost-sharing tier during the
138 contract year.

139 (b) This subsection does not:

140 1. Prohibit the addition of prescription drugs to the list
141 of drugs covered during the contract year.

142 2. Apply to a grandfathered health plan as defined in s.
143 627.402 or to benefits set forth in s. 627.6513(1)-(14).

144 3. Alter or amend s. 465.025, which provides conditions
145 under which a pharmacist may substitute a generically equivalent
146 drug product for a brand name drug product.

147 4. Alter or amend s. 465.0252, which provides conditions
148 under which a pharmacist may dispense a substitute biological
149 product for the prescribed biological product.

150 Section 24. The Legislature finds that this act fulfills an
151 important state interest.

152
153 ===== T I T L E A M E N D M E N T =====

154 And the title is amended as follows:

155 Delete line 1147

156 and insert:



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157 exception request; creating s. 627.42394, F.S.;

158 limiting, under specified circumstances, changes to a

159 health insurance policy prescription drug formulary

160 during a policy year; providing construction and

161 applicability; amending s. 627.6699, F.S.; requiring

162 small employer carriers to limit changes to

163 prescription drug formularies under certain

164 circumstances; amending s. 641.31, F.S.; limiting,

165 under specified circumstances, changes to a health

166 maintenance contract prescription drug formulary

167 during a contract year; providing construction and

168 applicability; providing a declaration of important

169 state interest; providing effective dates.