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LEGISLATIVE ACTION

Senate

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House

Floor: 1/RS/2R

04/25/2019 05:12 PM

Senator Mayfield moved the following:

Senate Amendment (with title amendment)

Delete lines 65 - 293

and insert:

this state shall provide general notification of the change in
the formulary to current and prospective insureds in a readily
accessible format on the insurer's website and notify,
electronically or by first-class mail, any insured currently
receiving coverage for a prescription drug for which the
formulary change modifies coverage and the insured's treating
physician, including information on the specific drugs involved.



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12 (2) A health insurer shall maintain a record of any change
13 in its formulary during the policy year and, within 90 days
14 after the end of the policy year, submit an annual report to the
15 office delineating such changes. The annual report must include,
16 at a minimum:

17 (a) A list of all drugs that were removed from a formulary
18 and the reasons for the removal;

19 (b) A list of all drugs that were moved to a tier that
20 resulted in additional out-of-pocket costs to insureds;

21 (c) The number of insureds notified by the insurer of a
22 change in formulary; and

23 (d) The increased cost, by dollar amount, incurred by
24 insureds because of such change in the formulary.

25 Section 2. Paragraph (e) of subsection (5) of section
26 627.6699, Florida Statutes, is amended to read:

27 627.6699 Employee Health Care Access Act.—

28 (5) AVAILABILITY OF COVERAGE.—

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

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

36 2. Any requirement used by a small employer carrier in
37 determining whether to provide coverage to a small employer
38 group, including requirements for minimum participation of
39 eligible employees and minimum employer contributions, must be
40 applied uniformly among all small employer groups having the



41 same number of eligible employees applying for coverage or
42 receiving coverage from the small employer carrier, except that
43 a small employer carrier that participates in, administers, or
44 issues health benefits pursuant to s. 381.0406 which do not
45 include a preexisting condition exclusion may require as a
46 condition of offering such benefits that the employer has had no
47 health insurance coverage for its employees for a period of at
48 least 6 months. A small employer carrier may vary application of
49 minimum participation requirements and minimum employer
50 contribution requirements only by the size of the small employer
51 group.

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

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

68 5. If a small employer carrier offers coverage to a small
69 employer, it must offer coverage to all the small employer's



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70 eligible employees and their dependents. A small employer
71 carrier may not offer coverage limited to certain persons in a
72 group or to part of a group, except with respect to late
73 enrollees.

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

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

85 8. A small employer carrier shall comply with s. 627.42393
86 for any change to a prescription drug formulary.

87 Section 3. Subsection (36) of section 641.31, Florida
88 Statutes, is amended to read:

89 641.31 Health maintenance contracts.—

90 (36) Except as provided in paragraph (a), a health
91 maintenance organization may increase the copayment for any
92 benefit, or delete, amend, or limit any of the benefits to which
93 a subscriber is entitled under the group contract only, upon
94 written notice to the contract holder at least 45 days in
95 advance of the time of coverage renewal. The health maintenance
96 organization may amend the contract with the contract holder,
97 with such amendment to be effective immediately at the time of
98 coverage renewal. The written notice to the contract holder must



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99 ~~shall~~ specifically identify any deletions, amendments, or
100 limitations to any of the benefits provided in the group
101 contract during the current contract period which will be
102 included in the group contract upon renewal. This subsection
103 does not apply to any increases in benefits. The 45-day notice
104 requirement does ~~shall~~ not apply if benefits are amended,
105 deleted, or limited at the request of the contract holder.

106 (a) At least 60 days before the effective date of any
107 change to a prescription drug formulary during a contract year,
108 the health maintenance organization shall provide general
109 notification of the change in the formulary to current and
110 prospective subscribers in a readily accessible format on the
111 health maintenance organization's website and notify,
112 electronically or by first-class mail, any subscriber currently
113 receiving coverage for a prescription drug for which the
114 formulary change modifies coverage and the subscriber's treating
115 physician, including information on the specific drugs involved.

116 (b) A health maintenance organization shall maintain a
117 record of any change in its formulary during the policy year
118 and, within 90 days after the end of the policy year, submit an
119 annual report to the office delineating such changes. The annual
120 report must include, at a minimum:

121 1. A list of all drugs that were removed from a formulary
122 and the reasons for the removal;

123 2. A list of all drugs that were moved to a tier that
124 resulted in additional out-of-pocket costs to subscribers;

125 3. The number of subscribers notified by the health
126 maintenance organization of a change in formulary; and

127 4. The increased cost, by dollar amount, incurred by



128 subscribers because of such change in the formulary.

129

130 ===== T I T L E A M E N D M E N T =====

131 And the title is amended as follows:

132 Delete lines 6 - 53

133 and insert:

134 current and prospective insureds, and the insureds'
135 treating physicians, within a certain timeframe before
136 the effective date of any change to a prescription
137 drug formulary during a policy year; requiring such
138 insurers to maintain a record of formulary changes and
139 submit a certain annual report to the Office of
140 Insurance Regulation within a certain timeframe;
141 specifying requirements for the annual report;
142 amending s. 627.6699, F.S.; requiring small employer
143 carriers to comply with certain requirements for any
144 change to a prescription drug formulary under the
145 health benefit plan; amending s. 641.31, F.S.;
146 requiring health maintenance organizations to provide
147 certain notices to current and prospective
148 subscribers, and the subscribers' treating physicians,
149 within a certain timeframe before the effective date
150 of any change to a prescription drug formulary during
151 a contract year; requiring such health maintenance
152 organizations to maintain a record of formulary
153 changes and submit a certain annual report to the
154 office within a certain timeframe; specifying
155 requirements for the annual report; providing a
156 declaration of important state