Appropriations Conference Chairs

Bump Issues
Conforming Bills

SENATE OFFER 1
SB 2508 - Division of State Group Insurance

SB 2510 - Public Records/Dependent Eligibility Verification Services

Thursday, May 4, 2017
2:00 p.m.
412 Knott Building
### SB 2508 Division of State Group Insurance

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<th>Senate</th>
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<tr>
<td>1 <strong>Dependent Eligibility Verification Audit</strong></td>
<td>No substantive language</td>
<td>Senate language modified to allow submission of photocopies and affidavits in certain instances</td>
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<td><strong>Prescription Drug Program</strong></td>
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<td>2 Technical rewrite of the section</td>
<td>No substantive language</td>
<td>Modified Senate language relating to retail pharmacies</td>
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<td>3 Copayment tiers</td>
<td>No substantive language</td>
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<tr>
<td>4 Implementation of restricted drug formulary</td>
<td>No substantive language</td>
<td>House position (no language)</td>
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<td>5 Repeal s. 8 of 99-255</td>
<td>No substantive language</td>
<td>House position (no language)</td>
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### SB 2510 Public Records Exemption for Dependent Eligibility Audit Documents

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<th>Senate</th>
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| 1 **• Makes confidential and exempt records collected for the purpose of dependent eligibility audits for DSGI.**  
**• If the record is collected by DMS for some other purposes and is not confidential and exempt, that record will not be confident and exempt for this purpose.** | No substantive language                    | Senate position |
| 2 Provides a public necessity statement justifying the exemption | No substantive language                    | Senate position |
A bill to be entitled
An act relating to the Division of State Group
Insurance; amending s. 110.12301, F.S.; removing a
requirement that a contract for dependent eligibility
verification services for the state group insurance
program be contingency-based; requiring the division
to notify subscribers of dependent eligibility rules
by a certain date; requiring the division to hold a
subscriber harmless for past claims of ineligible
dependents for a specified timeframe; providing for
applicability; removing a requirement that the
Department of Management Services submit budget
amendments pursuant to ch. 216, F.S., regarding vendor
payments for dependent eligibility verification
services; authorizing the contractor providing
dependent eligibility verification services to request
certain information from subscribers; requiring the
division and the contractor to disclose to subscribers
that dependent eligibility verification information
may be subject to disclosure and inspection under
public records requirements under certain
circumstances; specifying requirements for marriage
licenses or certificates or birth certificates
submitted for dependent eligibility verification;
requiring the contractor to retain documentation
obtained for dependent eligibility verification
services for a specified timeframe; requiring the
department and the contractor to destroy such
documentation after a specified date; amending s.
110.12315, F.S.; providing that retail, mail order, and specialty pharmacies participating in the state employees' prescription drug program shall be reimbursed as established by contract; revising supply limitations under the program; providing that the pharmacy dispensing fee be negotiated by the department; revising provisions governing the reimbursement schedule for prescription drugs and supplies dispensed under the program; requiring the department to maintain certain lists; establishing supply limitations for maintenance drugs and supplies; specifying pricing of certain copayments by health plan members; deleting a provision requiring the department to implement additional cost-saving measures and adjustments; revising copayment and coinsurance amounts for the State Group Health Insurance Standard Plan and the State Group Health Insurance High Deductible Plan; requiring the department to implement formulary management for prescription drugs and supplies by a specified date; requiring that certain prescription drugs and supplies remain available unless specifically excluded from the list of approved prescription drugs and supplies; providing that prescription drugs and supplies first made available after a specified date may not be covered by the prescription drug program unless otherwise approved; requiring the department to submit the list of excluded prescription drugs and supplies to the Executive Office of the Governor by a specified date.
date; requiring the list of excluded prescription
drugs and supplies approved by the Executive Office of
the Governor to be submitted to the Legislature by a
specified date; authorizing the department to
implement the exclusions if no objection is submitted
by the Legislature by a certain date; authorizing the
department to propose additional exclusions from
coverage, make modifications to the formulary, and
move drugs and supplies between copayment tiers;
prescribing procedures and requirements with respect
to the proposal of additional exclusions or
modifications; requiring the department to submit
certain information regarding the initial formulary
and any subsequent modifications to the Executive
Office of the Governor and the Legislature; repealing
s. 8 of chapter 99-255, Laws of Florida; repealing a
provision prohibiting the department from implementing
a prior authorization program or a restricted
formulary program that meets certain criteria;
providing an effective date.

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

Section 1. Section 110.12301, Florida Statutes, is amended
to read:

110.12301 Competitive procurement of postpayment claims
review services.—The Division of State Group Insurance is
directed to competitively procure:

(1) Postpayment claims review services for the state group
health insurance plans established pursuant to s. 110.123.
Compensation under the contract shall be paid from amounts
identified as claim overpayments that are made by or on behalf
of the health plans and that are recovered by the vendor. The
vendor may retain that portion of the amount recovered as
provided in the contract. The contract must require the vendor
to maintain all necessary documentation supporting the amounts
recovered, retained, and remitted to the division; and

(2) A contingency-based contract for dependent eligibility
verification services for the state group insurance program;
however, compensation under the contract may not exceed
historical claim costs for the prior 12 months for the dependent
populations disenrolled as a result of the contractor's vendor's
services.

(a)1. By September 1, 2017, the division shall notify all
subscribers regarding the eligibility rules for dependents.
Through November 30, 2017, the division may establish a 3-
month grace period and hold subscribers harmless for past claims
of ineligible dependents if such dependents are removed from
plan membership before December 1, 2017.

2. Subparagraph 1. does not apply to any dependent
identified as ineligible before July 1, 2017, for which the
department has notified the state agency employing the
associated subscriber The Department of Management Services
shall submit budget amendments pursuant to chapter 216 in order
to obtain budget authority necessary to expend funds from the
State Employees' Group Health Self Insurance Trust Fund for
payments to the vendor as provided in the contract.

(b) The contractor providing dependent eligibility
verification services may request the following information from subscribers:

1. To prove a spouse’s eligibility:
   a. If married less than 12 months and the subscriber and his or her spouse have not filed a joint federal income tax return, a government-issued marriage certificate; or
   b. If married for 12 or more months, a transcript of the most recently filed federal income tax return.

2. To prove a biological child’s or a newborn grandchild’s eligibility, a government-issued birth certificate.

3. To prove an adopted child’s eligibility:
   a. An adoption certificate; or
   b. An adoption placement agreement and a petition for adoption.

4. To prove a stepchild’s eligibility:
   a. A government-issued birth certificate for the stepchild; and
   b. The transcript of the subscriber’s most recently filed federal income tax return.

5. Any other information necessary to verify the dependent’s eligibility for enrollment in the state group insurance program.

(c) If a document requested from a subscriber is not confidential or exempt from public records requirements, the division and the contractor shall disclose to all subscribers that such information submitted to verify the eligibility of dependents may be subject to disclosure and inspection under chapter 119.

(d) A government-issued marriage license or marriage
certificate submitted for dependent eligibility verification must include the date of the marriage between the subscriber and the spouse.

(e) A government-issued birth certificate submitted for dependent eligibility verification must list the parents' names.

(f) Foreign born subscribers, unable to obtain the necessary documentation within the specified time period of producing verification documents, may execute a signed affidavit attesting to eligibility requirements.

(g) Documentation submitted to verify eligibility may be an original or a photocopy of an original document. Prior to submitting a document, the subscriber may redact any information on a document that is not necessary to verify the eligibility of the dependent.

(h) All documentation obtained by the contractor to conduct the dependent eligibility verification services must be retained until June 30, 2019. The department or the contractor are not required to retain such documentation after June 30, 2019, and shall destroy such documentation as soon as practicable after such date.

Section 2. Upon the expiration and reversion of the amendments made to section 110.12315, Florida Statutes, pursuant to section 123 of chapter 2016-62, Laws of Florida, section 110.12315, Florida Statutes, is amended to read:

110.12315 Prescription drug program.—The state employees' prescription drug program is established. This program shall be administered by the Department of Management Services, according to the terms and conditions of the plan as established by the relevant provisions of the annual General Appropriations Act and
implementing legislation, subject to the following conditions:

(1) The department shall allow prescriptions written by health care providers under the plan to be filled by any licensed pharmacy and reimbursed pursuant to subsection (2) contractual claims processing provisions. Nothing in this section may not be construed as prohibiting a mail order prescription drug program distinct from the service provided by retail pharmacies.

(2) In providing for reimbursement of pharmacies for prescription drugs and supplies dispensed to members of the state group health insurance plan and their dependents under the state employees’ prescription drug program:

(a) Retail, mail order, and specialty pharmacies participating in the program must be reimbursed as established by contract and at a uniform rate and subject to uniform conditions, according to the terms and conditions of the plan.

(b) There shall be a 30-day supply limit for retail pharmacy fills, a 90-day supply limit for mail order fills, and a 90-day supply limit for maintenance drug fills by retail pharmacies participating in a 90-day supply network prescription card purchases and 90-day supply limit for mail order or mail order prescription drug purchases. This paragraph may not be construed to prohibit fills at any amount less than the applicable supply limit.

(c) The current pharmacy dispensing fee shall be negotiated by the department remains in effect.

(d)(3) The department of Management Services shall establish the reimbursement schedule for prescription drugs and supplies pharmaceuticals dispensed under the program.

CODING: Words stricken are deletions; words underlined are additions.
Reimbursement rates for a prescription drug or supply pharmaceutical must be based on the cost of the generic equivalent drug or supply if a generic equivalent exists, unless the physician, advanced registered nurse practitioner, or physician assistant prescribing the drug or supply pharmaceutical clearly states on the prescription that the brand name drug or supply is medically necessary or that the drug or supply product is included on the formulary of drugs and supplies drug products that may not be interchanged as provided in chapter 465, in which case reimbursement must be based on the cost of the brand name drug or supply as specified in the reimbursement schedule adopted by the department of Management Services.

(3) The department shall maintain the generic, preferred brand name, and the nonpreferred brand name lists of drugs and supplies to be used in the administration of the state employees' prescription drug program.

(4) The department shall maintain a list of maintenance drugs and supplies.

(a) Preferred provider organization health plan members may have prescriptions for maintenance drugs and supplies filled up to 3 times as a supply for up to 30 days through a retail pharmacy; thereafter, prescriptions for the same maintenance drug or supply must be filled for up to 90 days either through the department's contracted mail order pharmacy or through a retail pharmacy participating in a 90-day supply network.

(b) Health maintenance organization health plan members may have prescriptions for maintenance drugs and supplies filled for up to 90 days either through a mail order pharmacy or through a
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(5) Copayments made by health plan members for a supply for up to 90 days through a retail pharmacy participating in a 90-day supply network shall be the same as copayments made for a similar supply through the department's contracted mail order pharmacy.

(6) The department of Management Services shall conduct a prescription utilization review program. In order to participate in the state employees' prescription drug program, retail pharmacies dispensing prescription drugs and supplies medicines to members of the state group health insurance plan or their covered dependents, or to subscribers or covered dependents of a health maintenance organization plan under the state group insurance program, shall make their records available for this review.

(5) The Department of Management Services shall implement such additional cost-saving measures and adjustments as may be required to balance program funding within appropriations provided, including a trial or starter dose program and dispensing of long-term maintenance medication in lieu of acute therapy medication.

(7) Participating pharmacies must use a point-of-sale device or an online computer system to verify a participant's eligibility for coverage. The state is not liable for reimbursement of a participating pharmacy for dispensing prescription drugs and supplies to any person whose current eligibility for coverage has not been verified by the state's contracted administrator or by the department of Management Services.
(7) Under the state employees' prescription drug program copayments must be made as follows:

(8)(a) Effective July 1, 2017 January 1, 2006, for the State Group Health Insurance Standard Plan, copayments must be made as follows:

1. For a supply for up to 30 days from a retail pharmacy:
   a. For generic drug with card ......................... $7 $10.
   b. 2. For preferred brand name drug with card ...... $30 $25.
   c. 3. For nonpreferred brand name drug with card .... $50 $40.

2. For a supply for up to 90 days from a mail order pharmacy or a retail pharmacy participating in a 90-day supply network:

   a. 4. For generic mail order drug ....................... $14 $20.
   b. 5. For preferred brand name mail order drug ...... $60 $50.
   c. 6. For nonpreferred brand name mail order drug . $100 $80.

(b) Effective July 1, 2017 January 1, 2006, for the State Group Health Insurance High Deductible Plan, coinsurance must be paid as follows:

1. For a supply for up to 30 days from a retail pharmacy:
   a. Retail coinsurance For generic drug with card ...... 30%.
   b. 2. Retail coinsurance For preferred brand name drug with card .............................................. 30%.
   c. 3. Retail coinsurance For nonpreferred brand name drug with card .............................................. 50%.

2. For a supply for up to 90 days from a mail order pharmacy or a retail pharmacy participating in a 90-day supply network:

   a. 4. Mail order coinsurance For generic drug .......... 30%.
   b. 5. Mail order coinsurance For preferred brand name
drug

(9)(a) Beginning January 1, 2018, the department shall implement formulary management for prescription drugs and supplies but may not restrict access to the most clinically appropriate, clinically effective, and lowest net cost prescription drugs and supplies. Prescription drugs and supplies available for coverage through the prescription drug program as of July 1, 2017, must remain available unless specifically excluded from coverage in accordance with the list developed pursuant to this subsection. Prescription drugs and supplies first made available after July 1, 2017, may not be covered by the prescription drug program unless specifically included in the list of approved prescription drugs and supplies.

(b) The department must submit the list of excluded prescription drugs and supplies to the Executive Office of the Governor for review and approval by July 25, 2017. The approved formulary must be submitted to the Legislature for review by August 18, 2017. The implementation of the initial list of excluded prescription drugs and supplies shall be treated as an action subject to the notice, review, and objection procedures under s. 216.177. If no objection is submitted in writing by September 15, 2017, the department may implement the exclusions, as approved by the Executive Office of the Governor, beginning January 1, 2018.

(c) The department may propose additional exclusions from coverage under the prescription drug program once each plan year, for implementation on January 1 of the next plan year or

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as otherwise directed by the Legislature. The department must
submit its proposed exclusions to the Executive Office of the
Governor for review and approval at least 30 days before the
date the Governor's recommended budget is required to be
submitted to the Legislature. Any recommendations by the
Governor to exclude drugs or supplies from coverage under the
prescription drug program must be submitted to the Legislature
with the Governor's recommended budget.

(d) The department may propose modifications to the
formulary to include prescription drugs or supplies not covered
under the program or to move the drugs or supplies between
copayment tiers. Such modifications may be implemented on
January 1, April 1, July 1, or October 1 of the plan year.

e) With each proposed change to the status of prescription
drugs and supplies under the program, the department shall
submit the following information to the Executive Office of the
Governor and the Legislature:

1. The drugs and supplies excluded or proposed for a change
in copayment tier;

2. The drugs that remain available under the program as a
substitute for the excluded drug;

3. The number of prescriptions written for the affected
drug or supply during the prior plan year and the current plan
year and the number of plan members affected by the change;

4. The expected financial impact to the prescription drug
program, including the impact by drug on plan payments and
rebates to the plan; and

5. The expected financial impact to the plan members,
including the impact on member copayments and coinsurance, and

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the cost of the drug to the plan members if the drug is excluded.

(c) The Department of Management Services shall create a preferred brand name drug list to be used in the administration of the state employees’ prescription drug program.

Section 3. Section 8 of ch. 99-255, Laws of Florida, is repealed.

Section 4. This act shall take effect July 1, 2017.
A bill to be entitled
An act relating to public records; amending s.
110.12301, F.S.; creating an exemption from public
records requirements for records collected for
dependent eligibility verification services for the
state group insurance program and held by the
Department of Management Services; providing for
construction; providing for future legislative review
and repeal; providing a statement of public necessity;
providing a contingent effective date.

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

Section 1. Section 110.12301, Florida Statutes, is amended
to read:
110.12301 Competitive procurement of postpayment claims
review services; public records exemption.—
(1) The Division of State Group Insurance is directed to
competitively procure:
(a)(1) Postpayment claims review services for the state
group health insurance plans established pursuant to s. 110.123.
Compensation under the contract shall be paid from amounts
identified as claim overpayments that are made by or on behalf
of the health plans and that are recovered by the vendor. The
vendor may retain that portion of the amount recovered as
provided in the contract. The contract must require the vendor
to maintain all necessary documentation supporting the amounts
recovered, retained, and remitted to the division; and
(b)(2) A contingency-based contract for dependent
eligibility verification services for the state group insurance program; however, compensation under the contract may not exceed historical claim costs for the prior 12 months for the dependent populations disenrolled as a result of the vendor’s services. The division may establish a 3-month grace period and hold subscribers harmless for past claims of ineligible dependents.

The Department of Management Services shall submit budget amendments pursuant to chapter 216 in order to obtain budget authority necessary to expend funds from the State Employees’ Group Health Self-Insurance Trust Fund for payments to the vendor as provided in the contract.

(2) Records collected for purposes of dependent eligibility verification services conducted for the state group insurance program, as authorized under paragraph (1)(b), and held by the department are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This subsection does not apply to records that are otherwise open for inspection and copying which are held by the department for purposes other than for the performance of dependent eligibility verification services. This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that records collected for purposes of dependent eligibility verification services conducted for the state group insurance program, authorized under s. 110.12301(1)(b), Florida Statutes, and held by the Department of Management Services be confidential and exempt from s. 119.07(1), Florida Statutes, and
s. 24(a), Article I of the State Constitution. Enrollment in the state group insurance program is available to all state employees, their children, their adult dependents, and, in certain circumstances, even their grandchildren. Eligible enrollees for the program include officers and employees from all three branches of state government and represent numerous professions. Employees are required to produce sensitive and personal information related to the state employees' and their dependents' health, finances, and personal relationships to verify their eligibility to participate in the state group insurance program. Eligibility verification can require state employees to produce a variety of documentation, including proof of marriages and divorces, child custody, children's education status, as well as the mental and medical records related to their children with disabilities. Absent the public records exemption, state employees subject to the verification process may be hesitant or less cooperative in producing documents or information out of fear that they or their families would be exposed to public ridicule or humiliation because the details of their personal lives would be subject to public disclosure. Personnel may also be uncooperative if they are concerned that they or their families may be exposed to public scorn or be subject to legal action for inappropriately or mistakenly claiming ineligible dependents. Protecting such information helps to protect state employees and their families from criminal or inappropriate use of their personal information. Enrollees and their families would be at increased risk of identity theft and fraud if the public had unfettered access to documents requested by the Department of Management Services to
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verify dependent eligibility.

(2) The Legislature further recognizes that some of the
records produced to verify dependent eligibility are not exempt
or confidential and exempt from public records requirements when
held by other agencies under existing law. Through this act, the
Legislature does not intend to make such records exempt or
confidential and exempt from public records requirements other
than for records held by the Department of Management Services
for the express purpose of dependent eligibility verification.
The verification program ensures that taxpayer money and
resources of the state group insurance program are spent
appropriately on eligible dependents. This exemption will
promote effective and efficient administration of the program
which would otherwise be significantly impaired without the
exemption.

Section 3. This act shall take effect on the same date that
SB 2508 or similar legislation takes effect, if such legislation
is adopted in the same legislative session or an extension
thereof and becomes law.