

STORAGE NAME: h1571z.hcs
DATE: May 19, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #: 2000-296, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
HEALTH CARE SERVICES
FINAL ANALYSIS**

BILL #: CS/HB 1571 (Passed as CS/SB 2086)

RELATING TO: Small Employer Health Alliances

SPONSOR(S): Committee on Health Care Services, Representatives Farkas, Bloom & others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE SERVICES YEAS 15 NAYS 0
 - (2) INSURANCE YEAS 13 NAYS 0
 - (3) HEALTH AND HUMAN SERVICES APPROPRIATIONS YEAS 9 NAYS 0
 - (4)
 - (5)
-

I. SUMMARY:

Passed by the Legislature as CS/SB 2086. On June 15, 2000, CS/SB 2086 became Ch. 2000-296, Laws of Florida, with the Governor's signature.

CS/HB 1571 addresses a variety of issues relating to insurance coverage available to small employers. The bill: expands the basis upon which insurance can be offered through labor union and association groups to include small employer health alliances, as specified; allows a small employer member of an alliance that expands to more than 50 employees, but less than 75, to renew coverage for not more than one additional year; requires a small employer health alliance to establish conditions of participation in the alliance by a small employer; allows a single master policy issued to an association, labor union, or small-employer health alliance to include more than one health plan from the same insurer or affiliated insurer group as alternatives for an employer, employee, or member to select; amends guaranteed renewability of coverage provisions to include specified employer health alliances; amends restrictions relating to premium rates to provide an exception to the prohibition against small employer carriers modifying certain rates, subject to specified criteria; allows rates for a policy issued to a group association or health alliance to reflect a premium credit for expense savings attributable to administrative activities being performed by the association or alliance, subject to specified criteria; and requires a carrier issuing a group health insurance policy to an alliance or other group association to allow any of its licensed and appointed agents to sell that policy and to pay the agent the insurer's usual and customary commission paid to any agent selling the policy.

The bill repeals the several statutes relating to community health purchasing alliances (CHPAs). The bill makes conforming revisions to related sections of statute.

The effective date of this bill is October 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Community Health Purchasing Alliances

In 1993, the Legislature created Community Health Purchasing Alliances, or CHPAs (commonly called "chippas"), via ch. 93-129, L.O.F., codified as ss. 408.70-408.706, F.S. These state-chartered, nonprofit private organizations were designed to pool purchasers of health care insurance together as organizations that could foster health coverage purchasing to lower prices and enable purchasers to make informed choices regarding health plans. The goal of CHPAs was to make health insurance plans available to small employers, as that term is defined in s. 627.6699, F.S., that have 1 to 50 employees, including sole proprietors and self-employed individuals.

The Agency for Health Care Administration (AHCA) is responsible for implementation and oversight of the statewide system of CHPAs, including technical and legal assistance, liaison functions, and designation of accountable health partnerships (AHPs). In order for an insurance product to be offered through CHPAs, the product must qualify as an AHP, which must be formed by an insurer or health maintenance organization (HMO) authorized by the Department of Insurance. The CHPAs act as clearinghouses for health plans that qualify as AHPs. The AHPs are selected via a request-for-proposals process. CHPAs offer several benefit plans. Within these plans, an individual can select different types of coverage, such as HMOs and preferred provider organizations. All CHPA plans are sold through insurance agents.

The 1993 enabling legislation created 11 CHPAs, one for each of AHCA's health service planning districts. There are now seven CHPAs, due to mergers of certain CHPAs from neighboring regions. Each CHPA operates under the direction of an appointed 17-member board of directors. The original law that provided for appointment of board members by designated public officials was repealed due to a "sunset" provision and failure of the Legislature to reenact the provision. Thus, the boards, as nonprofit associations, provide for appointment of board members in their respective articles of incorporation and bylaws continue to provide for appointment of members in the manner that was statutorily directed. The boards appoint executive directors who serve as CHPAs' chief operating officers. Each CHPA also employs from one to three full-time staff, and all but one of the CHPAs contract with a third-party administrator.

As of February 2000, approximately 35,000 persons, including employees and their dependents, were insured through CHPAs, representing about 13,000 small employer groups. This represents a decrease from the 94,090 persons who were covered through CHPAs in December 1998. Only seven carriers remain as active AHPs in the CHPA market, and some of these are active in only certain districts. Fifteen carriers have discontinued their participation in AHPs in some or all of the CHPA districts.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) has issued reports on the activities and effectiveness of CHPAs. The most recent OPPAGA report, "The Follow-Up Report on the Status of Community Health Purchasing Alliances in Florida," Report No. 98-14, October 1998, stated that the CHPAs continue to have a small impact in reducing the number of uninsured Floridians. Limitations of the CHPAs as cited in the report included:

- CHPAs' inability to negotiate or select health plans that offer the most competitive products and prices, and
- CHPAs' dependence on agents designated by health plans to sell CHPA products and to further improve access to affordable health care coverage.

The OPPAGA report recommended that the Legislature consider the following policy options:

- Allow CHPAs to negotiate with competing health plans and select those that offer the most competitive products and prices;
- Reduce AHCA's responsibilities to minimal oversight and coordination among CHPAs; and
- Enable CHPAs to appoint their agents.

It should also be noted that s. 408.7056, F.S., relating to the Statewide Provider and Subscriber Assistance Program, is physically located in the statutes in the middle of various CHPA provisions. As a result, the definitions used in this portion of ch. 408, F.S., are applicable to this program and the CHPAs.

Related Insurance Provisions

Association Health Plans

Part VII, ch. 627, F.S., establishes requirements for each of the types of groups to whom a health insurer may issue a group policy. A health insurer may not issue a policy to a group to cover members of that group unless it meets the requirements of one of the statutorily authorized groups. Under the provisions of s. 627.654, F.S., a group policy may be issued to an association (such as a trade association), including a labor union, which has a constitution and bylaws, at least 25 members, and has been organized and maintained in good faith for a period of 1 year for purposes other than that of obtaining insurance.

A policy issued to an association must allow all members of the association, or any class or classes of the association, to be eligible and acceptable to the insurer at the time of the issuance of the policy. Therefore, an association that has both large employers and small employers could not have an association health plan because all of its members would not be eligible for coverage. Because Florida law requires small employers to be covered

pursuant to the small employer health insurance laws (the Employee Health Care Access Act, discussed below), large employers and small employer members could not be covered under the same group plan.

Guaranteed Renewability

Under the provisions of s. 627.6571, F.S., group health insurance policies must be guaranteed renewable, with certain exceptions. One exception is that if health insurance coverage is made available only through one or more bona fide associations, which in this context are defined as including a requirement that the association be formed for purposes other than obtaining insurance.

Small Employer Health Insurance

Section 627.6699, F.S., the Employee Health Care Access Act, applies to all health insurance plans that are sold to a small employer, defined as an employer with 1 to 50 employees, including sole proprietors and self-employed individuals. This act requires guaranteed issuance of coverage to all small employers, regardless of health condition. It also requires that rates be based on a modified community rating methodology, which prohibits insurers from basing rates on the health conditions or claims experience of any person insured under a small group policy. Rates for a small employer policy may be based only on the following factors: age, gender, geographic locations, tobacco usage, and family composition (size).

C. EFFECT OF PROPOSED CHANGES:

The bill would:

- Repeal the CHPA statutes, presumably requiring small employers insured through CHPAs to find health insurance elsewhere. [Note: Small employers covered through a CHPA would not necessarily have to obtain coverage elsewhere--the former CHPA could form a "small employer health alliance" and negotiate new coverage.]
- Allow a "small employer health alliance" to be formed by an organization for the purpose of negotiating with one or more insurers to provide a group policy to cover small employers that are members of that organization; and
- Permit insurers to establish rates for policies issued to "small employer health alliances" which incorporate premium credits attributable to the administrative savings resulting from pooling.

For a more detailed discussion of the provisions, see the SECTION -BY-SECTION ANALYSIS which follows.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsection (1) of s. 408.7056, F.S., relating to definitions that are specifically applicable to the Statewide Provider and Subscriber Assistance Program, to add definitions of the following terms: "agency," "department," "grievance procedure," and "health care provider." [NOTE: These definitions are currently contained in s. 408.701, F.S., as definitions applicable to ss. 408.70-408.706, F.S., relating to community health purchasing alliances, accountable health partnerships, and the Statewide Provider and

Subscriber Assistance Program, but the provisions of s. 408.701, F.S., are repealed as part of section 11 of the bill.]

Section 2. Amends s. 627.654, F.S., relating to the basis upon which insurance can be offered through labor union and association groups, to expand the applicability of this section to include small employer health alliances. In so doing, the following specific revisions are incorporated:

The title of the section is redesignated to include small employer health alliance groups.

Existing subsection (1) is redesignated as paragraph (a) of subsection (1), and a new paragraph (b) is added to the subsection to authorize insurers to issue a group policy to a new type of group, called a "small employer health alliance" (alliance). Such an alliance, which can be organized for the purpose of providing insurance, must be organized as a not-for-profit corporation under ch. 617, F.S. The alliance would cover all of the participating small employers (1 to 50 employees) in its alliance. A trade association that has both large employers and small employers, for example, could form a "small employer health alliance" for the purpose of offering insurance to its small employer members.

The small employer member of an alliance that expands to more than 50, but less than 75 employees, would be allowed to renew coverage for not more than one additional year.

The alliance must establish conditions of participation in the alliance by a small employer, including but not limited to: assurance that the small employer member is not formed for the purpose of securing health benefit coverage, and assurance that the employees of a small employer have not been added for the purpose of securing health benefit coverage.

Subsection (2) is modified to specify that for alliances, just like for associations now, a policy issued must allow all small employer members of the alliance, or any class, to be eligible and acceptable to the insurer at the time of issuance of the policy.

Subsection (3) is amended to specify that in association health plans, the spouse and dependent children may be covered without the member being covered. However, in plans offered by "small employer health alliances," the spouse and dependent children may be covered only if the member is also covered.

Subsection (4) is created to allow a single master policy issued to an association, labor union, or small employer health alliance to include more than one health plan as alternatives for an employer, employee, or member to select.

Section 3. Amends s. 627.6571, F.S., relating to guaranteed renewability of coverage, to: provide an exception to the guaranteed renewability requirements specific to a small employer whose membership in the alliance ceases; and incorporate coverage modifications for alliances consistent with current provisions applicable to bona fide associations.

Section 4. Amends s. 627.6699, F.S., relating to the Employee Health Care Access act, to incorporate the following revisions:

Subsection (5), relating to availability of coverage, is amended to incorporate a conforming revision deleting a cross-reference to s. 408.706, F.S., which is repealed by section 11 of the bill.

Subsection (6), relating to restrictions relating to premium rates, is amended to:

- Provide an exception to the prohibition against small employer carriers modifying the rates for small employers for 12 months from the initial date of issuance or date of renewal. This bill would allow an insurer, with proper disclosure, to modify the rate one time prior to 12 months after the initial issue date for a small employer who enrolls under a previously issued group policy that has a common anniversary date for all employers.
- Allow rates for a policy issued to a group association or an alliance to reflect a premium credit for expense savings attributable to administrative activities being performed by the association or alliance, if these savings are specifically documented in the carrier's rate filing and approved by the department. The bill provides, however, that nothing in this provision exempts the alliance or association from licensure for any activities which require licensure under the Insurance Code.
- Require a carrier issuing a group health insurance policy to an alliance or other group association to allow any of its licensed and appointed agents to sell that policy and to pay the agent the insurer's usual and customary commission paid to any agent selling the policy. A provision which allows small group carriers who participate in CHPAs to apply a different community rate for CHPA business would be deleted, as a conforming revision.

Subsection (12), relating to standard, basic, and limited health benefit plans, is amended to incorporate conforming revisions.

Sections 5-10. Amend various sections of statute, relating to the indicated topic, to incorporate conforming revisions that either delete reference to the CHPA terms, "accountable health partnership" or "managed care" as those terms are defined in s. 408.701, F.S., or, where appropriate, to add a definition of "managed care" as defined in s. 408.701, F.S.:

s. 240.2995	University health support organizations
s. 240.2996	University health support organizations; confidentiality of information
s. 240.512	H. Lee Moffitt Cancer Center and Research Institute
s. 381.0406	Rural health networks
s. 395.3035	Confidentiality of hospital records and meetings
s. 627.4301	Genetic information for insurance purposes

Section 11. Repeals the following sections of statute relating to CHPAs:

s. 408.70(3)	Legislative intent specific to community health purchasing alliances
s. 408.701	Community health purchasing; definitions
s. 408.702	Community health purchasing alliance; establishment
s. 408.703	Small employer members of community health purchasing alliances; eligibility requirements
s. 408.704	Agency duties and responsibilities related to community health purchasing alliances

- s. 408.7041 Antitrust protection
- s. 408.7042 Purchasing health care for state employees and Medicaid recipients through community health purchasing alliances
- s. 408.7045 Community health purchasing alliance marketing requirements
- s. 408.7055 Practitioner advisory groups
- s. 408.706 Community health purchasing alliances; accountable health partnerships

Section 12. Provides for an October 1, 2000, effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

See (FISCAL COMMENTS) below

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would repeal CHPAs, presumably requiring small employers currently insured through CHPAs to find health insurance elsewhere (unless the CHPA formed a "small employer health alliance" and negotiated new coverage). The bill would not create any special protections to assist these small employers in finding new coverage. But, as with any employer whose insurer discontinues coverage, state laws enacted in accordance with the federal Health Insurance Portability and Accountability Act (i.e., limitations on the application of preexisting condition exclusions) could assist these small employers in finding new coverage.

Without CHPAs, small employers could still obtain coverage on a guaranteed-issue, modified community-rated basis either directly from a small employer carrier or through an alliance established pursuant to this bill.

The bill does not provide any specific legal advantage to the former CHPAs that could be issued an alliance group policy, as compared to other alliance or association groups, such as a local Chamber of Commerce association.

D. FISCAL COMMENTS:

The Agency for Health Care Administration currently has 10 full time equivalent positions and \$634,709 in general revenue funds supporting the CHPA program. The positions and associated funding have been eliminated in House Bill 2145 (The General Appropriations Act). Consequently, this bill in conjunction with the appropriations bill will generate a savings of \$634,709.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The provisions of this bill may be affected by the provisions of CS/SB 1300 and CS/HB 2339. While this bill would only allow administrative savings resulting from activities performed by the alliance, CS/SB 1300 and CS/HB 2339 allow small group rates to reflect an adjustment of up to plus or minus 15 percent based on health status and claims experience.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 30, 2000, the Committee on Health Care Services adopted a "strike-everything" amendment and approved the bill as a committee substitute. That committee substitute differed from the original bill in that it incorporated revisions relating to:

- Definitions;
- Specific conditions of participation for sole proprietors and self-employed individuals;

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- Small employer members of the alliance, rather than all members of the alliance, eligibility for coverage;
- Alliance coverage for the employee's spouse or dependent children;
- Renewability of coverage for employers that grow to beyond 50 employees;
- The inclusion of more than one health plan as alternatives for an employer, employee, or member to select; and
- The use of licensed and appointed agents.

On April 10, 2000, the Committee on Insurance adopted a technical amendment to the bill to delete a reference to a definition which is repealed by another part of the bill.

On May 4, 2000, the House passed the identical companion measure, CS/SB 2086, in lieu of CS/HB 1571.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Staff Director:

Phil E. Williams

Phil E. Williams

AS REVISED BY THE COMMITTEE ON INSURANCE:

Prepared by:

Staff Director:

Robert E. Wolfe, Jr.

Stephen Hogge

**AS FURTHER REVISED BY THE COMMITTEE ON HEALTH AND HUMAN SERVICES
APPROPRIATIONS:**

Prepared by:

Staff Director:

Tom Weaver

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

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