

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: Senate Bill 828

SPONSOR: Senator Grant

SUBJECT: Insurance/Medicare Supplement Policy

DATE: February 7, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill would redefine the term, “Medicare supplement policy,” for purposes of the Florida Medicare Supplement Reform Act, (ss. 627.671 - 627.675, F.S.) to exclude from regulation under Part VIII of chapter 627, F.S., a policy or plan of one or more labor organizations, or trustees of a fund established by labor organizations for employees or former employees, or members or former members. Policies *issued in Florida* would still be subject to other provisions of the Insurance Code. Such policies or plans *issued outside of Florida* which cover Florida residents would be exempt from any regulation by the Florida Department of Insurance. The bill changes the Florida definition of “Medicare supplement policy” to more closely follow the federal definition contained in 42 U.S.C. 1395ss, subpart (g)(1) and the National Association of Insurance Commissioners (NAIC) model law and regulations, except that federal law and the NAIC also exclude policies issued by employer groups from the definition of Medicare supplement policy.

This bill amends section 627.672, Florida Statutes.

II. Present Situation:

Currently, a “Medicare supplement policy” is defined under Part VIII of chapter 627 (ss. 627.671 - 627.675, F.S.), as a health insurance policy or health benefit plan, offered by a private entity to individuals entitled to Medicare benefits. The supplemental policy provides reimbursement for medical expenses incurred which are not reimbursable by Medicare because of applicable deductibles, coinsurance amounts or other limitations imposed by Medicare. The definition of “policy” includes a certificate issued or delivered in Florida under a group Medicare supplement policy which has been effectuated inside or outside of Florida. Therefore, this part of the Insurance Code, unlike most provisions of the Code, applies to out-of-state group policies that cover Florida residents. This definition applies to all of the requirements for Medicare supplement policies in ss. 627.671 - 627.675, F.S.

An insurer who delivers a policy or certificate which qualifies as a “Medicare supplement policy” is currently subject to the penalties provision of s. 627.673, F.S., for violations under the Medicare Supplement Reform Act. If an insurer violates any provision of the Act, the department may require an insurer to cease marketing any Medicare supplement policy in Florida. An insurer is also required to file all advertisements for Medicare supplement policies with the department, pursuant to department rules. If the department is of the opinion that the advertisement violates any rule of the department or part X of chapter 626, the department may enter an order requiring the advertisement to be discontinued.

Section 627.6736, F.S., requires an insurer providing group Medicare supplement insurance benefits to a resident of Florida, to file a copy of the master policy and any certificate used in Florida, as if the policy were issued in Florida. There are also reporting requirements for insurers providing Medicare supplement insurance coverage in Florida. The insurer must provide the policy and certificate number, as well as the date of issuance of the policy.

Section 627.674, F.S., requires that a Medicare supplement policy meet the minimum standards set forth in departmental rules. These standards set forth specific requirements and disclosures which must be made by the insurer to the certificate holder. The minimum standards must meet or exceed the requirements of the National Association of Insurance Commissioners (NAIC) Medicare Supplement Insurance Minimum Standards Model Act.

Section 627.6745, F.S., sets forth the applicable loss ratio standards for Medicare supplement policies. At least 75 percent of the aggregate amount of premiums must be returned to the policyholder in the form of benefits in the case of group policies, and at least 65 percent for individual policies issued on or after July 1, 1989. The ratio of the incurred losses to earned premiums for policies or certificates which have been in force for 3 years or more must be greater than or equal to the applicable percentages of this section.

Other sections of part VIII, regarding Medicare supplement policies, contain provisions for issuance, cancellation, nonrenewal and replacement of Medicare supplement policies, permitted compensation arrangements and standards for marketing. Also, Medicare supplement insurance cannot be issued or sold, directly or through the mail, unless the issuer or seller obtains a written statement signed by the applicant, stating what Medicare supplement policies the individual has, from what source, and whether the individual has applied for and been determined to be entitled to Medicaid. Each year, an entity providing Medicare supplement policies must file its rates, rating schedules and documentation demonstrating compliance with the applicable loss ratio standards of this code.

Under the provisions of 42 U.S.C. 1395ss, subpart (g)(1), federal law excludes policies provided by employer groups and labor organizations from the definition of “Medicare supplement policy.” The NAIC Medicare Supplement Insurance Minimum Standards Model Act also excludes policies issued to an employer group, its employees or former employees, or labor organization’s members or former members. This exclusion was a part of Florida law until 1987 when the NAIC amended its model law to include employer group and labor union policies. The NAIC reversed itself in September 1988, and restored the employer group and labor organization exclusion, to make the NAIC models consistent with federal law. The Florida law has not been revised to conform to federal law and the NAIC models. The department does have a rule excluding employer groups

and labor organizations, Rule 4-156.002(2), but it is superseded by the current statute which does not exclude employer groups or labor organizations.

Other provisions of the Insurance Code, outside of part VIII of ch.627, F.S., apply to policies issued in Florida, such as policy form and rate approval and specified unfair insurance trade practices.

III. Effect of Proposed Changes:

Section 1. The bill excludes from the definition of “Medicare supplement policy,” any policy or plan of one or more labor organizations or members or former members of labor organizations.

By excluding policies or plans for Medicare supplement insurance provided to labor organizations from the definition of “Medicare supplement policy,” (whether the policy was issued in Florida or issued to an out-of-state group) the state Medicare supplement requirements of part VIII of chapter 627, F.S., would no longer apply to such policies or plans, such as the specific loss ratio standards of policies.

If the policy or plan was issued to a labor union group in Florida, provisions of the Insurance Code, other than part VIII of ch. 627, F.S., would continue to apply. If the policy was issued to a labor union outside of Florida, the department would no longer have any regulatory authority to assist Florida insureds, who have problems or complaints with the insurer. However, any policy issued to a labor union would still be required to comply with the applicable laws of the state where the master group policy is issued.

Section 2. Provides for an effective date of July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Proponents of the bill believe that the exclusion will permit insurers and labor unions to negotiate coverages for its members and retired members on a uniform, nationwide basis, without being required to have state specific policy forms and applications unique to Florida. Proponents of the bill suggest that it will also better allow the insurers and labor unions the discretion to negotiate insurance products for their members.

If the certificate holder of a Medicare supplement policy issued to a labor organization outside of Florida has a complaint or problem with an insurer for any coverage or benefits disputes, the Florida Department of Insurance would no longer have authority to provide assistance. However, the labor union may have a procedure in place to lend assistance to their members and former members.

C. Government Sector Impact:

By excluding policies issued by labor organizations from its definition of “Medicare supplement policy,” the federal law allows Medicare supplement policies to be regulated at the state level. The bill would effectively eliminate the regulatory power of the department, as it relates to the Medicare supplement policies issued by labor organizations. The department has not estimated a fiscal impact related to workload.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.