

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 430

INTRODUCER: Banking and Insurance Committee and Senators Bean and Flores

SUBJECT: Discount Plan Organizations

DATE: March 6, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	FAV/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 430 amends part II of ch. 636, F.S., relating to Discount Medical Plan Organization. The bill:

- Changes the term “discount medical plan” to “discount plan,” changes the term “discount medical plan organization” to “discount plan organization, and allows old terms to be used until June 30, 2018;
- Exempts from licensure plans that do not charge a fee to plan members;
- Requires third party providers that assist medical providers in offering discounts to their own patients in exchange for consideration to be licensed as a discount plan organization;
- Requires a member to receive a reimbursement of charges if the member cancels a plan in compliance with the rules of an open enrollment period or at any time within 30 days of written notice;
- Allows for an alternate method of providing disclosures and provides disclosure requirements when initial contact is made by telephone;
- Removes requirements that all discount plan charges must be submitted to the Office of Insurance Regulation (OIR), and that charges greater than \$30 per month and \$360 per year may only be charged if approved by OIR;
- Removes a standard that charges bear a reasonable relation to the benefits received;
- Removes the requirement that forms must be submitted to the OIR for approval;
- Adds a 5 year retention of member records requirement and subjects such records to inspection by the OIR at any time;

- Allows a discount plan organization to delegate functions to its marketers;
- Allows a marketer or discount plan organization to commingle medical services and other services on a single page of forms, advertisements, marketing materials or brochures;
- Specifies that the OIR's approval of forms only pertains to the medical services regulated by part II of ch. 636, F.S.;
- Removes the requirement that the fees for the discount medical plan must be provided in writing to the member when a marketer or discount plan organization sells a discount medical plan together with any other product and the fees exceed \$30.

The bill is effective upon becoming a law.

II. Present Situation:

Discount medical plans are agreements where membership fees are charged in exchange for the right of the member to receive discounts on certain medical services. Such plans are regulated under part II of ch. 636, F.S., and are not considered insurance. A medical provider who provides discount medical services to his or her own patients is exempt, regardless if a fee is charged.

Under part II, all forms used must first be filed and approved by the OIR.¹ Any amendments to a previously approved form constitute a new form that is subject to OIR approval.² Disclosures are required to be made on the first page of advertisements, marketing materials, or brochures.³ When the initial contract with a prospective member is by telephone, the disclosures are required to be made orally and provided in the initial written materials that describe the benefits under the plan provided to the prospective or new member.⁴

All charges to members are required to be filed with the Office of Insurance Regulation (OIR), any charges greater than \$30 per month or \$360 per year must be approved by the OIR before the charges can be used.⁵ Plan members are guaranteed a refund of periodic charges if cancellation occurs within the first 30 days after the effective date of enrollment.⁶ An annual report is required to be filed with the OIR within 3 months after the end of each organization's fiscal year.⁷ Each discount medical plan organization is required to maintain a net worth of at least \$150,000 to become or remain eligible for licensure.⁸

III. Effect of Proposed Changes:

CS/SB 430 substantially revises part II of ch. 636, F.S., governing discount medical plans

Section 3 changes the terms "discount medical plan" to "discount plan" and "discount medical plan organization" to "discount plan organization" within ch. 636, F.S. The bill allows the old

¹ s. 636.216(3), F.S.

² s. 636.216(4), F.S.

³ s. 636.212, F.S.

⁴ *Id.*

⁵ s. 636.216(1), F.S.

⁶ s. 636.208(2), F.S.

⁷ s. 636.218, F.S.

⁸ s. 636.220, F.S.

terms to be used until June 30, 2018, for the purpose of allowing time to transition to the new terminology. Furthermore, discount plans that do not charge a fee will be exempt from part II of ch. 636, F.S. Each section of the bill incorporates the new terms.

Sections 1 and 2 make conforming changes relating to the revised terms in section 3, revising the title to ch. 636, F.S., and the title to part II of ch. 636, F.S.

Section 4 requires a third party provider that assists medical providers in establishing discounts for medical services to their own patients in exchange for consideration to obtain licensure as a discount plan organization. Providers who provide their patients discounts without a third party remain exempt.

Section 5 requires discount plan organizations to maintain member records for the duration of the agreement and 5 years thereafter, subject to inspection by the OIR at any time. Records required to be retained include an accurate record of each member, the membership materials provided to each member, the discount plan issued to the members, and the charges billed and paid by the members.

Section 6 revises when members can receive reimbursement for canceling a discount plan. Currently, a member may cancel a discount medical plan within the first 30 days of enrollment, and upon returning the discount card, is reimbursed all period charges. The bill requires the reimbursement if the cancellation is consistent with the open enrollment rules established for such plans and also allows for cancellation in writing at any time within 30 days of notice by the member.

Section 7 establishes disclosure requirements for written materials, online materials and solicitations over the phone. For written materials the disclosures must be printed in 12 point font on all advertisements, marketing materials, or brochures relating to the discount plan. For online materials the disclosures must be printed in a readable size and font on all advertisements, marketing materials, or brochures relating to the discount plan. For telephone solicitations the disclosure must be given over the phone and must also be sent in writing with any membership or signup materials.

Section 8 clarifies that the agreement between a discount plan organization and a provider must contain a statement that the provider will not charge members more than the discounted rate.

Section 9 removes the requirements that all charges for a discount plan be submitted to the OIR and that charges above \$30 per month or \$360 per year be approved by the OIR. Also, removes the requirement that OIR approve all forms and advertisements. Additionally, this section removes a requirement that Discount Plan Organizations have the burden of proof that the charges bear a reasonable relation to the benefits received by a member.

Section 10 allows a discount plan organization to delegate functions to a marketer, but binds it for any acts of its marketers, within the scope of the delegation.

Sections 11 allows a marketer or discount plan organization to commingle medical services and other services on a single page of forms, advertisements, marketing materials, or brochures.

Further, the section specifies that the OIR's approval of forms only pertains to the medical services regulated by part II of ch. 636, F.S. The section removes the requirement that the fees for the Discount Medical Plan must be provided in writing to the member if the Discount Medical Plan is bundled together with any other product and the fees exceed \$30.

Sections 12 makes a technical change conforming to a change in section 9 and removes the OIR's need to develop rules for form regulation and approval.

Sections 13 – 30 makes conforming changes relating to the revised terms in section 1.

Section 31 provides the effective date of the bill as becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Third party vendors that charge a fee and assist medical practitioners with establishing discount plans for their patients will need to be licensed as a discount plan organization.

C. Government Sector Impact:

The fees charged and the forms used by a discount plan organization will no longer be subject to OIR approval. OIR can inspect records at any time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 636.202, 636.204, 636.206, 636.208, 636.212, 636.214, 636.216, 636.228, 636.230, 636.232, 408.9091, 408.910, 627.64731, 636.003, 636.205, 636.207, 636.210, 636.218, 636.220, 636.222, 636.223, 636.224, 636.226, 636.234, 636.236, 636.238, 636.240 and 636.244.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on March 6, 2017:

The CS clarifies that when a provider pays a third party vendor to provide discounts to their own patients, the third party vendor must be licensed as a discount plan organization. Discount plan organizations must maintain records for 5 years and such records are subject to examination by the OIR at any time. The CS allows discount plan cancelations outside of an open enrollment plan to occur at any time within 30 days' of written notice. The CS also clarifies how disclosures must be given depending on the type of solicitation.

- B. **Amendments:**

None.