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:	SB 430
INTRODUCER:	Senators Bean and Flores
SUBJECT:	Discount Plan Organizations
DATE:	March 3, 2017
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	**Pre-meeting**
2.			AHS	
3.			AP	

I. Summary:

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 medical providers that provide discounts to their own patients in exchange for consideration to be licensed as a discount plan;
- 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;
- Allows for an alternate method of providing disclosures and removes 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;
- Clarifies which forms must be submitted to the OIR for approval;
- States that forms previously approved by the OIR are not required to be approved unless the forms are materially changed as specified;
- 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:

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 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.

[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.

Section 4 requires a provider of medical services who provides discounts for medical services in exchange for consideration to obtain licensure as a discount plan organization. Providers who provide their patients discounts without receiving consideration remain exempt.

Section 5 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 also requires the reimbursement if the cancellation is consistent with the open enrollment rules established for such plans.

Section 6 defines the term "first page" as it relates to disclosures and allows for additional disclosures to be made by a discount plan organization. Current law requires advertisements, brochures and other marketing materials to disclose on the first page that the plan is not insurance, provides discounts for certain health care providers, and does not directly pay medical service providers. The disclosure also states the plan member must pay for all discounted health care services and provides the name and address of the discount plan organization. The section removes the requirements when initial contact is made by telephone. Instead, the disclosure requirement is met under this bill if a member cannot enroll without being presented and acknowledging acceptance of the required disclosures. The section also clarifies that a discount plan organization may make additional disclosures not required by statute.

Section 7 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 8 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. Furthermore, this section allows any forms previously approved by OIR to be valid unless any material changes are made. However, material changes do not include changes in the amount charged, changes to the name of the marketer or entity distributing the plan, the deletion of benefits, or the addition of benefits that are not medical services under part II of ch. 636, F.S. Additionally, this section removes a requirement that Discount Plan Organizations have a burden of proof that the charges bear a reasonable relation to the benefits received by a member.

Section 9 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.

Section 10 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 11 – 29 make conforming changes relating to the revised terms in section 1.

Section 30 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:

Medical practitioners who charge their patients a fee for a discount plan will no longer be exempt from licensure as a discount plan organization.

C. Government Sector Impact:

The fees charged by a discount plan organization will no longer be subject to OIR approval. Previously approved forms will no longer be subject to office approval unless the form contains a material change.

VI. Technical Deficiencies:

Lines 230 through 233 are unclear as to how the potential member will receive the disclosures.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

IX. Additional Information:

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

None.

B. Amendments:

None.