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LEGISLATIVE ACTION

Senate

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House

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Senator Mayfield moved the following:

1 **Senate Substitute for Amendment (494528) (with title**
2 **amendment)**

3
4 Delete lines 65 - 293

5 and insert:

6 this state shall provide general notification of the change in
7 the formulary to current and prospective insureds in a readily
8 accessible format on the insurer's website and notify,
9 electronically or by first-class mail, any insured currently
10 receiving coverage for a prescription drug for which the
11 formulary change modifies coverage and the insured's treating



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12 physician, including information on the specific drugs involved.

13 (2) A health insurer shall maintain a record of any change
14 in its formulary during the policy year, and by March 1
15 annually, submit a report to the office delineating such
16 changes. The annual report must include, at a minimum:

17 (a) A list of all drugs that were removed from a formulary
18 and the reasons for the removal;

19 (b) A list of all drugs that were moved to a tier that
20 resulted in additional out-of-pocket costs to insureds;

21 (c) The number of insureds notified by the insurer of a
22 change in formulary; and

23 (d) The increased cost, by dollar amount, incurred by
24 insureds because of such change in the formulary.

25 (3) By May 1 annually, the office shall:

26 (a) Compile the data in such annual reports submitted by
27 health insurers and prepare a report summarizing the data
28 submitted;

29 (b) Make the report publicly accessible on its website; and

30 (c) Submit the report to the Governor, the President of the
31 Senate, and the Speaker of the House of Representatives.

32 Section 2. Paragraph (e) of subsection (5) of section
33 627.6699, Florida Statutes, is amended to read:

34 627.6699 Employee Health Care Access Act.—

35 (5) AVAILABILITY OF COVERAGE.—

36 (e) All health benefit plans issued under this section must
37 comply with the following conditions:

38 1. For employers who have fewer than two employees, a late
39 enrollee may be excluded from coverage for no longer than 24
40 months if he or she was not covered by creditable coverage



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41 continually to a date not more than 63 days before the effective
42 date of his or her new coverage.

43 2. Any requirement used by a small employer carrier in
44 determining whether to provide coverage to a small employer
45 group, including requirements for minimum participation of
46 eligible employees and minimum employer contributions, must be
47 applied uniformly among all small employer groups having the
48 same number of eligible employees applying for coverage or
49 receiving coverage from the small employer carrier, except that
50 a small employer carrier that participates in, administers, or
51 issues health benefits pursuant to s. 381.0406 which do not
52 include a preexisting condition exclusion may require as a
53 condition of offering such benefits that the employer has had no
54 health insurance coverage for its employees for a period of at
55 least 6 months. A small employer carrier may vary application of
56 minimum participation requirements and minimum employer
57 contribution requirements only by the size of the small employer
58 group.

59 3. In applying minimum participation requirements with
60 respect to a small employer, a small employer carrier shall not
61 consider as an eligible employee employees or dependents who
62 have qualifying existing coverage in an employer-based group
63 insurance plan or an ERISA qualified self-insurance plan in
64 determining whether the applicable percentage of participation
65 is met. However, a small employer carrier may count eligible
66 employees and dependents who have coverage under another health
67 plan that is sponsored by that employer.

68 4. A small employer carrier shall not increase any
69 requirement for minimum employee participation or any



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70 requirement for minimum employer contribution applicable to a
71 small employer at any time after the small employer has been
72 accepted for coverage, unless the employer size has changed, in
73 which case the small employer carrier may apply the requirements
74 that are applicable to the new group size.

75 5. If a small employer carrier offers coverage to a small
76 employer, it must offer coverage to all the small employer's
77 eligible employees and their dependents. A small employer
78 carrier may not offer coverage limited to certain persons in a
79 group or to part of a group, except with respect to late
80 enrollees.

81 6. A small employer carrier may not modify any health
82 benefit plan issued to a small employer with respect to a small
83 employer or any eligible employee or dependent through riders,
84 endorsements, or otherwise to restrict or exclude coverage for
85 certain diseases or medical conditions otherwise covered by the
86 health benefit plan.

87 7. An initial enrollment period of at least 30 days must be
88 provided. An annual 30-day open enrollment period must be
89 offered to each small employer's eligible employees and their
90 dependents. A small employer carrier must provide special
91 enrollment periods as required by s. 627.65615.

92 8. A small employer carrier shall comply with s. 627.42393
93 for any change to a prescription drug formulary.

94 Section 3. Subsection (36) of section 641.31, Florida
95 Statutes, is amended to read:

96 641.31 Health maintenance contracts.—

97 (36) Except as provided in paragraph (a), a health
98 maintenance organization may increase the copayment for any



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99 benefit, or delete, amend, or limit any of the benefits to which
100 a subscriber is entitled under the group contract only, upon
101 written notice to the contract holder at least 45 days in
102 advance of the time of coverage renewal. The health maintenance
103 organization may amend the contract with the contract holder,
104 with such amendment to be effective immediately at the time of
105 coverage renewal. The written notice to the contract holder must
106 ~~shall~~ specifically identify any deletions, amendments, or
107 limitations to any of the benefits provided in the group
108 contract during the current contract period which will be
109 included in the group contract upon renewal. This subsection
110 does not apply to any increases in benefits. The 45-day notice
111 requirement does ~~shall~~ not apply if benefits are amended,
112 deleted, or limited at the request of the contract holder.

113 (a) At least 60 days before the effective date of any
114 change to a prescription drug formulary during a contract year,
115 the health maintenance organization shall provide general
116 notification of the change in the formulary to current and
117 prospective subscribers in a readily accessible format on the
118 health maintenance organization's website and notify,
119 electronically or by first-class mail, any subscriber currently
120 receiving coverage for a prescription drug for which the
121 formulary change modifies coverage and the subscriber's treating
122 physician, including information on the specific drugs involved.

123 (b) A health maintenance organization shall maintain a
124 record of any change in its formulary during the policy year,
125 and by March 1 annually, submit a report to the office
126 delineating such changes. The annual report must include, at a
127 minimum:



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128 1. A list of all drugs that were removed from a formulary
129 and the reasons for the removal;

130 2. A list of all drugs that were moved to a tier that
131 resulted in additional out-of-pocket costs to subscribers;

132 3. The number of subscribers notified by the health
133 maintenance organization of a change in formulary; and

134 4. The increased cost, by dollar amount, incurred by
135 subscribers because of such change in the formulary.

136 (c) By May 1 annually, the office shall:

137 1. Compile the data in such annual reports submitted by
138 health maintenance organizations and prepare a report
139 summarizing the data submitted;

140 2. Make the report publicly accessible on its website; and

141 3. Submit the report to the Governor, the President of the
142 Senate, and the Speaker of the House of Representatives.

143
144 ===== T I T L E A M E N D M E N T =====

145 And the title is amended as follows:

146 Delete lines 6 - 53

147 and insert:

148 current and prospective insureds, and the insureds'
149 treating physicians, within a certain timeframe before
150 the effective date of any change to a prescription
151 drug formulary during a policy year; requiring such
152 insurers to maintain a record of formulary changes and
153 submit a certain annual report to the Office of
154 Insurance Regulation; specifying requirements for the
155 annual report; requiring the office to annually
156 compile data in such reports and prepare an annual



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157 report summarizing such data; requiring the office to
158 annually post the report on its website and submit the
159 report to the Governor and Legislature by a certain
160 date; amending s. 627.6699, F.S.; requiring small
161 employer carriers to comply with certain requirements
162 for any change to a prescription drug formulary under
163 the health benefit plan; amending s. 641.31, F.S.;
164 requiring health maintenance organizations to provide
165 certain notices to current and prospective
166 subscribers, and the subscribers' treating physicians,
167 within a certain timeframe before the effective date
168 of any change to a prescription drug formulary during
169 a contract year; requiring such health maintenance
170 organizations to maintain a record of formulary
171 changes and submit a certain annual report to the
172 office; specifying requirements for the annual report;
173 requiring the office to annually compile data in such
174 reports and prepare an annual report summarizing such
175 data; requiring the office to annually post the report
176 on its website and submit the report to the Governor
177 and Legislature; providing a declaration of important
178 state