

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 524

INTRODUCER: Senators Diaz and Farmer

SUBJECT: Health Insurance Savings Programs

DATE: March 8, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Pre-meeting
2.			GO	
3.			AP	

I. Summary:

- I. SB 524 creates the Patient Savings Act, which allows health insurers and health maintenance organizations (HMOs) to create a shared savings incentive program that may provide cash incentives or other incentives to insureds with individual policies or contracts when they obtain shoppable health care services offered by their health insurer or HMO through their shared savings incentive list. The shoppable health care services are non-emergency services and include prescription drugs. The insurer's shared savings incentive list may include shoppable health care services in and out of this state. The program is voluntary for insurers, HMOs, policyholders, and subscribers.

The bill does not create a fiscal impact on the Office of Insurance Regulation.

II. Present Situation:

Health care spending in the United States is expected to grow an average of 5.5 percent annually from 2018-2027, reaching nearly \$6.0 trillion by 2027.¹ Consumers are becoming responsible for a growing proportion of this spending, as demonstrated in the increased use of high deductible health plans, and other forms of cost sharing. Since 2012, the percentage of workers covered by a plan with a deductible of \$1,000 or greater has grown from 34 to 51 percent.²

Price transparency and quality transparency enable consumers to obtain more value out of the health care system. Greater awareness and access by consumers to pricing information before obtaining health care services may result in lower overall payments for health care services and higher quality providers. A recent study concluded that the use of private price transparency

¹ Office of the Actuary, Centers for Medicare & Medicaid Services (CMS), National Health Expenditure Projections 2018-2027, available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/NationalHealthExpendData/Downloads/ForecastSummary.pdf> (last viewed March 2, 2019).

² North Carolina Medical Journal, 79. 1.34.

platforms was associated with lower claims payments for common medical services.³ According to a 2017 survey, 98 percent of health plans around the country indicated that they have cost calculator tools, but only 2 percent of policyholders or subscribers use them.⁴ Financial incentives may encourage consumer to access price information. Incentives may include reductions in premiums, cash payments, or lower out-of-pocket costs for their members if they select low-price, high quality providers.

Regulation of Health Insurance

The Office of Insurance Regulation is responsible for the regulation of insurers and other risk-bearing entities.⁵ Rates and forms of individual and small group policies and contracts are subject to prior approval. The Insurance Code does not address a shared savings program.

Section 627.6385, F.S., requires health insurers writing individual policies to make available on their website a method for policyholders to estimate their copayments, deductibles, and other cost-sharing responsibilities for health care services and procedures.⁶ Insurers are required to provide a hyperlink to the health information, including service bundles and quality of care information, developed by the Agency for Health Care Administration. Likewise, the federal Patient Protection and Affordable Care Act⁷ requires insurance policies and contracts to provide price and coverage information to enrollees, including cost sharing and payments with respect to out-of-network coverage.⁸

State Group Insurance Program

On January 1, 2019, the Division of State Group Insurance of the Department of Management Services instituted a voluntary shared savings program to reward policyholders, subscribers, or their dependents for making informed and cost-effective decisions about health care spending, thereby reducing healthcare costs. The program allows participants to earn rewards by receiving rewardable healthcare services through two state vendors. Rewards are credited to a select pretax savings or spending account of the participant, and funds can be used to pay for eligible medical, dental, and vision expenses. Rewards are earned after the participant shops for a rewardable healthcare service on the website, receives the service, and the claim has been paid.⁹

III. Effect of Proposed Changes:

Section 1 creates s. 627.6387, F.S., the “Patient Saving Act.” This section establishes the shared savings incentive program, which is a voluntary incentive program a health insurer may establish

³ JAMA. 2014;312(16):1670-1676.

⁴ Catalyst for Payment Reform Survey available at <http://www.catalyzepaymentreform.org/wp-content/uploads/2017/04/National-Scorecard.png> (last viewed March 2, 2019).

⁵ Section 20.121, F.S.

⁶ The Agency for Healthcare Administration, available at <http://www.floridahealthfinder.gov/index.html> (last viewed March 2, 2019).

⁷ Patient Protection and Affordable Care Act, Public Law 111–148, was enacted on March 23, 2010; and amended by the Health Care and Education Reconciliation Act, Public Law 111–152, was enacted on March 30, 2010.

⁸ 45 CFR Part 147 and Section 2715A Public Health Service Act.

⁹ MyBenefits, Shared Savings Program, available at https://www.mybenefits.myflorida.com/health/shared_savings_program (last viewed March 2, 2019).

to provide incentives when the insured obtains a shoppable health care service from a health insurer's shared savings list. The incentives may include cash, merchandise, gift cards, debit cards, premium discounts, contributions to a member's health savings account, or modifications to copayment, deductible, or coinsurance amounts. For purposes this section, the terms, "contracted amount," "health care provider," "health insurer," "shared savings incentive," "shared savings incentive program," and "shoppable services" are defined.

The "contracted amount" is the amount agreed to be paid by the health insurer pursuant to a policy, contract, or certificate of insurance to a health care provider for shoppable health care services covered by the policy, contract, or certificate of insurance.

A "health insurer" is an authorized insurer offering health insurance as defined in s. 624.603, F.S., or a health maintenance organization as defined in s. 641.19, F.S. The term does not include the state group health insurance program.

A "shared savings incentive," is a voluntary and optional cash incentive that a health insurer may provide to an insured for choosing certain shoppable health care services under a shared savings incentive program and may include, but is not limited to, the incentives described in s. 626.9541(4)(a), F.S., which relate to participation in a wellness or health improvement program. The term, "shared savings incentive program," means a voluntary and optional incentive program established by a health insurer pursuant to this section.

"Shoppable health care services" are nonemergency health care service for which an insured may receive a shared savings incentive under a health insurer's shared savings incentive program. The health insurer's shared savings incentive list may include shoppable health care services in and out of this state. Shoppable health care services include:

- Clinical laboratory services.
- Infusion therapy.
- Inpatient and outpatient surgical procedures.
- Obstetrical and gynecological services.
- Inpatient and outpatient nonsurgical diagnostic tests and procedures.
- Physical and occupational therapy services.
- Radiology and imaging services.
- Prescription drugs.
- Telehealth services.

If an insured elects to receive a health care service from a health insurer's shared savings incentive list, the health insurer is required to deposit into, or credit, the insured's account with the shared savings incentive amount.

A shared savings incentive made by a health insurer is not an administrative expense for rate filing or rate development purposes. A shared savings incentive provided to the insured by a health insurer is deemed a return or reduction in premium. For insureds, the incentive payments do not constitute income.

A health insurer offering a shared savings incentive program must:

- Offer any shared savings incentive program as a component part of the policy, contract, or certificate of insurance provided by the health insurer or HMO.
- Notify each insured of the program annually, and at the time of enrollment or renewal.
- Provide on its website a method for an insured to request and obtain information on the contracted amount for shoppable health care services from a health care provider, and indicate whether a shared savings incentive applies to a particular shoppable health care service.
- Notify insureds and applicants of the availability of the program and the procedure to participate.
- File a description of the program with the OIR on a form prescribed by the OIR.
- Limit an insured's incentives to no more than 30 percent of annual premium.
- Provide notice to the OIR 30 days prior to the termination of the program.

The section provides that a shared savings incentive provided by a health insurer is presumed to be appropriate unless credible data clearly demonstrates otherwise.

The OIR may adopt rules necessary to implement and enforce this section.

Section 2 provides the bill takes effect January 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The bill would allow insurers to reduce their direct written premiums by the dollar amount of the shared savings incentives provided to insureds for purposes of insurance premium tax and the retaliatory tax.

B. Private Sector Impact:

The implementation of a shared savings incentive program may encourage insureds to obtain shoppable health care services at lower prices.

C. Government Sector Impact:

The bill does not create a fiscal impact on the Office of Insurance Regulation.

VI. Technical Deficiencies:

Section 1 requires the OIR to prescribe forms and adopt rules to implement and enforce the program. However, the Financial Services Commission, composed of the Governor, Attorney General, Commissioner of Agriculture, and the Chief Financial Officer, are the agency head for purposes of rulemaking. Section 20.121(3), F.S.

The notification schedule for informing insureds about a shared savings incentive program appears to be duplicated in Section 1 (see lines 106-108 and 119-121)

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 627.6387 of the Florida Statutes.

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.