

By the Committees on Appropriations; and Banking and Insurance;
and Senators Diaz, Farmer, and Bean

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1 A bill to be entitled
2 An act relating to health insurance; amending s.
3 110.12303, F.S.; removing an obsolete date;
4 authorizing the inclusion in the state group insurance
5 program of products and services offered by entities
6 providing optional participation in the Medicare
7 Advantage Prescription Drug Plan; amending s.
8 110.12315, F.S.; requiring the Department of
9 Management Services to implement formulary management
10 cost-saving measures beginning with the 2020 plan
11 year; specifying requirements for such measures;
12 requiring the department to report to the Governor and
13 the Legislature regarding formulary exclusions;
14 repealing s. 8 of ch. 99-255, Laws of Florida;
15 repealing a restriction prohibiting the department
16 from implementing prior authorization or restricted
17 formulary programs within the state employees'
18 prescription drug program; creating s. 627.6387, F.S.;
19 providing a short title; defining terms; authorizing
20 health insurers, which include health maintenance
21 organizations, to offer shared savings incentive
22 programs to insureds; providing that insureds are not
23 required to participate in such programs; specifying
24 requirements for health insurers offering such
25 programs; requiring the Office of Insurance Regulation
26 to review filed descriptions of programs and make a
27 certain determination; providing notification and
28 account credit or deposit requirements for insurers;
29 specifying the minimum shared savings incentive and

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30 the basis for calculating savings; specifying
31 requirements for annual reports submitted by insurers
32 to the office; providing construction; providing that
33 certain shared saving incentive amounts reduce an
34 insurer's direct written premium for purposes of the
35 insurance premium tax and the retaliatory tax;
36 authorizing the Financial Services Commission to adopt
37 rules; providing effective dates.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Section 110.12303, Florida Statutes, is amended
42 to read:

43 110.12303 State group insurance program; additional
44 benefits; price transparency program; reporting. ~~Beginning with~~
45 ~~the 2018 plan year:~~

46 (1) In addition to the comprehensive package of health
47 insurance and other benefits required or authorized to be
48 included in the state group insurance program, the package of
49 benefits may also include products and services offered by:

50 (a) Prepaid limited health service organizations authorized
51 pursuant to part I of chapter 636.

52 (b) Discount medical plan organizations authorized pursuant
53 to part II of chapter 636.

54 (c) Prepaid health clinics licensed under part II of
55 chapter 641.

56 (d) Licensed health care providers, including hospitals and
57 other health care facilities, health care clinics, and health
58 professionals, who sell service contracts and arrangements for a

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59 specified amount and type of health services.

60 (e) Provider organizations, including service networks,
61 group practices, professional associations, and other
62 incorporated organizations of providers, who sell service
63 contracts and arrangements for a specified amount and type of
64 health services.

65 (f) Entities that provide specific health services in
66 accordance with applicable state law and sell service contracts
67 and arrangements for a specified amount and type of health
68 services.

69 (g) Entities that provide health services or treatments
70 through a bidding process.

71 (h) Entities that provide health services or treatments
72 through the bundling or aggregating of health services or
73 treatments.

74 (i) Entities that provide optional participation in a
75 Medicare Advantage Prescription Drug Plan.

76 (j) Entities that provide other innovative and cost-
77 effective health service delivery methods.

78 (2) (a) The department shall contract with at least one
79 entity that provides comprehensive pricing and inclusive
80 services for surgery and other medical procedures which may be
81 accessed at the option of the enrollee. The contract shall
82 require the entity to:

83 1. Have procedures and evidence-based standards to ensure
84 the inclusion of only high-quality health care providers.

85 2. Provide assistance to the enrollee in accessing and
86 coordinating care.

87 3. Provide cost savings to the state group insurance

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88 program to be shared with both the state and the enrollee. Cost
89 savings payable to an enrollee may be:

- 90 a. Credited to the enrollee's flexible spending account;
- 91 b. Credited to the enrollee's health savings account;
- 92 c. Credited to the enrollee's health reimbursement account;

93 or

- 94 d. Paid as additional health plan reimbursements not
95 exceeding the amount of the enrollee's out-of-pocket medical
96 expenses.

97 4. Provide an educational campaign for enrollees to learn
98 about the services offered by the entity.

99 (b) On or before January 15 of each year, the department
100 shall report to the Governor, the President of the Senate, and
101 the Speaker of the House of Representatives on the participation
102 level and cost-savings to both the enrollee and the state
103 resulting from the contract or contracts described in this
104 subsection.

105 (3) The department shall contract with an entity that
106 provides enrollees with online information on the cost and
107 quality of health care services and providers, allows an
108 enrollee to shop for health care services and providers, and
109 rewards the enrollee by sharing savings generated by the
110 enrollee's choice of services or providers. The contract shall
111 require the entity to:

112 (a) Establish an Internet-based, consumer-friendly platform
113 that educates and informs enrollees about the price and quality
114 of health care services and providers, including the average
115 amount paid in each county for health care services and
116 providers. The average amounts paid for such services and

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117 providers may be expressed for service bundles, which include
118 all products and services associated with a particular treatment
119 or episode of care, or for separate and distinct products and
120 services.

121 (b) Allow enrollees to shop for health care services and
122 providers using the price and quality information provided on
123 the Internet-based platform.

124 (c) Permit a certified bargaining agent of state employees
125 to provide educational materials and counseling to enrollees
126 regarding the Internet-based platform.

127 (d) Identify the savings realized to the enrollee and state
128 if the enrollee chooses high-quality, lower-cost health care
129 services or providers, and facilitate a shared savings payment
130 to the enrollee. The amount of shared savings shall be
131 determined by a methodology approved by the department and shall
132 maximize value-based purchasing by enrollees. The amount payable
133 to the enrollee may be:

- 134 1. Credited to the enrollee's flexible spending account;
- 135 2. Credited to the enrollee's health savings account;
- 136 3. Credited to the enrollee's health reimbursement account;

137 or

- 138 4. Paid as additional health plan reimbursements not
139 exceeding the amount of the enrollee's out-of-pocket medical
140 expenses.

141 (e) On or before January 1 of 2019, 2020, and 2021, the
142 department shall report to the Governor, the President of the
143 Senate, and the Speaker of the House of Representatives on the
144 participation level, amount paid to enrollees, and cost-savings
145 to both the enrollees and the state resulting from the

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146 implementation of this subsection.

147 Section 2. Subsection (9) is added to section 110.12315,
148 Florida Statutes, to read:

149 110.12315 Prescription drug program.—The state employees'
150 prescription drug program is established. This program shall be
151 administered by the Department of Management Services, according
152 to the terms and conditions of the plan as established by the
153 relevant provisions of the annual General Appropriations Act and
154 implementing legislation, subject to the following conditions:

155 (9) (a) Beginning with the 2020 plan year, the department
156 must implement formulary management for prescription drugs and
157 supplies. Such management practices must require prescription
158 drugs to be subject to formulary inclusion or exclusion but may
159 not restrict access to the most clinically appropriate,
160 clinically effective, and lowest net-cost prescription drugs and
161 supplies. Drugs excluded from the formulary must be available
162 for inclusion if a physician, advanced registered nurse
163 practitioner, or physician assistant prescribing a
164 pharmaceutical clearly states on the prescription that the
165 excluded drug is medically necessary. Prescription drugs and
166 supplies first made available in the marketplace after January
167 1, 2020, may not be covered by the prescription drug program
168 until specifically included in the list of covered prescription
169 drugs and supplies.

170 (b) No later than October 1, 2019, and by each October 1
171 thereafter, the department must submit to the Governor, the
172 President of the Senate, and the Speaker of the House of
173 Representatives the list of prescription drugs and supplies that
174 will be excluded from program coverage for the next plan year.

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175 If the department proposes to exclude prescription drugs and
176 supplies after the plan year has commenced, the department must
177 provide notice to the Governor, the President of the Senate, and
178 the Speaker of the House of Representatives of such exclusions
179 at least 60 days before implementation of such exclusions.

180 Section 3. Effective December 31, 2019, section 8 of
181 chapter 99-255, Laws of Florida, is repealed.

182 Section 4. Effective January 1, 2020, section 627.6387,
183 Florida Statutes, is created to read:

184 627.6387 Shared savings incentive program.-

185 (1) This section may be cited as the "Patient Savings Act."

186 (2) As used in this section, the term:

187 (a) "Health care provider" means a hospital or facility
188 licensed under chapter 395; an entity licensed under chapter
189 400; a health care practitioner as defined in s. 456.001; a
190 blood bank, plasma center, industrial clinic, or renal dialysis
191 facility; or a professional association, partnership,
192 corporation, joint venture, or other association for
193 professional activity by health care providers. The term
194 includes entities and professionals outside of this state with
195 an active, unencumbered license for an equivalent facility or
196 practitioner type issued by another state, the District of
197 Columbia, or a possession or territory of the United States.

198 (b) "Health insurer" means an authorized insurer offering
199 health insurance as defined in s. 624.603 or a health
200 maintenance organization as defined in s. 641.19. The term does
201 not include the state group health insurance program provided
202 under s. 110.123.

203 (c) "Shared savings incentive" means a voluntary and

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204 optional financial incentive that a health insurer may provide
205 to an insured for choosing certain shoppable health care
206 services under a shared savings incentive program and may
207 include, but is not limited to, the incentives described in s.
208 626.9541(4)(a).

209 (d) "Shared savings incentive program" means a voluntary
210 and optional incentive program established by a health insurer
211 pursuant to this section.

212 (e) "Shoppable health care service" means a lower-cost,
213 high-quality nonemergency health care service for which a shared
214 savings incentive is available for insureds under a health
215 insurer's shared savings incentive program. Shoppable health
216 care services may be provided within or outside of this state
217 and include, but are not limited to:

- 218 1. Clinical laboratory services.
- 219 2. Infusion therapy.
- 220 3. Inpatient and outpatient surgical procedures.
- 221 4. Obstetrical and gynecological services.
- 222 5. Inpatient and outpatient nonsurgical diagnostic tests
223 and procedures.
- 224 6. Physical and occupational therapy services.
- 225 7. Radiology and imaging services.
- 226 8. Prescription drugs.
- 227 9. Services provided through telehealth.

228 (3) A health insurer may offer a shared savings incentive
229 program to provide incentives to an insured when the insured
230 obtains a shoppable health care service from the health
231 insurer's shared savings list. An insured may not be required to
232 participate in a shared savings incentive program. A health

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233 insurer that offers a shared savings incentive program must:

234 (a) Establish the program as a component part of the
235 policy, contract, or certificate of insurance provided by the
236 health insurer and notify the insureds and the office at least
237 30 days before program termination.

238 (b) File a description of the program on a form prescribed
239 by commission rule. The office must review the filing and
240 determine whether the shared savings incentive program complies
241 with this section.

242 (c) Notify an insured annually and at the time of renewal,
243 and an applicant for insurance at the time of enrollment, of the
244 availability of the shared savings incentive program and the
245 procedure to participate in the program.

246 (d) Publish on a webpage easily accessible to insureds and
247 to applicants for insurance a list of shoppable health care
248 services and health care providers and the shared savings
249 incentive amount applicable for each service. A shared savings
250 incentive may not be less than 25 percent of the savings
251 generated by the insured's participation in any shared savings
252 incentive offered by the health insurer. The baseline for the
253 savings calculation is the average in-network amount paid for
254 that service in the most recent 12-month period or some other
255 methodology established by the health insurer and approved by
256 the office.

257 (e) At least quarterly, credit or deposit the shared
258 savings incentive amount to the insured's account as a return or
259 reduction in premium, or credit the shared savings incentive
260 amount to the insured's flexible spending account, health
261 savings account, or health reimbursement account, such that the

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262 amount does not constitute income to the insured.

263 (f) Submit an annual report to the office within 90
264 business days after the close of each plan year. At a minimum,
265 the report must include the following information:

266 1. The number of insureds who participated in the program
267 during the plan year and the number of instances of
268 participation.

269 2. The total cost of services provided as a part of the
270 program.

271 3. The total value of the shared savings incentive payments
272 made to insureds participating in the program and the values
273 distributed as premium reductions, credits to flexible spending
274 accounts, credits to health savings accounts, or credits to
275 health reimbursement accounts.

276 4. An inventory of the shoppable health care services
277 offered by the health insurer.

278 (4) (a) A shared savings incentive offered by a health
279 insurer in accordance with this section:

280 1. Is not an administrative expense for rate development or
281 rate filing purposes.

282 2. Does not constitute an unfair method of competition or
283 an unfair or deceptive act or practice under s. 626.9541 and is
284 presumed to be appropriate unless credible data clearly
285 demonstrates otherwise.

286 (b) A shared saving incentive amount provided as a return
287 or reduction in premium reduces the health insurer's direct
288 written premium by the shared saving incentive dollar amount for
289 the purposes of the taxes in ss. 624.509 and 624.5091.

290 (5) The commission may adopt rules necessary to implement

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291 and enforce this section.

292 Section 5. Except as otherwise expressly provided in this
293 act, this act shall take effect July 1, 2019.