

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 252

INTRODUCER: Senator Brodeur

SUBJECT: Health Care Cost Savings

DATE: January 11, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	Pre-meeting
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 252 expands the list of shoppable health care services for which a health insurer may offer shared savings incentives under a shared savings incentive program created pursuant to Florida's Patient Savings Act. The bill incorporates 500 items and services by reference to a table in the United States Departments of Health and Human Services, Treasury, and Labor Transparency in Coverage Final Rule published on November 12, 2020.¹

The bill does not impact state revenues or expenditures.

The bill takes effect July 1, 2022.

II. Present Situation:

Patient Savings Act

In 2019,² the Legislature enacted the Patient Savings Act (act),³ which allows health insurers⁴ to create shared savings incentive programs (programs) to encourage insureds to choose lower cost, high quality nonemergency health care services and share any savings realized as a result of the insured's choice. Health insurers are not required to establish a program under the act, and an insured's participation in a program offered by a health insurer is similarly voluntary and optional. A health insurer that establishes a program must distribute program payments at least quarterly to participating insureds.

¹ Federal Register, Volume 85, No. 219, Table 1–500 Items and Services List, pp. 72182-72190 (2020); *available at* <https://www.govinfo.gov/content/pkg/FR-2020-11-12/pdf/2020-24591.pdf> (last visited Jan. 4, 2022).

² Chapter 2019-100, Laws of Fla.

³ Sections 627.6387, 627.6648, and 641.31076, F.S.

⁴ The Patient Savings Act also applies to health maintenance organizations.

Under the act, a program may offer the following shared savings incentives (incentives) for choosing shoppable health care services (services):

- Premium reduction or return;
- Flexible spending account credit;
- Health savings account credit;
- Health reimbursement account credit;⁵
- Cash or cash equivalent including, but not limited to, merchandise, gift card, or debit card;⁶
- Copayment modification;
- Deductible modification; and
- Coinsurance amount.

Under the act, services within and outside Florida for which incentives may be offered include, but are not limited to:

- 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;
- Services provided through telehealth; and
- Any additional services published by the Agency for Health Care Administration that have the most significant price variation both statewide and regionally pursuant to s. 408.05(3)(m), F.S.

Health insurers offering programs must annually file with the Office of Insurance Regulation the number of participating insureds; the number of instances of participation; the total cost of provided services under the program; the total value of the program payments made to insureds; and the values distributed as premium reductions, credits to flexible spending accounts, credits to health savings accounts, or credits to health reimbursement accounts.⁷

Currently, only one health insurer in Florida offers a program to its policyholders.⁸

⁵ Section 627.6387(3)(e), F.S.

⁶ Section 626.9541(4)(a), F.S.

⁷ Section 627.6387(3)(f), F.S.

⁸ Phone conversation with Jessica Krause, Government Affairs Analyst, Florida Office of Insurance Regulation (Senate Committee on Banking and Insurance) (Oct. 22, 2021).

Federal Departments of Health and Human Services, Treasury, and Labor Transparency in Coverage Final Rule

On November 12, 2020, the United States Departments of Health and Human Services, Treasury, and Labor published the Transparency in Coverage Final Rule,⁹ imposing new requirements on group health plans and health insurers in the individual and group markets to disclose cost-sharing information, in-network provider negotiated rates, historical out-of-network allowed amounts, and drug pricing information.

Under the Final Rule, for plan years beginning on or after January 1, 2023, plans and issuers must disclose to enrollees, through a self-service online tool, personalized cost-sharing information and negotiated rates for 500 shoppable services (Table 1–500 Items and Services List) identified in the Final Rule. For plan years beginning on or after January 1, 2024, this disclosure requirement will expand to all covered health care items and services, including encounters, procedures, medical tests, supplies, prescription drugs, medical equipment, and fees, including facility fees.

For plan years beginning on or after January 1, 2022, plans and issuers must make publicly available, through standardized, regularly updated, machine-readable files:

- Negotiated rates for in-network providers;
- Historical allowed amounts for out-of-network providers; and
- Prices for prescription drugs.

The Final Rule does not apply to grandfathered health plans; account-based group health plans, such as health reimbursement arrangements (HRAs), including individual-coverage HRAs; or health flexible spending accounts, healthcare-sharing ministries, or short-term limited duration insurance plans.

III. Effect of Proposed Changes:

Section 1 amends s. 627.6387, F.S., to expand the list of shoppable health services for which a health insurer may offer shared savings incentives under a shared savings incentive program created pursuant to Florida’s Patient Savings Act, to incorporate 500 items and services by reference to a table in the November 12, 2020 United States Departments of Health and Human Services, Treasury, and Labor Transparency in Coverage Final Rule.

Section 2 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁹ 26 CFR Part 54, 29 CFR Part 2590, 45 CFR Part 147 and 45 CFR Part 158. See Transparency in Coverage; Final Rule, 85 Fed. Reg. 72,158 (Nov. 12, 2020) <https://www.federalregister.gov/documents/2020/11/12/2020-24591/transparency-in-coverage> (last visited Jan. 4, 2022).

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:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

This bill amends the shared savings programs for individual insurers but does not amend the programs for group insurers nor Health Maintenance Organizations (HMOs). It may be preferable to add similar language to s. 627.6648, F.S., for group insurers, and s. 641.31076, F.S., for HMOs.¹⁰

VII. Related Issues:

If the Legislature desires to incorporate any subsequent amendment to Table 1–500 Items and Services List of the Transparency in Coverage Final Rule, then s. 627.6387(2)(e)(11), F.S., would need to be reenacted.

VIII. Statutes Affected:

This bill substantially amends section 627.6387 of the Florida Statutes.

¹⁰ Office of Insurance Regulation, Senate Bill 252 Fiscal Analysis 2022 (Nov. 15, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment and General Government).

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
