

STORAGE NAME: h1753.in
DATE: April 16, 1999

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
INSURANCE
ANALYSIS**

BILL #: HB 1753
RELATING TO: Health Insurance
SPONSOR(S): Rep. Patterson
COMPANION BILL(S): SB 1576 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) HEALTH CARE SERVICES YEAS 15 NAYS 0
- (2) INSURANCE
- (3) GOVERNMENTAL RULES AND REGULATIONS
- (4)
- (5)

I. SUMMARY:

Under current law, all insurance policy forms are required to be delivered to and approved by the Department of Insurance (Department) prior to their use. For health insurance policy forms, the Department is authorized to establish by rule procedures to be used to determine whether the benefits under a policy are reasonable in relation to the premium rates charged by the insurer.

This bill would make various changes to the laws that apply to health insurance rates, ss. 627.410 and 627.411, F.S. In general, these changes would include: allowing insurers to utilize certain rating practices that are currently prohibited such as durational rating; specifying certain loss ratio requirements which must be met for approval of rate filings instead of the current department discretion to disapprove rate filings; and providing greater freedom for an insurer to establish separate, segregated groups of policy forms on which claims experience and rates would be based, rather than being required to merge the experience of all similar policy forms.

According to the Department of Insurance, this bill should have no fiscal impact on state and local government.

Amendments:

On April 12, 1999, the Committee on Health Care Services adopted two amendments, which are traveling with the bill. See section VI of the analysis for an explanation of these amendments.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

The provisions of ch. 627, F.S., relate to insurance rates and contracts as part of the Florida Insurance Code. Part II of ch. 627, F.S., consisting of ss. 627.401-627.4301, F.S., relates to insurance contracts.

Section 627.410, F.S., 1998 Supplement, provides that "no basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or group certificates issued under a master contract delivered in this state, or printed rider or endorsement form or form of renewal certificate, shall be delivered or issued for delivery in this state, unless the form has been filed with the Department of Insurance at its offices in Tallahassee by or in behalf of the insurer which proposes to use such form and has been approved by the department. This section further establishes requirements to be met by insurers for annual rate filing and rate change proposals. In addition, the department has the authority to establish by rule, for each type of health insurance form, procedures to be used in ascertaining the reasonableness of benefits in relation to premium rates.

Section 627.411, F.S., provides the circumstances for which the department may disapprove or withdraw approval of forms filed under s. 627.410, F.S. This section also includes factors to be considered when the department is determining whether the benefits are reasonable in relation to premiums charged.

Rule 4-149.005, F.A.C., sets requirements for determining the reasonableness of benefits in relation to premiums. This administrative rule states that "benefits will be determined to be reasonable in relation to the premium rates charged if the premium schedule is not excessive, not inadequate and not unfairly discriminatory. In determining whether a premium schedule satisfies these requirements, the Department will consider all items presented in the filing with special emphasis placed on the information included in the actuarial memorandum."

In addition, Rule 4-149.005, F.A.C., establishes the following loss ratio standards.

Loss Ratio Table, Group Policies

Group Medical Expense:

<u>Group Size</u>	<u>Loss Ratio</u>
Fewer than 51 certificates	65 percent
51 through 500 certificates	70 percent
All others	75 percent

Group Medical Indemnity or Any Group Policy with an Average Annual Premium per Certificate of Less Than \$1,000:

<u>Group Size</u>	<u>Loss Ratio</u>
Fewer than 51 certificates	57.5 percent
51 through 500 certificates	62.5 percent
All others	67.5 percent

Loss Ratio Table, Individual Policies for the Line of Business Indicated

Medical Expenses:

<u>Renewal Clause</u>	<u>Loss Ratio</u>
Noncancelable	55 percent
Nonrenewable	60 percent
Guaranteed Renewable	65 percent

All others	70 percent
Minimum Acceptable	55 percent

Medical Indemnity, Loss of Income:

<u>Renewal Clause</u>	<u>Loss Ratio</u>
Noncancelable	50 percent
Nonrenewable	55 percent
Guaranteed Renewable	60 percent
All others	65 percent
Minimum Acceptable	50 percent

According to the rule, blanket insurance is exempt from the loss ratios required above, and the minimum loss ratio for blanket insurance is 65 percent. The rule also establishes that "group conversion insurance, other than long-term care and Medicare supplement insurance, issued on either a group or an individual basis, is exempt from the loss ratios required above. The loss ratio for group conversion insurance shall not be less than 120 percent. The insurer may charge the excess of the group conversion loss ratio over that required for group insurance on active lives to the experience for insurance on active lives. The premium to be charged for group conversion insurance may not exceed the limits of s. 627.6675, F.S."

B. EFFECT OF PROPOSED CHANGES:

The bill would make various changes to the laws that apply to health insurance rates, ss. 627.410 and 627.411, F.S. In general, these changes would: allow insurers to utilize certain rating practices that are currently prohibited such as durational rating; specify certain loss ratio requirements in place of broader department discretion to disapprove a rate filing; provide greater freedom for an insurer to establish separate, segregated groups of policy forms on which claims experience and rates would be based, rather than being required to merge the experience of all similar policy forms.

More specifically:

- The bill would remove the Department's authority to disapprove a health insurance policy form or rate filing based on the policy containing "provisions which are unfair or inequitable or contrary to the public policy of this state" or "which apply rating practices which result in premium escalations that are not viable for the policyholder market or result in unfair discrimination in sales practices." The bill would retain the requirement that benefits must be reasonable in relation to the premium charged. The bill would also specify loss ratio requirements that must be met, which are similar to the minimum loss ratio requirements that are established in the current rules adopted by the department
- The bill would delete the current law that prohibits an insurer from filing a new policy form providing similar benefits for at least 5 years after the insurer provides notice to the department that it is discontinuing the availability of a policy form.
- The bill would delete the current requirement that the claims experience of all policy forms providing similar benefits be combined for all rating purposes. As revised, the insurer would be required to combine the experience of an individual health insurance policy form that is no longer being marketed in Florida with the experience of *at least one other* individual policy form, providing similar benefits, *as determined by the insurer*, which is still being marketed in the state.
- The bill would also amend the loss ratio guarantee provisions, under which the insurer guarantees that its policies will meet certain required minimum loss ratios and give policyholders a refund if the minimum loss ratio is not met. Under the bill, if the insurer has less than 500 policyholders in the state and less than 2,000 policyholders years nationwide, the insurer would be required to accumulate experience until the end of the calendar year in which 2,000 policyholder years are obtained.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes. The Department of Insurance's authority to approve or disapprove or withdraw approval for health insurance policy forms and rates will be significantly reduced.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b. Does the bill require or authorize an increase in any fees?

No.

c. Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No.

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Insurance carriers will have increased control in their ability to set policy rates and will be given discretion as to how to comply with rate requirements in certain situations.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

No.

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

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(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 627.410 and 627.411, F.S.

E. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends section 627.410, F.S., relating to filing and approval of insurance contract forms. The following subsections are amended:

Subsection (6) is amended to remove the prohibition against premium class definitions which classify insured based on year of issue or duration since issue for rating practice purposes.

Provisions are removed that: require an insurer to continue to make available for purchase any individual policy form issued on or after October 1, 1993; provide that a policy form shall not be considered to be available for purchase unless the insurer has actively offered it for sale in the previous 12 months; and require an insurer that discontinues the availability of a policy form to wait 5 years after the insurer provides notice to the department of the discontinuance to file for approval a new policy form providing similar benefits as the discontinued form.

The requirement that the experience of all policy forms providing similar benefits shall be combined for all rating purposes is removed and replaced with language that requires the experience of an individual accident and health insurance policy form that is no longer being marketed in this state, except for policies rated pursuant to a loss ratio guarantee under subsection (8) to be combined with the experience of at least one other individual accident and health insurance policy form providing similar benefits, as determined by the insurer, which is still being marketed in the state by the same insurer, unless the insurer has no current policy form.

Subsection (7) is amended to require insurers to *establish*, rather than *demonstrate*, the reasonableness of benefits in relation to premium rates. The requirement that rate filings comply with laws and rules promulgated by the department is removed, and rate filing requirements are established providing that for premium rate changes, benefits shall be deemed reasonable in relation to premium charged if both of the following loss ratios meet or exceed the standards established in s. 627.411(2), F.S. Lifetime loss ratios must exceed the loss ratio standard for the form and the future loss ratio must exceed the loss ratio for the form. If interest is a significant factor, as determined by the insurer, it shall be used in the calculation of the accumulated benefits and premiums and present values. Factors are specified which may be used in determining: the present value of benefits; the present value of premiums; coverage special considerations; and other factor special considerations.

The requirement that, if no rate change is proposed, a filing which consists of a certification by an actuary that benefits are reasonable in relation to premiums currently charged in accordance with applicable laws and rules promulgated by the department is removed, and to require such filing to be in accordance with the loss ratio established in this section and s. 627.411(2), F.S.

Subsection (8) is amended to: permit Medicare Supplement policies to be filed pursuant to loss ratio guarantee; remove the Department of Insurance's authority to disapprove or withdraw approval of a form if filed under a loss ratio guarantee; and establish that compliance requirements for such forms are set in this section. For calculations of an "applicable loss ratio," authority is granted that, if there are less than 2,000 policyholder years nationwide, the experience must be accumulated until the end of the calendar year in which 2,000 policyholder years are obtained. Establishes that the department

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shall not disapprove or withdraw any previous approval of any individual accident and health insurance form pursuant to s. 627.411(1)(e), F.S., if rates have been filed as provided in this subsection.

Section 2. Amends s. 627.411, F.S., relating to disapproval of forms, to remove the authority of the Department of Insurance to disapprove or withdraw any previous approval, if the form contains provisions which are unfair or inequitable or contrary to the public policy of this state or which apply rating practices which result in premium escalations that are not viable for the policyholder market or result in unfair discrimination in sales practices. Removes the department's authority to determine whether benefits are reasonable in relation to the premium charged through the use of reasonable actuarial techniques, and provides that benefits are deemed reasonable in relation to the premium charged if premium rates are neither excessive no inadequate.

Loss ratio standards for determining whether premiums are deemed to be not excessive are as follows:

Loss Ratio Table, Individual Policies for the Line of Business Indicated

Medical Expenses:

<u>Renewal Clause</u>	<u>Loss Ratio</u>
Noncancelable	55 percent
Nonrenewable	60 percent
Guaranteed Renewable	65 percent
All others	70 percent

Medical Indemnity, Loss of Income:

<u>Renewal Clause</u>	<u>Loss Ratio</u>
Noncancelable	50 percent
Nonrenewable	55 percent
Guaranteed Renewable	60 percent
All others	65 percent

Loss Ratio Table, Group Policies

Group Medical Expense:

<u>Group Size</u>	<u>Loss Ratio</u>
Fewer than 51 certificates	65 percent
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All others	75 percent

Group Medical Indemnity or Any Group Policy with an Average Annual Premium per Certificate of Less Than \$1,000:

<u>Group Size</u>	<u>Loss Ratio</u>
Fewer than 51 certificates	57.5 percent
51 through 500 certificates	62.5 percent
All others	67.5 percent

Exceptions to these standards include the following:

Group conversion insurance, other long-term care insurance and Medicare supplement insurance, issued on either a group or individual basis, shall have a loss ratio of not less than 120 percent, subject to the limits described in s. 627.6675, F.S.

Blanket insurance is exempt from the loss ratios described above, and the minimum loss ratio for blanket insurance is 65 percent.

Medicare supplement and long-term care insurance are exempt from the loss ratios described above. The minimum loss ratios for Medicare supplement insurance shall be established in accordance with s. 627.674, F.S. The minimum loss ratios for long-term care insurance shall be established in accordance with s. 627.9407, F.S.

Premium rates are not inadequate if the insurer demonstrates, in accordance with generally accepted standards of actuarial practice, that the sum of premium income and investment income, minus the sum of benefit payments, expenses, taxes, and contingency margins is greater than zero.

Section 3. Provides for an effective date of July 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

By providing greater freedom for health insurers to establish and change rates for policies issued in Florida, the bill could result in a greater degree of rate increases, particularly for persons who have health conditions that make them ineligible for a new policy if their current policy becomes unaffordable. However, the bill may encourage more insurers to sell insurance in the state and may result in lower rates, at least initially, for persons who do not experience serious health problems.

2. Direct Private Sector Benefits:

Unknown.

3. Effects on Competition, Private Enterprise and Employment Markets:

Unknown.

D. **FISCAL COMMENTS:**

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

This bill does not require counties or municipalities to spend funds or to take action requiring expenditures of funds.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the ability of counties and municipalities to raise revenue.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

The bill does not reduce state tax shared with counties and municipalities.

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 12, 1999, the Committee on Health Care Services passed the following amendments:

Amendment #1 (offered by Rep. Goode): On page 1, lines 15-26: This amendment:

- Provides that certain requirements for filing forms with the Department of Insurance do not apply to "specially rated inland marine risks."
- Limits a reference to health insurance to "individual or small group" health insurance.
- Provides that the provision of s. 627.410(6)(a), F.S., does not apply to rating manuals, rating schedules, changes in rating manuals or schedules, or if rating manuals or schedules are not applicable, to premium rates or changes in such rates, relating to policies, riders, endorsements, or

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forms of unique character which are designed for and used with relation to insurance upon a particular subject or to benefits under group health insurance policies insuring 51 or more persons and are used at the request of the individual policyholder, contract holder, or certificate holder.

Amendment #2 (offered by Rep. Goode): On page 2, lines 18-19: This amendment reinstates deleted language relating to the prohibition against durational and generational rating.

VII. SIGNATURES:

COMMITTEE ON HEALTH CARE SERVICES:

Prepared by:

Amy K. Guinan

Staff Director:

Phil E. Williams

AS REVISED BY THE COMMITTEE ON INSURANCE:

Prepared by:

Robert E. Wolfe, Jr.

Staff Director:

Stephen Hogge