

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: PCS/SB 252 (526990)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government;
and Senator Brodeur

SUBJECT: Health Care Cost Savings

DATE: January 14, 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>	Recommend: Fav/CS
3.	_____	_____	<u>AP</u>	_____

I. Summary:

PCS/SB 252 expands the list of shoppable health care services for which a health insurer, group health insurer and health maintenance organization shall 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

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.

optional. A health insurer that establishes a program must distribute program payments at least quarterly to participating insureds.

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 shall 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 amends s. 627.6648, F.S., to require group health insurers to expand the list of shoppable health services offered 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 3 amends s. 641.31076, F.S., to require health maintenance organizations to expand the list of shoppable health services offered under a shared savings incentive program created

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).

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 4 provides an effective date of July 1, 2022.

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:

None.

B. Private Sector Impact:

Requiring private insurers to provide a shoppable health services list under a shared savings incentives program to members and insureds may create an indeterminate yet positive fiscal impact upon the insurer and the insured. Subscribers and members may experience a savings from medical items and services included on the federal list of shoppable health services. However, the impact to premiums, if any, is unknown.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

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 the following sections of the Florida Statutes: 627.6387, 627.6648, and 641.31076.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Agriculture, Environment and General Government on January 12, 2022:

The committee substitute requires group health insurers and health maintenance organizations to offer shared savings incentive programs.

B. Amendments:

None.