

1                   A bill to be entitled  
2           An act relating to health insurance cost sharing;  
3           creating s. 627.6383, F.S.; defining the term "cost-  
4           sharing requirement"; requiring specified individual  
5           health insurers and their pharmacy benefits managers  
6           to apply payments by or on behalf of insureds toward  
7           the total contributions of the insureds' costs-sharing  
8           requirements; providing applicability; amending s.  
9           627.6385, F.S.; requiring specified individual health  
10          insurers to disclose on their websites and in their  
11          policies their applications of payments by or on  
12          behalf of policyholders toward the policyholders'  
13          total contributions to cost-sharing requirements;  
14          providing applicability; amending ss. 627.64741,  
15          627.6572, and 641.314, F.S.; requiring pharmacy  
16          benefits managers to apply payments by or on behalf of  
17          insureds and subscribers toward the insureds' and  
18          subscribers' total contributions to cost-sharing  
19          requirements; providing applicability; providing  
20          disclosure requirements; creating ss. 627.65715 and  
21          641.31, F.S.; defining the term "cost-sharing  
22          requirement"; requiring specified group health  
23          insurers and health maintenance organizations and  
24          their pharmacy benefits managers to apply payments by  
25          or on behalf of insureds and subscribers toward the

26 total contributions of the insureds' and subscribers'  
 27 costs-sharing requirements, respectively; providing  
 28 disclosure requirements; providing applicability;  
 29 amending s. 627.6699, F.S.; providing requirements for  
 30 small employer carriers; amending s. 409.967, F.S.;  
 31 conforming a cross-reference; amending s. 641.185,  
 32 F.S.; conforming a provision to changes made by the  
 33 act; providing a declaration of important state  
 34 interest; providing an effective date.

35

36 Be It Enacted by the Legislature of the State of Florida:

37

38 Section 1. Section 627.6383, Florida Statutes, is created  
 39 to read:

40 627.6383 Cost-sharing requirements.-

41 (1) As used in this section, the term "cost-sharing  
 42 requirement" means a dollar limit, deductible, copayment,  
 43 coinsurance, or any other out-of-pocket expense imposed on an  
 44 insured, including, but not limited to, the annual limitation on  
 45 cost sharing subject to 42 U.S.C. s. 18022.

46 (2) (a) Each health insurer issuing, delivering, or  
 47 renewing a policy in this state which provides prescription drug  
 48 coverage or each pharmacy benefits manager on behalf of such  
 49 health insurer must apply any amount paid by an insured or by  
 50 another person on behalf of the insured toward the insured's

51 total contribution to any cost-sharing requirement.

52 (b) The amount paid by or on behalf of the insured which  
53 is applied toward the insured's total contribution to any cost-  
54 sharing requirement under paragraph (a) includes, but is not  
55 limited to, any payment with, or any discount through, financial  
56 assistance, a manufacturer copay card, a product voucher, or any  
57 other reduction in out-of-pocket expenses made by or on behalf  
58 of the insured for a prescription drug.

59 (3) This section applies to any health insurance policy  
60 issued, delivered, or renewed in this state on or after January  
61 1, 2022.

62 Section 2. Subsections (2) and (3) of section 627.6385,  
63 Florida Statutes, are renumbered as subsections (3) and (4),  
64 respectively, present subsection (2) is amended, and a new  
65 subsection (2) is added to that section, to read:

66 627.6385 Disclosures to policyholders; calculations of  
67 cost sharing.—

68 (2) Each health insurer issuing, delivering, or renewing a  
69 policy in this state which provides prescription drug coverage,  
70 regardless of whether the prescription drug benefits are  
71 administered or managed by the health insurer or by a pharmacy  
72 benefits manager on behalf of the health insurer, shall disclose  
73 on its website that any amount paid by a policyholder or by  
74 another person on behalf of the policyholder shall be applied  
75 toward the policyholder's total contribution to any cost-sharing

76 requirement pursuant to s. 627.6383. This subsection applies to  
 77 any policy issued, delivered, or renewed in this state on or  
 78 after January 1, 2022.

79 ~~(3)-(2)~~ Each health insurer shall include in every policy  
 80 delivered or issued for delivery to any person in the state or  
 81 in materials provided as required by s. 627.64725 notice that  
 82 the information required by this section is available  
 83 electronically and the address of the website where the  
 84 information can be accessed. In addition, each health insurer  
 85 issuing, delivering, or renewing a policy in this state which  
 86 provides prescription drug coverage, regardless of whether the  
 87 prescription drug benefits are administered or managed by the  
 88 health insurer or by a pharmacy benefits manager on behalf of  
 89 the health insurer, shall include in every policy that is  
 90 issued, delivered, or renewed to any person in this state on or  
 91 after January 1, 2022, the disclosure that any amount paid by a  
 92 policyholder or by another person on behalf of the policyholder  
 93 shall be applied toward the policyholder's total contribution to  
 94 any cost-sharing requirement pursuant to s. 627.6383.

95 Section 3. Paragraphs (c) is added to subsection (2) of  
 96 section 627.64741, Florida Statutes, to read:

97 627.64741 Pharmacy benefit manager contracts.—

98 (2) A contract between a health insurer and a pharmacy  
 99 benefit manager must require that the pharmacy benefit manager:

100 (c)1. Apply any amount paid by an insured or by another

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101 person on behalf of the insured toward the insured's total  
102 contribution to any cost-sharing requirement pursuant to s.  
103 627.6383. This subparagraph applies to any insured whose  
104 insurance policy is issued, delivered, or renewed in this state  
105 on or after January 1, 2022.

106 2. Disclose to every insured whose insurance policy is  
107 issued, delivered, or renewed in this state on or after January  
108 1, 2022, that the pharmacy benefits manager shall apply any  
109 amount paid by the insured or by another person on behalf of the  
110 insured toward the insured's total contribution to any cost-  
111 sharing requirement pursuant to s. 627.6383.

112 Section 4. Section 627.65715, Florida Statutes, is created  
113 to read:

114 627.65715 Cost-sharing requirements.-

115 (1) As used in this section, the term "cost-sharing  
116 requirement" means a dollar limit, deductible, copayment,  
117 coinsurance, or any other out-of-pocket expense imposed on an  
118 insured, including, but not limited to, the annual limitation on  
119 cost sharing subject to 42 U.S.C. s. 18022.

120 (2)(a) Each insurer issuing, delivering, or renewing a  
121 policy in this state which provides prescription drug coverage  
122 or each pharmacy benefits manager on behalf of such insurer must  
123 apply any amount paid by an insured or by another person on  
124 behalf of the insured toward the insured's total contribution to  
125 any cost-sharing requirement.

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126        (b) The amount paid by or on behalf of the insured which  
127 is applied toward the insured's total contribution to any cost-  
128 sharing requirement under paragraph (a) includes, but is not  
129 limited to, any payment with, or any discount through, financial  
130 assistance, a manufacturer copay card, a product voucher, or any  
131 other reduction in out-of-pocket expenses made by or on behalf  
132 of the insured for a prescription drug.

133        (3) Each insurer issuing, delivering, or renewing a policy  
134 in this state which provides prescription drug coverage,  
135 regardless of whether the prescription drug benefits are  
136 administered or managed by the insurer or by a pharmacy benefits  
137 manager on behalf of the insurer, shall disclose, on its website  
138 and in every policy issued, delivered, or renewed in this state  
139 on or after January 1, 2022, that any amount paid by an insured  
140 or by another person on behalf of the insured shall be applied  
141 toward the insured's total contribution to any cost-sharing  
142 requirement.

143        (3) This section applies to any group health insurance  
144 policy issued, delivered, or renewed in this state on or after  
145 January 1, 2022.

146        Section 5. Paragraph (c) is added to subsection (2) of  
147 section 627.6572, Florida Statutes, to read:

148        627.6572 Pharmacy benefit manager contracts.—

149        (2) A contract between a health insurer and a pharmacy  
150 benefit manager must require that the pharmacy benefit manager:

151        (c)1. Apply any amount paid by an insured or by another  
152 person on behalf of the insured toward the insured's total  
153 contribution to any cost-sharing requirement pursuant to s.  
154 627.65715. This subparagraph applies to any insured whose  
155 insurance policy is issued, delivered, or renewed in this state  
156 on or after January 1, 2022.

157        2. Disclose to every insured whose insurance policy is  
158 issued, delivered, or renewed in this state on or after January  
159 1, 2022, that the pharmacy benefits manager shall apply any  
160 amount paid by the insured or by another person on behalf of the  
161 insured toward the insured's total contribution to any cost-  
162 sharing requirement pursuant to s. 627.65715.

163        Section 6. Paragraph (e) of subsection (5) of section  
164 627.6699, Florida Statutes, is amended to read:

165        627.6699 Employee Health Care Access Act.—

166        (5) AVAILABILITY OF COVERAGE.—

167        (e) All health benefit plans issued under this section  
168 must comply with the following conditions:

169        1. For employers who have fewer than two employees, a late  
170 enrollee may be excluded from coverage for no longer than 24  
171 months if he or she was not covered by creditable coverage  
172 continually to a date not more than 63 days before the effective  
173 date of his or her new coverage.

174        2. Any requirement used by a small employer carrier in  
175 determining whether to provide coverage to a small employer

176 group, including requirements for minimum participation of  
177 eligible employees and minimum employer contributions, must be  
178 applied uniformly among all small employer groups having the  
179 same number of eligible employees applying for coverage or  
180 receiving coverage from the small employer carrier, except that  
181 a small employer carrier that participates in, administers, or  
182 issues health benefits pursuant to s. 381.0406 which do not  
183 include a preexisting condition exclusion may require as a  
184 condition of offering such benefits that the employer has had no  
185 health insurance coverage for its employees for a period of at  
186 least 6 months. A small employer carrier may vary application of  
187 minimum participation requirements and minimum employer  
188 contribution requirements only by the size of the small employer  
189 group.

190 3. In applying minimum participation requirements with  
191 respect to a small employer, a small employer carrier shall not  
192 consider as an eligible employee employees or dependents who  
193 have qualifying existing coverage in an employer-based group  
194 insurance plan or an ERISA qualified self-insurance plan in  
195 determining whether the applicable percentage of participation  
196 is met. However, a small employer carrier may count eligible  
197 employees and dependents who have coverage under another health  
198 plan that is sponsored by that employer.

199 4. A small employer carrier shall not increase any  
200 requirement for minimum employee participation or any



201 requirement for minimum employer contribution applicable to a  
202 small employer at any time after the small employer has been  
203 accepted for coverage, unless the employer size has changed, in  
204 which case the small employer carrier may apply the requirements  
205 that are applicable to the new group size.

206 5. If a small employer carrier offers coverage to a small  
207 employer, it must offer coverage to all the small employer's  
208 eligible employees and their dependents. A small employer  
209 carrier may not offer coverage limited to certain persons in a  
210 group or to part of a group, except with respect to late  
211 enrollees.

212 6. A small employer carrier may not modify any health  
213 benefit plan issued to a small employer with respect to a small  
214 employer or any eligible employee or dependent through riders,  
215 endorsements, or otherwise to restrict or exclude coverage for  
216 certain diseases or medical conditions otherwise covered by the  
217 health benefit plan.

218 7. An initial enrollment period of at least 30 days must  
219 be provided. An annual 30-day open enrollment period must be  
220 offered to each small employer's eligible employees and their  
221 dependents. A small employer carrier must provide special  
222 enrollment periods as required by s. 627.65615.

223 8. A small employer carrier shall comply with s. 627.65715  
224 with respect to contribution to cost-sharing requirements, as  
225 defined in that section.

226 Section 7. Subsection (48) is added to section 641.31,  
 227 Florida Statutes, to read:

228 641.31 Health maintenance contracts.—

229 (48) (a) As used in this subsection, the term "cost-sharing  
 230 requirement" means a dollar limit, deductible, copayment,  
 231 coinsurance, or any other out-of-pocket expense imposed on a  
 232 subscriber, including, but not limited to, the annual limitation  
 233 on cost sharing subject to 42 U.S.C. s. 18022.

234 (b)1. Each health maintenance organization issuing,  
 235 delivering, or renewing a health maintenance contract or  
 236 certificate in this state which provides prescription drug  
 237 coverage or each pharmacy benefits manager on behalf of such  
 238 health maintenance organization must apply any amount paid by a  
 239 subscriber or by another person on behalf of the subscriber  
 240 toward the subscriber's total contribution to any cost-sharing  
 241 requirement.

242 2. The amount paid by or on behalf of the subscriber which  
 243 is applied toward the subscriber's total contribution to any  
 244 cost-sharing requirement under subparagraph 1. includes, but is  
 245 not limited to, any payment with, or any discount through,  
 246 financial assistance, a manufacturer copay card, a product  
 247 voucher, or any other reduction in out-of-pocket expenses made  
 248 by or on behalf of the subscriber for a prescription drug.

249 (c) Each health maintenance organization issuing,  
 250 delivering, or renewing a health maintenance contract or

251 certificate in this state which provides prescription drug  
252 coverage, regardless of whether the prescription drug benefits  
253 are administered or managed by the health maintenance  
254 organization or by a pharmacy benefits manager on behalf of the  
255 health maintenance organization, shall disclose, on its website  
256 and in every subscriber's health maintenance contract,  
257 certificate, or member handbook issued, delivered, or renewed in  
258 this state on or after January 1, 2022, that any amount paid by  
259 a subscriber or by another person on behalf of the subscriber  
260 shall be applied toward the subscriber's total contribution to  
261 any cost-sharing requirement.

262 (d) This subsection applies to any health maintenance  
263 contract or certificate issued, delivered, or renewed in this  
264 state on or after January 1, 2022.

265 Section 8. Paragraph (c) is added to subsection (2) of  
266 section 641.314, Florida Statutes, to read:

267 641.314 Pharmacy benefit manager contracts.—

268 (2) A contract between a health maintenance organization  
269 and a pharmacy benefit manager must require that the pharmacy  
270 benefit manager:

271 (c)1. Apply any amount paid by a subscriber or by another  
272 person on behalf of the subscriber toward the subscriber's total  
273 contribution to any cost-sharing requirement pursuant to s.  
274 641.31(48). This subparagraph applies to any subscriber whose  
275 health maintenance contract or certificate is issued, delivered,

276 or renewed in this state on or after January 1, 2022.

277 2. Disclose to every subscriber whose health maintenance  
278 contract or certificate is issued, delivered, or renewed in this  
279 state on or after January 1, 2022, that the pharmacy benefits  
280 manager shall apply any amount paid by the subscriber or by  
281 another person on behalf of the subscriber toward the  
282 subscriber's total contribution to any cost-sharing requirement  
283 pursuant to s. 641.31(48).

284 Section 9. Paragraph (o) of subsection (2) of section  
285 409.967, Florida Statutes, is amended to read:

286 409.967 Managed care plan accountability.—

287 (2) The agency shall establish such contract requirements  
288 as are necessary for the operation of the statewide managed care  
289 program. In addition to any other provisions the agency may deem  
290 necessary, the contract must require:

291 (o) Transparency.—Managed care plans shall comply with ss.  
292 627.6385(4) ~~ss. 627.6385(3)~~ and 641.54(7).

293 Section 10. Paragraph (k) of subsection (1) of section  
294 641.185, Florida Statutes, is amended to read:

295 641.185 Health maintenance organization subscriber  
296 protections.—

297 (1) With respect to the provisions of this part and part  
298 III, the principles expressed in the following statements serve  
299 as standards to be followed by the commission, the office, the  
300 department, and the Agency for Health Care Administration in

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301 exercising their powers and duties, in exercising administrative  
302 discretion, in administrative interpretations of the law, in  
303 enforcing its provisions, and in adopting rules:

304 (k) A health maintenance organization subscriber shall be  
305 given a copy of the applicable health maintenance contract,  
306 certificate, or member handbook specifying: all the provisions,  
307 disclosure, and limitations required pursuant to s. 641.31(1),  
308 ~~and (4), and (48)~~; the covered services, including those  
309 services, medical conditions, and provider types specified in  
310 ss. 641.31, 641.31094, 641.31095, 641.31096, 641.51(11), and  
311 641.513; and where and in what manner services may be obtained  
312 pursuant to s. 641.31(4).

313 Section 11. The Legislature finds that this act fulfills  
314 an important state interest.

315 Section 12. This act shall take effect July 1, 2021.