

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB HHSC 11-05a Health and Human Services

SPONSOR(S): Health & Human Services Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Health & Human Services Committee		Poche	Gormley

SUMMARY ANALYSIS

PCB HHSC 11-05 repeals the following statutes:

- S. 408.50, F.S., relating to prospective payment arrangements between hospitals and health insurance carriers.
- S. 408.70, F.S., relating to “managed competition” in Florida health care markets.
- S. 408.9091, F.S., relating to the Cover Florida Health Care Access Program.

The Cover Florida Health Care Access Program was designed to provide affordable health care insurance coverage to uninsured individuals without another option for coverage. Coverage in the program is portable, allowing an individual to remain covered regardless of employment status or the cost sharing of premiums. Currently, all carriers have withdrawn from participation in the program.

The PCB repeals s. 627.6475(7), F.S., regarding the Individual Health Reinsurance Program, and makes other conforming changes to the section to reflect the provisions of the PCB. There are no insurance carriers registered in the state to participate in the program.

The PCB repeals s. 627.6699(11), F.S., regarding the Small Employer Health Reinsurance Program, and s. 627.6699(9), F.S., regarding a small employer carrier’s election to become a risk-assuming carrier or a reinsuring carrier. There are no insurance carriers registered in the state to participate in the program as a small employer reinsuring carrier. Subsection (9) is being deleted to enact the elimination of the reinsurance program in subsection (11). With the elimination of the reinsurance program, there is no election to be made between becoming a risk-assuming carrier or a reinsuring carrier. The PCB eliminates the Florida Health Insurance Advisory Board, which was intended to govern and regulate the reinsurance program under subsection (11). The role of the board was expanded in 2005 to advise executive branch departments and agencies and the Legislature regarding health insurance matters. The PCB also makes other conforming changes to the section to reflect these, and other, provisions of the bill.

The PCB makes conforming changes to ss. 112.363, F.S., 408.07, F.S., and 945.603, F.S., to reflect the repeal and elimination of certain statutory sections in the bill.

The bill does not appear to have a fiscal impact.

The bill provides an effective date of July 1, 2011, except the repeal of s. 408.9091, F.S., is effective January 1, 2014, to account for current health insurance policies that will remain in effect through 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 408.50, F.S., requires hospitals and health insurers licensed under certain parts of chapter 627, F.S., to establish prospective payment arrangements for 10 percent or more of private-pay patients. The rate arrangements are to include the maximum allowable payment for services and products provided by the hospital, terms for timely payment to the hospital by the insurer, terms for acceptance of payment in full by the hospital, procedures for utilization review, and procedures for preadmission screening on non-emergency admissions to the hospital.¹ The hospitals and health insurers are required to report annually the results of each prospective payment arrangement to the Agency for Health Care Administration (AHCA).² The goal of the statute is to provide financial incentives to hospitals to contain costs.³

Section 408.70, F.S., expresses legislative findings to support the implementation of a structured health care competition model, known as “managed competition”, throughout the state in order to improve the efficiency of Florida’s health care markets.⁴ The goal of managed competition is to pool the buying power of purchasers and consumers of health care products and treatment; ensure that consumers have all necessary information before choosing a managed care plan; reward health care providers for high-quality, economical care; increase access to health care for the uninsured; and control the rate of inflation of the cost of health care products and services.⁵ The section was enacted in 1993, in advance of the federal health care reform proposed by President Bill Clinton. Health care reform was not approved by Congress in 1994.

Section 408.9091, F.S., created the Cover Florida Health Care Access Program in 2008.⁶ The program was designed to provide affordable health care insurance coverage to uninsured individuals without another option for coverage. Those eligible for enrollment in the program are individuals age 19 to 64 who are not eligible for a public health insurance program, such as Medicaid or Medicare, and who have been without health insurance for at least six months, with certain exceptions allowing for eligibility if the period of being uninsured was less than six months.⁷ Participating carriers are required to offer two benefit options plans, one of which must include catastrophic coverage.⁸ The offerings are guaranteed-issue, subject to exclusions for pre-existing conditions approved by the AHCA and OIR.⁹ Coverage in the program is portable, allowing an individual to remain covered regardless of employment status or the cost sharing of premiums.

Six carriers were awarded contracts to provide coverage. United Health Care and Blue Cross Blue Shield of Florida provided statewide coverage and Medica Health Plans, Total Health Choice, JMH Health Plan, and Florida Health Care Plans were selected as regional carriers.¹⁰ Total enrollment in the program, as of January 2011, was 6,388.¹¹ Approximately 85 percent of individuals enrolled in Cover

¹ S. 408.50(2), F.S.

² S. 408.50(1), F.S.

³ *Id.*

⁴ S. 408.70(1), F.S.

⁵ S. 408.70(2), F.S.

⁶ S. 3, Ch. 2008-32, Laws of Fla. (2008).

⁷ S. 408.9091(7), F.S.

⁸ S. 408.9091(4)(a), F.S.

⁹ *Id.*

¹⁰ AHCA presentation by Sue Conte, Bureau Chief, Managed Health Care, before the Health and Human Services Quality Committee on January 25, 2011. Materials on file with the Health and Human Services Committee staff.

¹¹ *Id.*

Florida have catastrophic coverage.¹² Currently, all carriers have withdrawn from participation in the program. Blue Cross Blue Shield of Florida has agreed to continue coverage of 4,550 individuals through January 2013.¹³

Section 627.6475, F.S., was enacted in 1997 to provide a reinsurance program for individuals who are eligible for individual health insurance coverage from an insurer.¹⁴ The section provides the procedure by which a health insurance issuer can elect to become a risk-assuming carrier and the election process to become a risk-assuming carrier.¹⁵ In addition, the section establishes the reinsurance program for the individual health insurance market, including criteria for participation and the procedure for operating the program.¹⁶ According to OIR, there are no insurers in the state registered or authorized as individual health reinsuring carriers.¹⁷

Section 627.6699, F.S., comprises the Employee Health Care Access Act (Act).¹⁸ Enacted in 1992, the goal of the Act was to provide affordable health care options for small employers and their employees, regardless of the claims experience of the employers or the health status of the employees.¹⁹ As part of the Act, the Small Employers Health Reinsurance Program was created to provide an avenue of reinsurance for small employers that were otherwise eligible for health insurance through the Act.²⁰ The program is governed by a board, the composition, responsibilities and duties of which are set out in statute.²¹ For example, the board recommends market conduct requirements for carriers and agents²², establishes a methodology for determining the appropriate premium rates to be charged for reinsurance²³, and equitably assesses carriers to cover any losses incurred by the program.²⁴ In 2005, the board's responsibilities were expanded to include an advisory role on health insurance issues to the Office of Insurance Regulation (OIR), AHCA, the Department of Financial Services, other executive departments the Legislature.²⁵ The statute also outlines the regulations and procedures for operation as a reinsuring carrier under the program.²⁶

Effect of Proposed Changes

The PCB repeals s. 408.50, F.S., relating to prospective payment arrangements. There are no known prospective payment arrangements in effect between hospitals and insurers pursuant to this statute.

The PCB repeals s. 408.70, F.S., relating to managed competition. The concept of "managed competition" was developed in conjunction with anticipated federal health care reform in the 1990s, which was not implemented. The language of the section expresses legislative findings and intent, but does not include language directing persons and businesses to do something or prohibiting persons and businesses from doing something.

The PCB repeals s. 408.9091, F.S., relating to Cover Florida Health Care Access Program. All insurers which had previously participated in the program have now withdrawn from the program. Some health insurance policies issued by insurers through the program will remain in effect through 2013. The

¹² *Id.*, as of January 2011, 5,409 individuals enrolled in Cover Florida have catastrophic coverage.

¹³ *See supra* at FN 10.

¹⁴ S. 627.6475(1), F.S.

¹⁵ S. 627.6475(5) and (6), F.S.

¹⁶ S. 627.6475(7), F.S.

¹⁷ Email correspondence from OIR staff dated April 7, 2011, on file with Health and Human Services Committee.

¹⁸ S. 627.6699(1), F.S.

¹⁹ S. 627.6699(2), F.S.

²⁰ S. 627.6699(11), F.S.

²¹ S. 627.6699(11)(b)-(e), F.S.

²² S. 627.6699(11)(e), F.S.

²³ S. 627.6699(11)(h)1., F.S.

²⁴ S. 627.6699(11)(j)2.b., F.S.

²⁵ S. 627.6699(11)(o), F.S.; *see also* Florida Office of Insurance Regulation website, *Florida Health Insurance Advisory Board*, available at <http://www.florir.com/FHIAB/index.aspx>.

²⁶ S. 627.6699(11)(f) and (g), F.S.

effective date for the repeal of this section is January 1, 2014, by which point all policies issued through the program should be expired.

The PCB eliminates the Small Employer Health Reinsurance Program created by s. 627.6699(11), F.S. OIR indicates that no insurance carrier has elected to participate in the program to reinsure small businesses.²⁷ In addition, OIR indicates that no insurance carrier has elected to become a reinsuring carrier pursuant to s. 627.6699(9), F.S., which is also being eliminated.²⁸ Other conforming changes are made to s. 627.6699, F.S., to reflect the elimination of subsections (9) and (11).

The PCB eliminates the Individual Health Reinsurance Program created by s. 627.6475, F.S. The Program is subject to the supervision and control of the board of the Small Employer Reinsurance Program, which is being eliminated by the PCB. Also, there is no information available to show an insurance carrier has elected to participate in the individual program as a reinsuring carrier. The program is being eliminated due to non-use.

Sections 112.363, F.S., 408.07, F.S., and 945.603, F.S., are amended to conform to the changes made by the remainder of the PCB.

B. SECTION DIRECTORY:

Section 1: Repeals s. 408.50, F.S., relating to prospective payment arrangements.

Section 2: Repeals s. 408.70, F.S., relating to health care; managed competition; legislative findings and intent.

Section 3: Repeals s. 408.9091, F.S., relating to Cover Florida Health Care Access Program, effective January 1, 2014.

Section 4: Amends s. 112.363, F.S., relating to retiree health insurance subsidy.

Section 5: Amends s. 408.07, F.S., relating to definitions.

Section 6: Amends s. 627.6475, F.S., relating to individual reinsurance pool.

Section 7: Amends s. 627.6699, F.S., relating to Employee Health Care Access Act.

Section 8: Amends s. 945.603, F.S., relating to powers and duties of authority.

Section 9: Provides an effective date of July 1, 2011.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

²⁷ See *supra* at FN 17.

²⁸ *Id.*

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES