

CHAPTER 2011-167

Committee Substitute for Committee Substitute for House Bill No. 445

An act relating to wellness or health improvement programs; amending ss. 626.9541 and 641.3903, F.S.; authorizing insurers and health maintenance organizations to offer a voluntary wellness or health improvement program and to encourage or reward participation in the program by offering rewards or incentives to members; authorizing insurers and health maintenance organizations to require plan members not participating in the wellness or health improvement programs to provide verification that their medical condition warrants nonparticipation in order for the nonparticipants to receive rewards or incentives; requiring that the reward or incentive be disclosed in the policy or certificate; providing that the act does not prohibit insurers or health maintenance organizations from offering other incentives or rewards for adherence to a wellness or health improvement program; providing an effective date.

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

Section 1. Subsection (4) is added to section 626.9541, Florida Statutes, to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.—

(4) PARTICIPATION IN A WELLNESS OR HEALTH IMPROVEMENT PROGRAM.—

(a) Authorization to offer rewards or incentives for participation.—An insurer issuing a group or individual health benefit plan may offer a voluntary wellness or health improvement program and may encourage or reward participation in the program by authorizing rewards or incentives, including, but not limited to, merchandise, gift cards, debit cards, premium discounts, contributions to a member's health savings account, or modifications to copayment, deductible, or coinsurance amounts. Any advertisement of the program is not subject to the limitations set forth in paragraph (1)(m).

(b) Verification of medical condition by nonparticipants due to medical condition.—An insurer may require a member of a health benefit plan to provide verification, such as an affirming statement from the member's physician, that the member's medical condition makes it unreasonably difficult or inadvisable to participate in the wellness or health improvement program in order for that nonparticipant to receive the reward or incentive.

(c) Disclosure requirement.—A reward or incentive offered under this subsection shall be disclosed in the policy or certificate.

(d) Other incentives.—This subsection does not prohibit insurers from offering other incentives or rewards for adherence to a wellness or health improvement program if otherwise authorized by state or federal law.

Section 2. Subsection (15) is added to section 641.3903, Florida Statutes, to read:

641.3903 Unfair methods of competition and unfair or deceptive acts or practices defined.—The following are defined as unfair methods of competition and unfair or deceptive acts or practices:

(15) PARTICIPATION IN A WELLNESS OR HEALTH IMPROVEMENT PROGRAM.—

(a) Authorization to offer rewards or incentives for participation.—A health maintenance organization issuing a group or individual health benefit plan may offer a voluntary wellness or health improvement program and may encourage or reward participation in the program by authorizing rewards or incentives, including, but not limited to, merchandise, gift cards, debit cards, premium discounts, contributions to a member's health savings account, or modifications to copayment, deductible, or coinsurance amounts.

(b) Verification of medical condition by nonparticipants due to medical condition.—A health maintenance organization may require a member of a health benefit plan to provide verification, such as an affirming statement from the member's physician, that the member's medical condition makes it unreasonably difficult or inadvisable to participate in the wellness or health improvement program in order for that nonparticipant to receive the reward or incentive.

(c) Disclosure requirement.—A reward or incentive offered under this subsection shall be disclosed in the policy or certificate.

(d) Other incentives.—This subsection does not prohibit health maintenance organizations from offering other incentives or rewards for adherence to a wellness or health improvement program if otherwise authorized by state or federal law.

Section 3. This act shall take effect July 1, 2011.

Approved by the Governor June 17, 2011.

Filed in Office Secretary of State June 17, 2011.