

CHAPTER 2013-174

Committee Substitute for Senate Bill No. 648

An act relating to health insurance marketing materials; amending ss. 627.6699 and 627.9407, F.S.; authorizing a health insurer to immediately begin using long-term care insurance advertising material under certain circumstances; providing that rules adopted by the Financial Services Commission to establish the format for the notice of the estimated premium impact of the federal Patient Protection and Affordable Care Act pursuant to specified legislation are not subject to s. 120.541(3), F.S., relating to the adverse impact or regulatory costs of a rule; providing an effective date.

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

Section 1. Paragraph (d) of subsection (12) of section 627.6699, Florida Statutes, is amended to read:

627.6699 Employee Health Care Access Act.—

(12) STANDARD, BASIC, HIGH DEDUCTIBLE, AND LIMITED HEALTH BENEFIT PLANS.—

(d)1. Upon offering coverage under a standard health benefit plan, a basic health benefit plan, or a limited benefit policy or contract for a ~~any~~ small employer group, the small employer carrier shall provide such employer group with a written statement that contains, at a minimum:

a. An explanation of those mandated benefits and providers that are not covered by the policy or contract;

b. An explanation of the managed care and cost control features of the policy or contract, along with all appropriate mailing addresses and telephone numbers to be used by insureds in seeking information or authorization; and

c. An explanation of the primary and preventive care features of the policy or contract.

Such disclosure statement must be presented in a clear and understandable form and format and must be separate from the policy or certificate or evidence of coverage provided to the employer group.

2. Before a small employer carrier issues a standard health benefit plan, a basic health benefit plan, or a limited benefit policy or contract, the carrier ~~it~~ must obtain from the prospective policyholder a signed written statement in which the prospective policyholder:

- a. Certifies as to eligibility for coverage under the standard health benefit plan, basic health benefit plan, or limited benefit policy or contract;
- b. Acknowledges the limited nature of the coverage and an understanding of the managed care and cost control features of the policy or contract;
- c. Acknowledges that if misrepresentations are made regarding eligibility for coverage under a standard health benefit plan, a basic health benefit plan, or a limited benefit policy or contract, the person making such misrepresentations forfeits coverage provided by the policy or contract; and
- d. If a limited plan is requested, acknowledges that the prospective policyholder had been offered, at the time of application for the insurance policy or contract, the opportunity to purchase any health benefit plan offered by the carrier and that the prospective policyholder had rejected that coverage.

A copy of such written statement must shall be provided to the prospective policyholder by no later than at the time of delivery of the policy or contract, and the original of such written statement must shall be retained in the files of the small employer carrier for the period of time that the policy or contract remains in effect or for 5 years, whichever period is longer.

3. Any material statement made by an applicant for coverage under a health benefit plan which falsely certifies as to the applicant's eligibility for coverage serves as the basis for terminating coverage under the policy or contract.

~~4. Each marketing communication that is intended to be used in the marketing of a health benefit plan in this state must be submitted for review by the office prior to use and must contain the disclosures stated in this subsection.~~

Section 2. Subsection (2) of section 627.9407, Florida Statutes, is amended to read:

627.9407 Disclosure, advertising, and performance standards for long-term care insurance.—

(2) ADVERTISING.—The commission shall adopt rules establishing ~~setting forth~~ standards for the advertising, marketing, and sale of long-term care insurance policies in order to protect applicants from unfair or deceptive sales or enrollment practices. An insurer shall file with the office any long-term care insurance advertising material intended for use in this state and may immediately begin using such material upon filing, subject to subsequent disapproval by the office. Following receipt of a notice of disapproval or a withdrawal of approval, the insurer must immediately cease use of the disapproved material at least 30 days before the date of use of the advertisement in this state. Within 30 days after the date of receipt of the advertising material, the office shall review the material and shall

~~disapprove any advertisement if, in the opinion of the office, such advertisement violates any of the provisions of this part or of part IX of chapter 626 or any rule of the commission.~~ The office may also disapprove an advertisement at any time and enter an immediate order requiring that the use of the advertisement be discontinued if it determines that the advertisement violates ~~any of the provisions of this part, or of part IX of chapter 626, or any rule of the commission.~~

Section 3. The rules adopted by the Financial Services Commission to establish the format for the notice of the estimated premium impact of the federal Patient Protection and Affordable Care Act pursuant to s. 627.410, Florida Statutes, as amended by Senate Bill 1842, House Bill 7155, or similar legislation adopted in the same legislative session or an extension thereof, are not subject to s. 120.541(3), Florida Statutes.

Section 4. This act shall take effect July 1, 2013.

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.