

CHAPTER 2022-160

House Bill No. 5009

An act relating to the state group insurance program; amending s. 110.123, F.S.; providing and revising definitions; authorizing eligible former employees to participate in the state group insurance program; removing certain benefit levels for certain health plans; conforming provisions to changes made by the act; conforming cross-references; amending s. 110.12303, F.S.; requiring cost savings to an enrollee to include a specified waiver, unless prohibited under certain tax laws; revising what may be included in cost savings; creating s. 110.12306, F.S.; defining the term “designated anti-fraud unit”; requiring the Division of State Group Insurance to establish and maintain, or contract with other entities to establish and maintain, a designated anti-fraud unit for certain purposes, to adopt an anti-fraud plan, and to designate staff with certain responsibilities by a specified date; creating s. 110.12313, F.S.; specifying that eligible former employees may obtain certain health insurance coverage within a specified time after their separation from employment; providing requirements for certain health insurance coverage options; amending s. 110.1239, F.S.; removing language that certain additional appropriations are considered a state contribution, which result in an increase in the state premium; ratifying specified rules of the Florida Administrative Code relating to health maintenance organization plan regions; providing construction; providing effective dates.

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

Section 1. Paragraph (b) and paragraphs (c) through (p) of subsection (2) of section 110.123, Florida Statutes, are redesignated as paragraph (c) and paragraphs (e) through (r), respectively, present paragraphs (b), (k), (m), and (o) of subsection (2), paragraphs (d), (g), and (j) of subsection (3), paragraph (e) of subsection (4), and paragraphs (c) and (d) of subsection (13) are amended, and new paragraphs (b) and (d) are added to subsection (2) of that section, to read:

110.123 State group insurance program.—

(2) DEFINITIONS.—As used in ss. 110.123-110.1239, the term:

(b) “Eligible former employee” means a former state officer or employee who was enrolled in the state group insurance program for at least 6 cumulative years with an employer or employers participating in the state group insurance program, and who was enrolled in the state group insurance program at the time of his or her separation from employment and whose separation from employment occurred on or after July 1, 2022.

~~(c)(b)~~ “Enrollee” means all state officers and employees, retired state officers and employees, surviving spouses of deceased state officers and

employees, eligible former employees, and terminated employees or individuals with continuation coverage who are enrolled in an insurance plan offered by the state group insurance program. The term “enrollee” includes all state university officers and employees, retired state university officers and employees, surviving spouses of deceased state university officers and employees, and terminated state university employees or individuals with continuation coverage who are enrolled in an insurance plan offered by the state group insurance program.

(d) “Enrollee cost-sharing liability” means the amount an enrollee or beneficiary is responsible for paying for a covered item or service under the terms of the state group insurance program. The term “enrollee cost-sharing liability” includes deductibles, coinsurance, and copayments, but does not include premiums.

~~(m)(k)~~ “State group health insurance plan or plans” or “state plan or plans” means the state self-insured health insurance plan or plans offered to state officers and employees, retired state officers and employees, eligible former employees, and surviving spouses of deceased state officers, ~~and employees, and eligible former employees under pursuant to this section.~~

~~(o)(m)~~ “State group insurance program” or “programs” means the package of insurance plans offered to state officers and employees, retired state officers and employees, eligible former employees, and surviving spouses of deceased state officers, ~~and employees, and eligible former employees under pursuant to this section,~~ including the state group health insurance plan or plans, health maintenance organization plans, TRICARE supplemental insurance plans, and other plans required or authorized by law.

~~(q)(e)~~ “Surviving spouse” means the widow or widower of a deceased state officer, full-time state employee, part-time state employee, eligible former employee, or retiree if such widow or widower was covered as a dependent under the state group health insurance plan, TRICARE supplemental insurance plan, or a health maintenance organization plan established under pursuant to this section at the time of the death of the deceased officer, employee, eligible former employee, or retiree. The term “surviving spouse” also means any widow or widower who is receiving or eligible to receive a monthly state warrant from a state retirement system as the beneficiary of a state officer, full-time state employee, or retiree who died prior to July 1, 1979. For the purposes of this section, any such widow or widower shall cease to be a surviving spouse upon his or her remarriage.

(3) STATE GROUP INSURANCE PROGRAM.—

(d)1. Notwithstanding chapter 287 and the authority of the department, for the purpose of protecting the health of, and providing medical services to, state employees and eligible former employees participating in the state group insurance program, the department may contract to retain the services of professional administrators for the state group insurance

program. The agency shall follow good purchasing practices of state procurement to the extent practicable under the circumstances.

2. Each vendor in a major procurement, and any other vendor if the department deems it necessary to protect the state’s financial interests, shall, at the time of executing any contract with the department, post an appropriate bond with the department in an amount determined by the department to be adequate to protect the state’s interests but not higher than the full amount estimated to be paid annually to the vendor under the contract.

3. Each major contract entered into by the department under pursuant to this section must shall contain a provision for payment of liquidated damages to the department for material noncompliance by a vendor with a contract provision. The department may require a liquidated damages provision in any contract if the department deems it necessary to protect the state’s financial interests.

4. Section 120.57(3) applies to the department’s contracting process, except:

a. A formal written protest of any decision, intended decision, or other action subject to protest must shall be filed within 72 hours after receipt of notice of the decision, intended decision, or other action.

b. As an alternative to any provision of s. 120.57(3), the department may proceed with the bid selection or contract award process if the director of the department sets forth, in writing, particular facts and circumstances that demonstrate the necessity of continuing the procurement process or the contract award process in order to avoid a substantial disruption to the provision of any scheduled insurance services.

5. The department shall make arrangements as necessary to contribute claims data of the state group health insurance plan to the contracted vendor selected by the Agency for Health Care Administration under pursuant to s. 408.05(3)(c).

6. Each contracted vendor for the state group health insurance plan shall contribute Florida claims data to the contracted vendor selected by the Agency for Health Care Administration under pursuant to s. 408.05(3)(c).

(g) Participation by individuals in the program is available to all state officers, full-time state employees, and part-time state employees, and eligible former employees and is voluntary. Participation in the program is also available to retired state officers and employees who elect at the time of retirement to continue coverage under the program, but may elect to continue all or only part of the coverage they had at the time of retirement. A surviving spouse may elect to continue coverage only under a state group health insurance plan, a TRICARE supplemental insurance plan, or a health maintenance organization plan.

~~(j) For the 2020 plan year and each plan year thereafter, health plans shall be offered in the following benefit levels:~~

- ~~1. Platinum level, which shall have an actuarial value of at least 90 percent.~~
- ~~2. Gold level, which shall have an actuarial value of at least 80 percent.~~
- ~~3. Silver level, which shall have an actuarial value of at least 70 percent.~~
- ~~4. Bronze level, which shall have an actuarial value of at least 60 percent.~~

~~(4) PAYMENT OF PREMIUMS; CONTRIBUTION BY STATE; LIMITATION ON ACTIONS TO PAY AND COLLECT PREMIUMS.—~~

~~(e) No state contribution for the cost of any part of the premium shall be made for retirees, or surviving spouses, or eligible former employees for any type of coverage under the state group insurance program. However, any state agency that employs a full-time law enforcement officer, correctional officer, or correctional probation officer who is killed or suffers catastrophic injury in the line of duty as provided in s. 112.19, or a full-time firefighter who is killed or suffers catastrophic injury in the line of duty as provided in s. 112.191, shall pay the entire premium of the state group health insurance plan selected for the employee's surviving spouse until remarried, and for each dependent child of the employee, subject to the conditions and limitations set forth in s. 112.19 or s. 112.191, as applicable.~~

~~(13) OTHER-PERSONAL-SERVICES EMPLOYEES (OPS).—~~

~~(c) The initial measurement period used to determine whether an employee hired before April 1, 2013, and paid from OPS funds is a full-time employee described in subparagraph (2)(e)1. ~~subparagraph (2)(e)1.~~ is the 6-month period from April 1, 2013, through September 30, 2013.~~

~~(d) All other measurement periods used to determine whether an employee paid from OPS funds is a full-time employee described in paragraph (2)(e) ~~paragraph (2)(e)~~ must be for 12 consecutive months.~~

Section 2. Paragraph (a) of subsection (2) of section 110.12303, Florida Statutes, is amended to read:

110.12303 State group insurance program; additional benefits; price transparency program; reporting.—

(2)(a) The department shall contract with at least one entity that provides comprehensive pricing and inclusive services for surgery and other medical procedures which may be accessed at the option of the enrollee. The contract shall require ~~the entity to:~~

1. The entity to have procedures and evidence-based standards to ensure the inclusion of only high-quality health care providers.

2. The entity to provide assistance to the enrollee in accessing and coordinating care.

3. The entity to provide cost savings to the state group insurance program to be shared with both the state and the enrollee. Cost savings payable to an enrollee must, unless prohibited by first-dollar coverage rules under applicable tax law, include a waiver of enrollee cost-sharing liability for surgery and other medical procedures. Cost savings may additionally include amounts payable to an enrollee or beneficiary as follows may be:

- a. Credited to the enrollee’s flexible spending account;
- b. Credited to the enrollee’s health savings account;
- c. Credited to the enrollee’s health reimbursement account; or
- d. Paid as additional health plan reimbursements ~~not exceeding the amount of the enrollee’s out-of-pocket medical expenses.~~

4. The entity, in conjunction with the department, to provide an educational campaign for enrollees to learn about the services offered by the entity.

Section 3. Section 110.12306, Florida Statutes, is created to read:

110.12306 Anti-fraud investigative units.—

(1) As used in this section, the term “designated anti-fraud unit” means a distinct unit within the Division of State Group Insurance which is made up of employees whose principal responsibilities are the investigation and disposition of claims and who are also assigned to investigate fraud.

(2) By December 31, 2022, the division:

(a)1. Shall establish and maintain a designated anti-fraud unit to investigate and report possible fraudulent insurance acts by insureds, persons making claims for services against the State Employees Health Insurance Trust Fund, or vendors under contract with the division.

2. May contract with other entities to investigate and report possible fraudulent insurance acts by insureds, persons making claims for services against the State Employees Health Insurance Trust Fund, or vendors under contract with the division.

(b) Shall adopt an anti-fraud plan.

(c) Shall designate staff with the primary responsibility of implementing the requirements of this section.

Section 4. Section 110.12313, Florida Statutes, is created to read:

110.12313 Enrollment for eligible former employees.—An eligible former employee may obtain health insurance coverage under s. 110.123, and enroll in the state group insurance program at any time within 24 months after his or her separation from employment. The options provided to an eligible former employee must be the same health insurance coverage and premium payment conditions provided to covered retirees, except for life insurance and flexible spending account plans.

Section 5. Subsection (3) of section 110.1239, Florida Statutes, is amended to read:

110.1239 State group health insurance program funding.—It is the intent of the Legislature that the state group health insurance program be managed, administered, operated, and funded in such a manner as to maximize the protection of state employee health insurance benefits. Inherent in this intent is the recognition that the health insurance liabilities attributable to the benefits offered state employees should be fairly, orderly, and equitably funded. Accordingly:

~~(3) For purposes of funding, any additional appropriation amounts allocated to the state group health insurance program by the Legislature shall be considered as a state contribution and thus an increase in the state premiums.~~

Section 6. (1) The following rules are ratified for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 110.123(3)(h)2.d., Florida Statutes: Rules 60P-1.003, 60P-2.002, and 60P-2.003, Florida Administrative Code, titled “Definitions,” “Eligibility and Enrollment,” and “Changes in Coverage,” respectively, as filed for adoption with the Department of State pursuant to the certification packages dated October 1, 2019, and November 4, 2021.

(2) This act may not be codified in the Florida Statutes. After this act becomes law, its enactment and effective dates shall be noted in the Florida Administrative Code or the Florida Administrative Register, or both, as appropriate. This act does not alter rulemaking authority delegated by prior law; provided any amendment to a rule ratified pursuant to this act which would modify the designated geographical areas for use in procurements of Health Maintenance Organization services before January 1, 2024, would require ratification by the Legislature before taking effect. This act does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rules cited, and is intended to preserve the status of any cited rule as a rule under chapter 120, Florida Statutes. This act does not cure any rulemaking defect or preempt any challenge based on lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

~~(3) This section shall take effect upon becoming a law.~~

Section 7. Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2022.

Approved by the Governor June 2, 2022.

Filed in Office Secretary of State June 2, 2022.