



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB4821

by Rep. Laura Fine

SYNOPSIS AS INTRODUCED:

5 ILCS 375/6.11	
55 ILCS 5/5-1069.3	
65 ILCS 5/10-4-2.3	
105 ILCS 5/10-22.3f	
215 ILCS 5/356z.29 new	
215 ILCS 125/5-3	from Ch. 111 1/2, par. 1411.2
215 ILCS 130/4003	from Ch. 73, par. 1504-3
215 ILCS 165/10	from Ch. 32, par. 604
305 ILCS 5/5-16.8	

Amends the Illinois Insurance Code. Provides that no individual or group policy of accident and health insurance amended, issued, delivered, or renewed in the State after the effective date of the amendatory Act that covers the treatment of stage 4 advanced, metastatic cancer shall limit or exclude coverage for a drug by mandating that the insured shall first be required to fail to successfully respond to a different drug or prove a history of failure of the drug unless the use of the drug is consistent with best practices for the treatment of stage 4 advanced, metastatic cancer and is supported by peer-reviewed medical literature. Makes conforming changes in the State Employee Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Health Maintenance Organization Act, the Limited Health Service Organization Act, the Voluntary Health Services Plans Act, and the Illinois Public Aid Code.

LRB100 18480 SMS 33695 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The State Employees Group Insurance Act of 1971
5 is amended by changing Section 6.11 as follows:

6 (5 ILCS 375/6.11)

7 Sec. 6.11. Required health benefits; Illinois Insurance
8 Code requirements. The program of health benefits shall provide
9 the post-mastectomy care benefits required to be covered by a
10 policy of accident and health insurance under Section 356t of
11 the Illinois Insurance Code. The program of health benefits
12 shall provide the coverage required under Sections 356g,
13 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
15 356z.14, 356z.15, 356z.17, 356z.22, ~~and~~ 356z.25, 356z.26, and
16 356z.29 of the Illinois Insurance Code. The program of health
17 benefits must comply with Sections 155.22a, 155.37, 355b,
18 356z.19, 370c, and 370c.1 of the Illinois Insurance Code.

19 Rulemaking authority to implement Public Act 95-1045, if
20 any, is conditioned on the rules being adopted in accordance
21 with all provisions of the Illinois Administrative Procedure
22 Act and all rules and procedures of the Joint Committee on
23 Administrative Rules; any purported rule not so adopted, for

1 whatever reason, is unauthorized.

2 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
3 100-138, eff. 8-18-17; revised 10-3-17.)

4 Section 10. The Counties Code is amended by changing
5 Section 5-1069.3 as follows:

6 (55 ILCS 5/5-1069.3)

7 Sec. 5-1069.3. Required health benefits. If a county,
8 including a home rule county, is a self-insurer for purposes of
9 providing health insurance coverage for its employees, the
10 coverage shall include coverage for the post-mastectomy care
11 benefits required to be covered by a policy of accident and
12 health insurance under Section 356t and the coverage required
13 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
15 356z.14, 356z.15, 356z.22, ~~and 356z.25,~~ 356z.26, and 356z.29 of
16 the Illinois Insurance Code. The coverage shall comply with
17 Sections 155.22a, 355b, 356z.19, and 370c of the Illinois
18 Insurance Code. The requirement that health benefits be covered
19 as provided in this Section is an exclusive power and function
20 of the State and is a denial and limitation under Article VII,
21 Section 6, subsection (h) of the Illinois Constitution. A home
22 rule county to which this Section applies must comply with
23 every provision of this Section.

24 Rulemaking authority to implement Public Act 95-1045, if

1 any, is conditioned on the rules being adopted in accordance
2 with all provisions of the Illinois Administrative Procedure
3 Act and all rules and procedures of the Joint Committee on
4 Administrative Rules; any purported rule not so adopted, for
5 whatever reason, is unauthorized.

6 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
7 100-138, eff. 8-18-17; revised 10-5-17.)

8 Section 15. The Illinois Municipal Code is amended by
9 changing Section 10-4-2.3 as follows:

10 (65 ILCS 5/10-4-2.3)

11 Sec. 10-4-2.3. Required health benefits. If a
12 municipality, including a home rule municipality, is a
13 self-insurer for purposes of providing health insurance
14 coverage for its employees, the coverage shall include coverage
15 for the post-mastectomy care benefits required to be covered by
16 a policy of accident and health insurance under Section 356t
17 and the coverage required under Sections 356g, 356g.5,
18 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,
19 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, ~~and~~
20 356z.25, 356z.26, and 356z.29 of the Illinois Insurance Code.
21 The coverage shall comply with Sections 155.22a, 355b, 356z.19,
22 and 370c of the Illinois Insurance Code. The requirement that
23 health benefits be covered as provided in this is an exclusive
24 power and function of the State and is a denial and limitation

1 under Article VII, Section 6, subsection (h) of the Illinois
2 Constitution. A home rule municipality to which this Section
3 applies must comply with every provision of this Section.

4 Rulemaking authority to implement Public Act 95-1045, if
5 any, is conditioned on the rules being adopted in accordance
6 with all provisions of the Illinois Administrative Procedure
7 Act and all rules and procedures of the Joint Committee on
8 Administrative Rules; any purported rule not so adopted, for
9 whatever reason, is unauthorized.

10 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
11 100-138, eff. 8-18-17; revised 10-5-17.)

12 Section 20. The School Code is amended by changing Section
13 10-22.3f as follows:

14 (105 ILCS 5/10-22.3f)

15 Sec. 10-22.3f. Required health benefits. Insurance
16 protection and benefits for employees shall provide the
17 post-mastectomy care benefits required to be covered by a
18 policy of accident and health insurance under Section 356t and
19 the coverage required under Sections 356g, 356g.5, 356g.5-1,
20 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12,
21 356z.13, 356z.14, 356z.15, 356z.22, ~~and~~ 356z.25, 356z.26, and
22 356z.29 of the Illinois Insurance Code. Insurance policies
23 shall comply with Section 356z.19 of the Illinois Insurance
24 Code. The coverage shall comply with Sections 155.22a and 355b

1 of the Illinois Insurance Code.

2 Rulemaking authority to implement Public Act 95-1045, if
3 any, is conditioned on the rules being adopted in accordance
4 with all provisions of the Illinois Administrative Procedure
5 Act and all rules and procedures of the Joint Committee on
6 Administrative Rules; any purported rule not so adopted, for
7 whatever reason, is unauthorized.

8 (Source: P.A. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;
9 revised 9-25-17.)

10 Section 25. The Illinois Insurance Code is amended by
11 adding Section 356z.29 as follows:

12 (215 ILCS 5/356z.29 new)

13 Sec. 356z.29. Stage 4 advanced, metastatic cancer.

14 (a) As used in this Section, "stage 4 advanced, metastatic
15 cancer" means cancer that has spread from the primary or
16 original site of the cancer to nearby tissues, lymph nodes, or
17 other areas or parts of the body.

18 (b) No individual or group policy of accident and health
19 insurance amended, issued, delivered, or renewed in this State
20 after the effective date of this amendatory Act of the 100th
21 General Assembly that, as a provision of hospital, medical, or
22 surgical services, directly or indirectly covers the treatment
23 of stage 4 advanced, metastatic cancer shall limit or exclude
24 coverage for a drug approved by the United States Food and Drug

1 Administration by mandating that the insured shall first be
2 required to fail to successfully respond to a different drug or
3 prove a history of failure of the drug unless the use of the
4 drug is consistent with best practices for the treatment of
5 stage 4 advanced, metastatic cancer and is supported by
6 peer-reviewed medical literature.

7 Section 30. The Health Maintenance Organization Act is
8 amended by changing Section 5-3 as follows:

9 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

10 Sec. 5-3. Insurance Code provisions.

11 (a) Health Maintenance Organizations shall be subject to
12 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
13 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
14 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,
15 355b, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4,
16 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
17 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,
18 356z.22, 356z.25, 356z.26, 356z.29, 364, 364.01, 367.2,
19 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 370c.1, 401,
20 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1,
21 paragraph (c) of subsection (2) of Section 367, and Articles
22 IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of
23 the Illinois Insurance Code.

24 (b) For purposes of the Illinois Insurance Code, except for

1 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health
2 Maintenance Organizations in the following categories are
3 deemed to be "domestic companies":

4 (1) a corporation authorized under the Dental Service
5 Plan Act or the Voluntary Health Services Plans Act;

6 (2) a corporation organized under the laws of this
7 State; or

8 (3) a corporation organized under the laws of another
9 state, 30% or more of the enrollees of which are residents
10 of this State, except a corporation subject to
11 substantially the same requirements in its state of
12 organization as is a "domestic company" under Article VIII
13 1/2 of the Illinois Insurance Code.

14 (c) In considering the merger, consolidation, or other
15 acquisition of control of a Health Maintenance Organization
16 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

17 (1) the Director shall give primary consideration to
18 the continuation of benefits to enrollees and the financial
19 conditions of the acquired Health Maintenance Organization
20 after the merger, consolidation, or other acquisition of
21 control takes effect;

22 (2) (i) the criteria specified in subsection (1) (b) of
23 Section 131.8 of the Illinois Insurance Code shall not
24 apply and (ii) the Director, in making his determination
25 with respect to the merger, consolidation, or other
26 acquisition of control, need not take into account the

1 effect on competition of the merger, consolidation, or
2 other acquisition of control;

3 (3) the Director shall have the power to require the
4 following information:

5 (A) certification by an independent actuary of the
6 adequacy of the reserves of the Health Maintenance
7 Organization sought to be acquired;

8 (B) pro forma financial statements reflecting the
9 combined balance sheets of the acquiring company and
10 the Health Maintenance Organization sought to be
11 acquired as of the end of the preceding year and as of
12 a date 90 days prior to the acquisition, as well as pro
13 forma financial statements reflecting projected
14 combined operation for a period of 2 years;

15 (C) a pro forma business plan detailing an
16 acquiring party's plans with respect to the operation
17 of the Health Maintenance Organization sought to be
18 acquired for a period of not less than 3 years; and

19 (D) such other information as the Director shall
20 require.

21 (d) The provisions of Article VIII 1/2 of the Illinois
22 Insurance Code and this Section 5-3 shall apply to the sale by
23 any health maintenance organization of greater than 10% of its
24 enrollee population (including without limitation the health
25 maintenance organization's right, title, and interest in and to
26 its health care certificates).

1 (e) In considering any management contract or service
2 agreement subject to Section 141.1 of the Illinois Insurance
3 Code, the Director (i) shall, in addition to the criteria
4 specified in Section 141.2 of the Illinois Insurance Code, take
5 into account the effect of the management contract or service
6 agreement on the continuation of benefits to enrollees and the
7 financial condition of the health maintenance organization to
8 be managed or serviced, and (ii) need not take into account the
9 effect of the management contract or service agreement on
10 competition.

11 (f) Except for small employer groups as defined in the
12 Small Employer Rating, Renewability and Portability Health
13 Insurance Act and except for medicare supplement policies as
14 defined in Section 363 of the Illinois Insurance Code, a Health
15 Maintenance Organization may by contract agree with a group or
16 other enrollment unit to effect refunds or charge additional
17 premiums under the following terms and conditions:

18 (i) the amount of, and other terms and conditions with
19 respect to, the refund or additional premium are set forth
20 in the group or enrollment unit contract agreed in advance
21 of the period for which a refund is to be paid or
22 additional premium is to be charged (which period shall not
23 be less than one year); and

24 (ii) the amount of the refund or additional premium
25 shall not exceed 20% of the Health Maintenance
26 Organization's profitable or unprofitable experience with

1 respect to the group or other enrollment unit for the
2 period (and, for purposes of a refund or additional
3 premium, the profitable or unprofitable experience shall
4 be calculated taking into account a pro rata share of the
5 Health Maintenance Organization's administrative and
6 marketing expenses, but shall not include any refund to be
7 made or additional premium to be paid pursuant to this
8 subsection (f)). The Health Maintenance Organization and
9 the group or enrollment unit may agree that the profitable
10 or unprofitable experience may be calculated taking into
11 account the refund period and the immediately preceding 2
12 plan years.

13 The Health Maintenance Organization shall include a
14 statement in the evidence of coverage issued to each enrollee
15 describing the possibility of a refund or additional premium,
16 and upon request of any group or enrollment unit, provide to
17 the group or enrollment unit a description of the method used
18 to calculate (1) the Health Maintenance Organization's
19 profitable experience with respect to the group or enrollment
20 unit and the resulting refund to the group or enrollment unit
21 or (2) the Health Maintenance Organization's unprofitable
22 experience with respect to the group or enrollment unit and the
23 resulting additional premium to be paid by the group or
24 enrollment unit.

25 In no event shall the Illinois Health Maintenance
26 Organization Guaranty Association be liable to pay any

1 contractual obligation of an insolvent organization to pay any
2 refund authorized under this Section.

3 (g) Rulemaking authority to implement Public Act 95-1045,
4 if any, is conditioned on the rules being adopted in accordance
5 with all provisions of the Illinois Administrative Procedure
6 Act and all rules and procedures of the Joint Committee on
7 Administrative Rules; any purported rule not so adopted, for
8 whatever reason, is unauthorized.

9 (Source: P.A. 99-761, eff. 1-1-18; 100-24, eff. 7-18-17;
10 100-138, eff. 8-18-17; revised 10-5-17.)

11 Section 35. The Limited Health Service Organization Act is
12 amended by changing Section 4003 as follows:

13 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

14 Sec. 4003. Illinois Insurance Code provisions. Limited
15 health service organizations shall be subject to the provisions
16 of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3,
17 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6,
18 154.7, 154.8, 155.04, 155.37, 355.2, 355.3, 355b, 356v,
19 356z.10, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 368a,
20 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and
21 444.1 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2,
22 XXV, and XXVI of the Illinois Insurance Code. For purposes of
23 the Illinois Insurance Code, except for Sections 444 and 444.1
24 and Articles XIII and XIII 1/2, limited health service

1 organizations in the following categories are deemed to be
2 domestic companies:

3 (1) a corporation under the laws of this State; or

4 (2) a corporation organized under the laws of another
5 state, 30% or more of the enrollees of which are residents
6 of this State, except a corporation subject to
7 substantially the same requirements in its state of
8 organization as is a domestic company under Article VIII
9 1/2 of the Illinois Insurance Code.

10 (Source: P.A. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;
11 100-201, eff. 8-18-17; revised 10-5-17.)

12 Section 40. The Voluntary Health Services Plans Act is
13 amended by changing Section 10 as follows:

14 (215 ILCS 165/10) (from Ch. 32, par. 604)

15 Sec. 10. Application of Insurance Code provisions. Health
16 services plan corporations and all persons interested therein
17 or dealing therewith shall be subject to the provisions of
18 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
19 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b, 356g,
20 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y,
21 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
22 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18,
23 356z.19, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 364.01,
24 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412,

1 and paragraphs (7) and (15) of Section 367 of the Illinois
2 Insurance Code.

3 Rulemaking authority to implement Public Act 95-1045, if
4 any, is conditioned on the rules being adopted in accordance
5 with all provisions of the Illinois Administrative Procedure
6 Act and all rules and procedures of the Joint Committee on
7 Administrative Rules; any purported rule not so adopted, for
8 whatever reason, is unauthorized.

9 (Source: P.A. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;
10 revised 10-5-17.)

11 Section 45. The Illinois Public Aid Code is amended by
12 changing Section 5-16.8 as follows:

13 (305 ILCS 5/5-16.8)

14 Sec. 5-16.8. Required health benefits. The medical
15 assistance program shall (i) provide the post-mastectomy care
16 benefits required to be covered by a policy of accident and
17 health insurance under Section 356t and the coverage required
18 under Sections 356g.5, 356u, 356w, 356x, 356z.6, 356z.26, and
19 356z.29 ~~and 356z.25~~ of the Illinois Insurance Code and (ii) be
20 subject to the provisions of Sections 356z.19, 364.01, 370c,
21 and 370c.1 of the Illinois Insurance Code.

22 On and after July 1, 2012, the Department shall reduce any
23 rate of reimbursement for services or other payments or alter
24 any methodologies authorized by this Code to reduce any rate of

1 reimbursement for services or other payments in accordance with
2 Section 5-5e.

3 To ensure full access to the benefits set forth in this
4 Section, on and after January 1, 2016, the Department shall
5 ensure that provider and hospital reimbursement for
6 post-mastectomy care benefits required under this Section are
7 no lower than the Medicare reimbursement rate.

8 (Source: P.A. 99-433, eff. 8-21-15; 99-480, eff. 9-9-15;
9 99-642, eff. 7-28-16; 100-138, eff. 8-18-17; revised 1-29-18.)