

HB0889



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB0889

by Rep. Daniel Swanson

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.33 new
215 ILCS 125/5-3
305 ILCS 5/5-16.8

from Ch. 111 1/2, par. 1411.2

Amends the Illinois Insurance Code. Requires an individual or group policy of accident and health insurance or managed care plan to provide coverage for long-term antibiotic therapy for a person with a tick-borne disease. Makes conforming changes in the Health Maintenance Organization Act and the Illinois Public Aid Code.

LRB101 04337 SMS 51168 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 Illinois Insurance Code is amended by adding
5 Section 356z.33 as follows:

6 (215 ILCS 5/356z.33 new)

7 Sec. 356z.33. Long-term antibiotic therapy for tick-borne
8 diseases.

9 (a) As used in this Section:

10 "Long-term antibiotic therapy" means the administration of
11 oral, intramuscular, or intravenous antibiotics singly or in
12 combination for periods of time in excess of 4 weeks.

13 "Tick-borne disease" means a disease caused when an
14 infected tick bites a person and the tick's saliva transmits an
15 infectious agent (bacteria, viruses, or parasites) that can
16 cause illness, including, but not limited to, the following:

17 (1) a severe infection with borrelia burgdorferi;

18 (2) a late stage, persistent, or chronic infection or
19 complications related to such an infection;

20 (3) an infection with other strains of borrelia or a
21 tick-borne disease that is recognized by the United States
22 Centers for Disease Control and Prevention; and

23 (4) the presence of signs or symptoms compatible with

1 acute infection of borrelia or other tick-borne diseases.

2 (b) An individual or group policy of accident and health
3 insurance or managed care plan that is amended, delivered,
4 issued, or renewed on or after the effective date of this
5 amendatory Act of the 101st General Assembly shall provide
6 coverage for long-term antibiotic therapy, including necessary
7 office visits and ongoing testing, for a person with a
8 tick-borne disease when determined to be medically necessary
9 and ordered by a physician licensed to practice medicine in all
10 its branches after making a thorough evaluation of the person's
11 symptoms, diagnostic test results, or response to treatment. An
12 experimental drug shall be covered as a long-term antibiotic
13 therapy if it is approved for an indication by the United
14 States Food and Drug Administration. A drug, including an
15 experimental drug, shall be covered for an off-label use in the
16 treatment of a tick-borne disease if the drug has been approved
17 by the United States Food and Drug Administration.

18 Section 10. The Health Maintenance Organization Act is
19 amended by changing Section 5-3 as follows:

20 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

21 Sec. 5-3. Insurance Code provisions.

22 (a) Health Maintenance Organizations shall be subject to
23 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
24 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,

1 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,
2 355b, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4,
3 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
4 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,
5 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.32, 356z.33,
6 364, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d,
7 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2,
8 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of
9 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
10 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

11 (b) For purposes of the Illinois Insurance Code, except for
12 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health
13 Maintenance Organizations in the following categories are
14 deemed to be "domestic companies":

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

17 (2) a corporation organized under the laws of this
18 State; or

19 (3) a corporation organized under the laws of another
20 state, 30% or more of the enrollees of which are residents
21 of this State, except a corporation subject to
22 substantially the same requirements in its state of
23 organization as is a "domestic company" under Article VIII
24 1/2 of the Illinois Insurance Code.

25 (c) In considering the merger, consolidation, or other
26 acquisition of control of a Health Maintenance Organization

1 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

2 (1) the Director shall give primary consideration to
3 the continuation of benefits to enrollees and the financial
4 conditions of the acquired Health Maintenance Organization
5 after the merger, consolidation, or other acquisition of
6 control takes effect;

7 (2) (i) the criteria specified in subsection (1) (b) of
8 Section 131.8 of the Illinois Insurance Code shall not
9 apply and (ii) the Director, in making his determination
10 with respect to the merger, consolidation, or other
11 acquisition of control, need not take into account the
12 effect on competition of the merger, consolidation, or
13 other acquisition of control;

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

16 (A) certification by an independent actuary of the
17 adequacy of the reserves of the Health Maintenance
18 Organization sought to be acquired;

19 (B) pro forma financial statements reflecting the
20 combined balance sheets of the acquiring company and
21 the Health Maintenance Organization sought to be
22 acquired as of the end of the preceding year and as of
23 a date 90 days prior to the acquisition, as well as pro
24 forma financial statements reflecting projected
25 combined operation for a period of 2 years;

26 (C) a pro forma business plan detailing an

1 acquiring party's plans with respect to the operation
2 of the Health Maintenance Organization sought to be
3 acquired for a period of not less than 3 years; and

4 (D) such other information as the Director shall
5 require.

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

12 (e) In considering any management contract or service
13 agreement subject to Section 141.1 of the Illinois Insurance
14 Code, the Director (i) shall, in addition to the criteria
15 specified in Section 141.2 of the Illinois Insurance Code, take
16 into account the effect of the management contract or service
17 agreement on the continuation of benefits to enrollees and the
18 financial condition of the health maintenance organization to
19 be managed or serviced, and (ii) need not take into account the
20 effect of the management contract or service agreement on
21 competition.

22 (f) Except for small employer groups as defined in the
23 Small Employer Rating, Renewability and Portability Health
24 Insurance Act and except for medicare supplement policies as
25 defined in Section 363 of the Illinois Insurance Code, a Health
26 Maintenance Organization may by contract agree with a group or

1 other enrollment unit to effect refunds or charge additional
2 premiums under the following terms and conditions:

3 (i) the amount of, and other terms and conditions with
4 respect to, the refund or additional premium are set forth
5 in the group or enrollment unit contract agreed in advance
6 of the period for which a refund is to be paid or
7 additional premium is to be charged (which period shall not
8 be less than one year); and

9 (ii) the amount of the refund or additional premium
10 shall not exceed 20% of the Health Maintenance
11 Organization's profitable or unprofitable experience with
12 respect to the group or other enrollment unit for the
13 period (and, for purposes of a refund or additional
14 premium, the profitable or unprofitable experience shall
15 be calculated taking into account a pro rata share of the
16 Health Maintenance Organization's administrative and
17 marketing expenses, but shall not include any refund to be
18 made or additional premium to be paid pursuant to this
19 subsection (f)). The Health Maintenance Organization and
20 the group or enrollment unit may agree that the profitable
21 or unprofitable experience may be calculated taking into
22 account the refund period and the immediately preceding 2
23 plan years.

24 The Health Maintenance Organization shall include a
25 statement in the evidence of coverage issued to each enrollee
26 describing the possibility of a refund or additional premium,

1 and upon request of any group or enrollment unit, provide to
2 the group or enrollment unit a description of the method used
3 to calculate (1) the Health Maintenance Organization's
4 profitable experience with respect to the group or enrollment
5 unit and the resulting refund to the group or enrollment unit
6 or (2) the Health Maintenance Organization's unprofitable
7 experience with respect to the group or enrollment unit and the
8 resulting additional premium to be paid by the group or
9 enrollment unit.

10 In no event shall the Illinois Health Maintenance
11 Organization Guaranty Association be liable to pay any
12 contractual obligation of an insolvent organization to pay any
13 refund authorized under this Section.

14 (g) Rulemaking authority to implement Public Act 95-1045,
15 if any, is conditioned on the rules being adopted in accordance
16 with all provisions of the Illinois Administrative Procedure
17 Act and all rules and procedures of the Joint Committee on
18 Administrative Rules; any purported rule not so adopted, for
19 whatever reason, is unauthorized.

20 (Source: P.A. 99-761, eff. 1-1-18; 100-24, eff. 7-18-17;
21 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1026, eff.
22 8-22-18; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
23 10-4-18.)

24 Section 15. The Illinois Public Aid Code is amended by
25 changing Section 5-16.8 as follows:

1 (305 ILCS 5/5-16.8)

2 Sec. 5-16.8. Required health benefits. The medical
3 assistance program shall (i) provide the post-mastectomy care
4 benefits required to be covered by a policy of accident and
5 health insurance under Section 356t and the coverage required
6 under Sections 356g.5, 356u, 356w, 356x, 356z.6, 356z.26, ~~and~~
7 356z.29, 356z.32, and 356z.33 of the Illinois Insurance Code
8 and (ii) be subject to the provisions of Sections 356z.19,
9 364.01, 370c, and 370c.1 of the Illinois Insurance Code.

10 On and after July 1, 2012, the Department shall reduce any
11 rate of reimbursement for services or other payments or alter
12 any methodologies authorized by this Code to reduce any rate of
13 reimbursement for services or other payments in accordance with
14 Section 5-5e.

15 To ensure full access to the benefits set forth in this
16 Section, on and after January 1, 2016, the Department shall
17 ensure that provider and hospital reimbursement for
18 post-mastectomy care benefits required under this Section are
19 no lower than the Medicare reimbursement rate.

20 (Source: P.A. 99-433, eff. 8-21-15; 99-480, eff. 9-9-15;
21 99-642, eff. 7-28-16; 100-138, eff. 8-18-17; 100-863, eff.
22 8-14-18; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
23 10-4-18.)