

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 1. Short title. This Act may be cited as the Health
5 Insurance Coverage Premium Misalignment Study Act.

6 Section 5. Purpose. This Act is intended to enable the
7 State to study possible misalignment in the Illinois health
8 insurance marketplace that would produce increased premium or
9 cost sharing for some consumers and drive some consumers into
10 lower value qualified health plans or out of the marketplace
11 altogether.

12 Section 10. Findings. The General Assembly finds that:

13 (1) Section 1402 of the Patient Protection and Affordable
14 Care Act requires health insurance issuers to provide
15 cost-sharing reductions to low-income marketplace consumers
16 below the 250% federal poverty level who choose a silver level
17 plan; it also requires the United States Department of Health
18 and Human Services to reimburse issuers for cost-sharing
19 reductions. Cost-sharing reductions are important because they
20 help low-income marketplace consumers afford out-of-pocket
21 costs, including deductibles and copayments, and therefore
22 keep them in the marketplace.

1 (2) On October 12, 2017, the federal government, through
2 executive action, announced that it would be discontinuing
3 cost-sharing reduction payments to issuers in the Patient
4 Protection and Affordable Care Act marketplace. Illinois, like
5 the majority of other states, took action to mitigate the
6 losses that Illinois issuers would endure without the federal
7 cost-sharing reduction payments by adopting a practice called
8 "silver loading" or "cost-sharing reduction uncertainty cost"
9 beginning in the 2018 plan year. Silver loading allows issuers
10 to increase their silver plan baseline premiums to make up the
11 costs lost from the missing federal cost-sharing reduction
12 payments. Most of these premium increases are offset by higher
13 advanced premium tax credits from the federal government.

14 (3) However, due to silver loading and resulting pricing
15 of silver plans in the Illinois marketplace, it appears that
16 the current metal-level premiums in the Illinois marketplace
17 are misaligned and do not reflect coverage generosity of the
18 plans. The fact that silver plans are now overpriced for
19 enrollees ineligible for generous cost-sharing reductions has
20 driven some of those enrollees into non-silver (mostly bronze)
21 plans with levels of cost sharing that are a worse match for
22 their needs. In other words, Illinois marketplace consumers
23 could be currently paying more than they should for low value
24 plans and less than they should for high value plans.

25 Section 15. Premium misalignment study.

1 (a) The Department of Insurance shall oversee a study to
2 explore rate setting approaches that may yield a misalignment
3 of premiums across different tiers of coverage in Illinois'
4 individual health insurance market. The study shall examine
5 these approaches with a view to attempts to make coverage more
6 affordable for low-income and middle-income residents. The
7 study shall follow the best practices of other states targeted
8 at addressing metal-level premium misalignment and include an
9 Illinois-specific analysis of:

10 (1) the number of consumers who are eligible for a
11 premium subsidy under the Patient Protection and
12 Affordable Care Act (Pub. L. 111-148) and the relative
13 affordability of the plans;

14 (2) if the plan is in the silver level, as described by
15 42 U.S.C. 18022(d), the relation of the premium amount
16 compared to premiums charged for qualified health plans
17 offering different levels of coverage, taking into account
18 any funding or lack of funding for cost-sharing reductions
19 and the covered benefits for each level of coverage; and

20 (3) whether the plan issuer utilized the induced
21 demand factors developed by the Centers for Medicare and
22 Medicaid Services for the risk adjustment program
23 established under 42 U.S.C. 18063 for the level of
24 coverage offered by the plan or any State-specific induced
25 demand factors established by Department rules.

26 (b) The study shall produce cost estimates for Illinois

1 residents addressing metal-level premium misalignment policy
2 as studied in subsection (a) along with the impact of the
3 policy on health insurance affordability and access and the
4 uninsured rates for low-income and middle-income residents,
5 with break-out data by geography, race, ethnicity, and income
6 level. The study shall evaluate how premium realignment if
7 implemented would affect costs and outcomes for Illinoisans.

8 (c) The Department of Insurance shall develop and submit,
9 no later than January 1, 2024, a report to the General Assembly
10 and the Governor concerning the design, costs, benefits, and
11 implementation of premium realignment to increase
12 affordability and access to health care coverage that
13 leverages existing State infrastructure.

14 Section 105. The Illinois Insurance Code is amended by
15 changing Section 355 as follows:

16 (215 ILCS 5/355) (from Ch. 73, par. 967)

17 Sec. 355. Accident and health policies; provisions.
18 ~~policies-Provisions.)~~

19 (a) As used in this Section, "unreasonable rate increase"
20 means a rate increase that the Director determines to be
21 excessive, unjustified, or unfairly discriminatory in
22 accordance with 45 CFR 154.205.

23 (b) No policy of insurance against loss or damage from the
24 sickness, or from the bodily injury or death of the insured by

1 accident shall be issued or delivered to any person in this
2 State until a copy of the form thereof and of the
3 classification of risks and the premium rates pertaining
4 thereto have been filed with the Director; nor shall it be so
5 issued or delivered until the Director shall have approved
6 such policy pursuant to the provisions of Section 143. If the
7 Director disapproves the policy form he shall make a written
8 decision stating the respects in which such form does not
9 comply with the requirements of law and shall deliver a copy
10 thereof to the company and it shall be unlawful thereafter for
11 any such company to issue any policy in such form.

12 (c) All individual and small group accident and health
13 policies written in compliance with the Patient Protection and
14 Affordable Care Act must file rates with the Department for
15 approval. Rate increases found to be unreasonable rate
16 increases in relation to benefits under the policy provided
17 shall be disapproved. The Department shall provide a report to
18 the General Assembly on or after January 1, 2023, regarding
19 both on and off exchange individual and small group rates in
20 the Illinois market.

21 (d) A rate increase filed under this Section must be
22 approved or denied within 60 calendar days after the date the
23 rate increase is filed with the Department. Any rate increase
24 that is not approved or denied by the Department shall
25 automatically be approved on the 61st calendar day.

26 (e) No less than 30 days after the federal Centers for

1 Medicare and Medicaid Services has certified the policies
2 described in this Section for the upcoming plan year, the
3 Department shall publish on its website a report explaining
4 the rates for the subsequent calendar year's certified
5 policies.

6 (Source: P.A. 79-777.)

7 Section 110. The Health Maintenance Organization Act is
8 amended by changing Section 4-12 as follows:

9 (215 ILCS 125/4-12) (from Ch. 111 1/2, par. 1409.5)

10 Sec. 4-12. Changes in Rate Methodology and Benefits,
11 Material Modifications. A health maintenance organization
12 shall file with the Director, prior to use, a notice of any
13 change in rate methodology, or benefits and of any material
14 modification of any matter or document furnished pursuant to
15 Section 2-1, together with such supporting documents as are
16 necessary to fully explain the change or modification.

17 (a) Contract modifications described in subsections
18 (c) (5), (c) (6) and (c) (7) of Section 2-1 shall include all
19 form agreements between the organization and enrollees,
20 providers, administrators of services and insurers of health
21 maintenance organizations.

22 (b) Material transactions or series of transactions other
23 than those described in subsection (a) of this Section, the
24 total annual value of which exceeds the greater of \$100,000 or

1 5% of net earned subscription revenue for the most current
2 twelve month period as determined from filed financial
3 statements.

4 (c) Any agreement between the organization and an insurer
5 shall be subject to the provisions of the laws of this State
6 regarding reinsurance as provided in Article XI of the
7 Illinois Insurance Code. All reinsurance agreements must be
8 filed. Approval of the Director is required for all agreements
9 except the following: individual stop loss, aggregate excess,
10 hospitalization benefits or out-of-area of the participating
11 providers unless 20% or more of the organization's total risk
12 is reinsured, in which case all reinsurance agreements require
13 approval.

14 (d) All individual and small group accident and health
15 policies written in compliance with the Patient Protection and
16 Affordable Care Act must file rates with the Department for
17 approval. Rate increases found to be unreasonable rate
18 increases in relation to benefits under the policy provided
19 shall be disapproved. The Department shall provide a report to
20 the General Assembly on or after January 1, 2023, regarding
21 both on and off exchange individual and small group rates in
22 the Illinois market.

23 (e) A rate increase filed under this Section must be
24 approved or denied within 60 calendar days after the date the
25 rate increase is filed with the Department. Any rate increase
26 that is not approved or denied by the Department shall

1 automatically be approved on the 61st calendar day.

2 (f) No less than 30 days after the federal Centers for
3 Medicare and Medicaid Services has certified the policies
4 described in this Section for the upcoming plan year, the
5 Department shall publish on its website a report explaining
6 the rates for the subsequent calendar year's certified
7 policies.

8 (g) As used in this Section, "unreasonable rate increase"
9 means a rate increase that the Director determines to be
10 excessive, unjustified, or unfairly discriminatory in
11 accordance with 45 CFR 154.205.

12 (Source: P.A. 86-620.)