

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
5 adding Section 356z.71 as follows:

6 (215 ILCS 5/356z.71 new)

7 Sec. 356z.71. Coverage during a generic drug shortage.

8 (a) As used in this Section:

9 "Eligible prescription drug" means a prescription drug
10 approved under 21 U.S.C. 355(c) that is not under patent.

11 "Generic drug" means a drug that is approved pursuant to
12 an application referencing an eligible prescription drug that
13 is submitted under subsection (j) of Section 505 of the
14 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(j).

15 "Unavailable" means being listed as Currently in Shortage
16 or as a Discontinuation in the United States Food and Drug
17 Administration's Drug Shortages Database. "Unavailable" does
18 not include being listed as a Resolved Shortage in the United
19 States Food and Drug Administration's Drug Shortages Database.

20 (b) If a generic drug or a therapeutic equivalent is
21 unavailable due to a supply issue and dosage cannot be
22 adjusted, a group or individual policy of accident and health
23 insurance or a managed care plan that is amended, delivered,

1 issued, or renewed after January 1, 2026 shall provide
2 coverage for a brand name eligible prescription drug until
3 supply of the generic drug or a therapeutic equivalent is
4 available.

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

7 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

8 Sec. 5-3. Insurance Code provisions.

9 (a) Health Maintenance Organizations shall be subject to
10 the provisions of Sections 133, 134, 136, 137, 139, 140,
11 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153,
12 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 155.49,
13 355.2, 355.3, 355b, 355c, 356f, 356g.5-1, 356m, 356q, 356v,
14 356w, 356x, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5, 356z.6,
15 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14,
16 356z.15, 356z.17, 356z.18, 356z.19, 356z.20, 356z.21, 356z.22,
17 356z.23, 356z.24, 356z.25, 356z.26, 356z.28, 356z.29, 356z.30,
18 356z.30a, 356z.31, 356z.32, 356z.33, 356z.34, 356z.35,
19 356z.36, 356z.37, 356z.38, 356z.39, 356z.40, 356z.41, 356z.44,
20 356z.45, 356z.46, 356z.47, 356z.48, 356z.49, 356z.50, 356z.51,
21 356z.53, 356z.54, 356z.55, 356z.56, 356z.57, 356z.58, 356z.59,
22 356z.60, 356z.61, 356z.62, 356z.64, 356z.65, 356z.67, 356z.68,
23 356z.71, 364, 364.01, 364.3, 367.2, 367.2-5, 367i, 368a, 368b,
24 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A,

1 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of
2 subsection (2) of Section 367, and Articles IIA, VIII 1/2,
3 XII, XII 1/2, XIII, XIII 1/2, XXV, XXVI, and XXXIIB of the
4 Illinois Insurance Code.

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

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

11 (2) a corporation organized under the laws of this
12 State; or

13 (3) a corporation organized under the laws of another
14 state, 30% or more of the enrollees of which are residents
15 of this State, except a corporation subject to
16 substantially the same requirements in its state of
17 organization as is a "domestic company" under Article VIII
18 1/2 of the Illinois Insurance Code.

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

22 (1) the Director shall give primary consideration to
23 the continuation of benefits to enrollees and the
24 financial conditions of the acquired Health Maintenance
25 Organization after the merger, consolidation, or other
26 acquisition of control takes effect;

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

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

10 (A) certification by an independent actuary of the
11 adequacy of the reserves of the Health Maintenance
12 Organization sought to be acquired;

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

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

24 (D) such other information as the Director shall
25 require.

26 (d) The provisions of Article VIII 1/2 of the Illinois

1 Insurance Code and this Section 5-3 shall apply to the sale by
2 any health maintenance organization of greater than 10% of its
3 enrollee population (including, without limitation, the health
4 maintenance organization's right, title, and interest in and
5 to its health care certificates).

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

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

23 (i) the amount of, and other terms and conditions with
24 respect to, the refund or additional premium are set forth
25 in the group or enrollment unit contract agreed in advance
26 of the period for which a refund is to be paid or

1 additional premium is to be charged (which period shall
2 not be less than one year); and

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

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

1 experience with respect to the group or enrollment unit and
2 the resulting additional premium to be paid by the group or
3 enrollment unit.

4 In no event shall the Illinois Health Maintenance
5 Organization Guaranty Association be liable to pay any
6 contractual obligation of an insolvent organization to pay any
7 refund authorized under this Section.

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

14 (Source: P.A. 102-30, eff. 1-1-22; 102-34, eff. 6-25-21;
15 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff.
16 1-1-22; 102-589, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665,
17 eff. 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22;
18 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff.
19 1-1-23; 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093,
20 eff. 1-1-23; 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24;
21 103-91, eff. 1-1-24; 103-123, eff. 1-1-24; 103-154, eff.
22 6-30-23; 103-420, eff. 1-1-24; 103-426, eff. 8-4-23; 103-445,
23 eff. 1-1-24; 103-551, eff. 8-11-23; revised 8-29-23.)

24 Section 15. The Limited Health Service Organization Act is
25 amended by changing Section 4003 as follows:

1 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

2 Sec. 4003. Illinois Insurance Code provisions. Limited
3 health service organizations shall be subject to the
4 provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
5 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
6 154.5, 154.6, 154.7, 154.8, 155.04, 155.37, 155.49, 355.2,
7 355.3, 355b, 356q, 356v, 356z.4, 356z.4a, 356z.10, 356z.21,
8 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32,
9 356z.33, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 356z.54,
10 356z.57, 356z.59, 356z.61, 356z.64, 356z.67, 356z.68, 356z.71,
11 364.3, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412,
12 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
13 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.
14 Nothing in this Section shall require a limited health care
15 plan to cover any service that is not a limited health service.
16 For purposes of the Illinois Insurance Code, except for
17 Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited
18 health service organizations in the following categories are
19 deemed to be domestic companies:

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

21 (2) a corporation organized under the laws of another
22 state, 30% or more of the enrollees of which are residents
23 of this State, except a corporation subject to
24 substantially the same requirements in its state of
25 organization as is a domestic company under Article VIII

1 1/2 of the Illinois Insurance Code.
2 (Source: P.A. 102-30, eff. 1-1-22; 102-203, eff. 1-1-22;
3 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-731, eff.
4 1-1-23; 102-775, eff. 5-13-22; 102-813, eff. 5-13-22; 102-816,
5 eff. 1-1-23; 102-860, eff. 1-1-23; 102-1093, eff. 1-1-23;
6 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91, eff.
7 1-1-24; 103-420, eff. 1-1-24; 103-426, eff. 8-4-23; 103-445,
8 eff. 1-1-24; revised 8-29-23.)

9 Section 20. The Voluntary Health Services Plans Act is
10 amended by changing Section 10 as follows:

11 (215 ILCS 165/10) (from Ch. 32, par. 604)

12 Sec. 10. Application of Insurance Code provisions. Health
13 services plan corporations and all persons interested therein
14 or dealing therewith shall be subject to the provisions of
15 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
16 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b,
17 356g, 356g.5, 356g.5-1, 356q, 356r, 356t, 356u, 356v, 356w,
18 356x, 356y, 356z.1, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5,
19 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
20 356z.14, 356z.15, 356z.18, 356z.19, 356z.21, 356z.22, 356z.25,
21 356z.26, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33,
22 356z.40, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 356z.54,
23 356z.56, 356z.57, 356z.59, 356z.60, 356z.61, 356z.62, 356z.64,
24 356z.67, 356z.68, 356z.71, 364.01, 364.3, 367.2, 368a, 401,

1 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
2 and (15) of Section 367 of the Illinois 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. 102-30, eff. 1-1-22; 102-203, eff. 1-1-22;
10 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff.
11 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22; 102-804,
12 eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23;
13 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093, eff.
14 1-1-23; 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91,
15 eff. 1-1-24; 103-420, eff. 1-1-24; 103-445, eff. 1-1-24;
16 103-551, eff. 8-11-23; revised 8-29-23.)

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

19 (305 ILCS 5/5-16.8)

20 Sec. 5-16.8. Required health benefits. The medical
21 assistance program shall (i) provide the post-mastectomy care
22 benefits required to be covered by a policy of accident and
23 health insurance under Section 356t and the coverage required
24 under Sections 356g.5, 356q, 356u, 356w, 356x, 356z.6,

1 356z.26, 356z.29, 356z.32, 356z.33, 356z.34, 356z.35, 356z.46,
2 356z.47, 356z.51, 356z.53, 356z.56, 356z.59, 356z.60, ~~and~~
3 356z.61, 356z.64, 356z.67, and 356z.71 of the Illinois
4 Insurance Code, (ii) be subject to the provisions of Sections
5 356z.19, 356z.44, 356z.49, 364.01, 370c, and 370c.1 of the
6 Illinois Insurance Code, and (iii) be subject to the
7 provisions of subsection (d-5) of Section 10 of the Network
8 Adequacy and Transparency Act.

9 The Department, by rule, shall adopt a model similar to
10 the requirements of Section 356z.39 of the Illinois Insurance
11 Code.

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

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

22 (Source: P.A. 102-30, eff. 1-1-22; 102-144, eff. 1-1-22;
23 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-530, eff.
24 1-1-22; 102-642, eff. 1-1-22; 102-804, eff. 1-1-23; 102-813,
25 eff. 5-13-22; 102-816, eff. 1-1-23; 102-1093, eff. 1-1-23;
26 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91, eff.

1 1-1-24; 103-420, eff. 1-1-24; revised 12-15-23.)