



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 02/05/04, by Deborah L. Graham

**SYNOPSIS AS INTRODUCED:**

215 ILCS 5/356z.5  
305 ILCS 5/5-5

from Ch. 23, par. 5-5

Amends provisions of the Illinois Insurance Code setting forth coverage requirements that apply to group or individual policies of accident and health insurance and managed care plans, health maintenance organizations, and health services plan corporations. Requires coverage for a minimum of 2 spacers and peak flow meters per year. Amends the Illinois Public Aid Code. Adds to the list of medical services to be provided prescription inhalents and at least 2 spacers and peak flow meters to be provided each year.

LRB093 18428 SAS 44136 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning health care coverage.

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 changing Section 356z.4, as added by Public Act 93-529, as  
6 follows:

7 (215 ILCS 5/356z.5)

8 Sec. 356z.5 ~~356z.4~~. Prescription inhalants, spacers, and  
9 peak flow meters. A group or individual policy of accident and  
10 health insurance or managed care plan amended, delivered,  
11 issued, or renewed after the effective date of this amendatory  
12 Act of the 93rd General Assembly that provides coverage for  
13 prescription drugs may not deny or limit coverage for  
14 prescription inhalants and at least 2 spacers and peak flow  
15 meters per year to enable persons to breathe when suffering  
16 from asthma or other life-threatening bronchial ailments based  
17 upon any restriction on the number of days before an inhaler  
18 refill may be obtained if, contrary to those restrictions, the  
19 inhalants have been ordered or prescribed by the treating  
20 physician and are medically appropriate.

21 (Source: P.A. 93-529, eff. 8-14-03; revised 9-25-03.)

22 Section 10. The Illinois Public Aid Code is amended by  
23 changing Section 5-5 as follows:

24 (305 ILCS 5/5-5) (from Ch. 23, par. 5-5)

25 Sec. 5-5. Medical services. The Illinois Department, by  
26 rule, shall determine the quantity and quality of and the rate  
27 of reimbursement for the medical assistance for which payment  
28 will be authorized, and the medical services to be provided,  
29 which may include all or part of the following: (1) inpatient  
30 hospital services; (2) outpatient hospital services; (3) other

1 laboratory and X-ray services; (4) skilled nursing home  
2 services; (5) physicians' services whether furnished in the  
3 office, the patient's home, a hospital, a skilled nursing home,  
4 or elsewhere; (6) medical care, or any other type of remedial  
5 care furnished by licensed practitioners; (7) home health care  
6 services; (8) private duty nursing service; (9) clinic  
7 services; (10) dental services; (11) physical therapy and  
8 related services; (12) prescribed drugs, dentures, and  
9 prosthetic devices; and eyeglasses prescribed by a physician  
10 skilled in the diseases of the eye, or by an optometrist,  
11 whichever the person may select; (13) other diagnostic,  
12 screening, preventive, and rehabilitative services; (14)  
13 transportation and such other expenses as may be necessary;  
14 (15) medical treatment of sexual assault survivors, as defined  
15 in Section 1a of the Sexual Assault Survivors Emergency  
16 Treatment Act, for injuries sustained as a result of the sexual  
17 assault, including examinations and laboratory tests to  
18 discover evidence which may be used in criminal proceedings  
19 arising from the sexual assault; (16) the diagnosis and  
20 treatment of sickle cell anemia; ~~and~~ (17) any other medical  
21 care, and any other type of remedial care recognized under the  
22 laws of this State, but not including abortions, or induced  
23 miscarriages or premature births, unless, in the opinion of a  
24 physician, such procedures are necessary for the preservation  
25 of the life of the woman seeking such treatment, or except an  
26 induced premature birth intended to produce a live viable child  
27 and such procedure is necessary for the health of the mother or  
28 her unborn child. The Illinois Department, by rule, shall  
29 prohibit any physician from providing medical assistance to  
30 anyone eligible therefor under this Code where such physician  
31 has been found guilty of performing an abortion procedure in a  
32 wilful and wanton manner upon a woman who was not pregnant at  
33 the time such abortion procedure was performed. The term "any  
34 other type of remedial care" shall include nursing care and  
35 nursing home service for persons who rely on treatment by  
36 spiritual means alone through prayer for healing; and (18)

1 coverage for prescription inhalants and and at least 2 spacers  
2 and peak flow meters per year to enable persons to breathe when  
3 suffering from asthma or other life-threatening bronchial  
4 ailments based upon any restriction on the number of days  
5 before an inhaler refill may be obtained if, contrary to those  
6 restrictions, the inhalants have been ordered or prescribed by  
7 the treating physician and are medically appropriate.

8 Notwithstanding any other provision of this Section, a  
9 comprehensive tobacco use cessation program that includes  
10 purchasing prescription drugs or prescription medical devices  
11 approved by the Food and Drug administration shall be covered  
12 under the medical assistance program under this Article for  
13 persons who are otherwise eligible for assistance under this  
14 Article.

15 Notwithstanding any other provision of this Code, the  
16 Illinois Department may not require, as a condition of payment  
17 for any laboratory test authorized under this Article, that a  
18 physician's handwritten signature appear on the laboratory  
19 test order form. The Illinois Department may, however, impose  
20 other appropriate requirements regarding laboratory test order  
21 documentation.

22 The Illinois Department of Public Aid shall provide the  
23 following services to persons eligible for assistance under  
24 this Article who are participating in education, training or  
25 employment programs operated by the Department of Human  
26 Services as successor to the Department of Public Aid:

27 (1) dental services, which shall include but not be  
28 limited to prosthodontics; and

29 (2) eyeglasses prescribed by a physician skilled in the  
30 diseases of the eye, or by an optometrist, whichever the  
31 person may select.

32 The Illinois Department, by rule, may distinguish and  
33 classify the medical services to be provided only in accordance  
34 with the classes of persons designated in Section 5-2.

35 The Illinois Department shall authorize the provision of,  
36 and shall authorize payment for, screening by low-dose

1 mammography for the presence of occult breast cancer for women  
2 35 years of age or older who are eligible for medical  
3 assistance under this Article, as follows: a baseline mammogram  
4 for women 35 to 39 years of age and an annual mammogram for  
5 women 40 years of age or older. All screenings shall include a  
6 physical breast exam, instruction on self-examination and  
7 information regarding the frequency of self-examination and  
8 its value as a preventative tool. As used in this Section,  
9 "low-dose mammography" means the x-ray examination of the  
10 breast using equipment dedicated specifically for mammography,  
11 including the x-ray tube, filter, compression device, image  
12 receptor, and cassettes, with an average radiation exposure  
13 delivery of less than one rad mid-breast, with 2 views for each  
14 breast.

15 Any medical or health care provider shall immediately  
16 recommend, to any pregnant woman who is being provided prenatal  
17 services and is suspected of drug abuse or is addicted as  
18 defined in the Alcoholism and Other Drug Abuse and Dependency  
19 Act, referral to a local substance abuse treatment provider  
20 licensed by the Department of Human Services or to a licensed  
21 hospital which provides substance abuse treatment services.  
22 The Department of Public Aid shall assure coverage for the cost  
23 of treatment of the drug abuse or addiction for pregnant  
24 recipients in accordance with the Illinois Medicaid Program in  
25 conjunction with the Department of Human Services.

26 All medical providers providing medical assistance to  
27 pregnant women under this Code shall receive information from  
28 the Department on the availability of services under the Drug  
29 Free Families with a Future or any comparable program providing  
30 case management services for addicted women, including  
31 information on appropriate referrals for other social services  
32 that may be needed by addicted women in addition to treatment  
33 for addiction.

34 The Illinois Department, in cooperation with the  
35 Departments of Human Services (as successor to the Department  
36 of Alcoholism and Substance Abuse) and Public Health, through a

1 public awareness campaign, may provide information concerning  
2 treatment for alcoholism and drug abuse and addiction, prenatal  
3 health care, and other pertinent programs directed at reducing  
4 the number of drug-affected infants born to recipients of  
5 medical assistance.

6 Neither the Illinois Department of Public Aid nor the  
7 Department of Human Services shall sanction the recipient  
8 solely on the basis of her substance abuse.

9 The Illinois Department shall establish such regulations  
10 governing the dispensing of health services under this Article  
11 as it shall deem appropriate. The Department should seek the  
12 advice of formal professional advisory committees appointed by  
13 the Director of the Illinois Department for the purpose of  
14 providing regular advice on policy and administrative matters,  
15 information dissemination and educational activities for  
16 medical and health care providers, and consistency in  
17 procedures to the Illinois Department.

18 The Illinois Department may develop and contract with  
19 Partnerships of medical providers to arrange medical services  
20 for persons eligible under Section 5-2 of this Code.  
21 Implementation of this Section may be by demonstration projects  
22 in certain geographic areas. The Partnership shall be  
23 represented by a sponsor organization. The Department, by rule,  
24 shall develop qualifications for sponsors of Partnerships.  
25 Nothing in this Section shall be construed to require that the  
26 sponsor organization be a medical organization.

27 The sponsor must negotiate formal written contracts with  
28 medical providers for physician services, inpatient and  
29 outpatient hospital care, home health services, treatment for  
30 alcoholism and substance abuse, and other services determined  
31 necessary by the Illinois Department by rule for delivery by  
32 Partnerships. Physician services must include prenatal and  
33 obstetrical care. The Illinois Department shall reimburse  
34 medical services delivered by Partnership providers to clients  
35 in target areas according to provisions of this Article and the  
36 Illinois Health Finance Reform Act, except that:

1           (1) Physicians participating in a Partnership and  
2 providing certain services, which shall be determined by  
3 the Illinois Department, to persons in areas covered by the  
4 Partnership may receive an additional surcharge for such  
5 services.

6           (2) The Department may elect to consider and negotiate  
7 financial incentives to encourage the development of  
8 Partnerships and the efficient delivery of medical care.

9           (3) Persons receiving medical services through  
10 Partnerships may receive medical and case management  
11 services above the level usually offered through the  
12 medical assistance program.

13           Medical providers shall be required to meet certain  
14 qualifications to participate in Partnerships to ensure the  
15 delivery of high quality medical services. These  
16 qualifications shall be determined by rule of the Illinois  
17 Department and may be higher than qualifications for  
18 participation in the medical assistance program. Partnership  
19 sponsors may prescribe reasonable additional qualifications  
20 for participation by medical providers, only with the prior  
21 written approval of the Illinois Department.

22           Nothing in this Section shall limit the free choice of  
23 practitioners, hospitals, and other providers of medical  
24 services by clients. In order to ensure patient freedom of  
25 choice, the Illinois Department shall immediately promulgate  
26 all rules and take all other necessary actions so that provided  
27 services may be accessed from therapeutically certified  
28 optometrists to the full extent of the Illinois Optometric  
29 Practice Act of 1987 without discriminating between service  
30 providers.

31           The Department shall apply for a waiver from the United  
32 States Health Care Financing Administration to allow for the  
33 implementation of Partnerships under this Section.

34           The Illinois Department shall require health care  
35 providers to maintain records that document the medical care  
36 and services provided to recipients of Medical Assistance under

1 this Article. The Illinois Department shall require health care  
2 providers to make available, when authorized by the patient, in  
3 writing, the medical records in a timely fashion to other  
4 health care providers who are treating or serving persons  
5 eligible for Medical Assistance under this Article. All  
6 dispensers of medical services shall be required to maintain  
7 and retain business and professional records sufficient to  
8 fully and accurately document the nature, scope, details and  
9 receipt of the health care provided to persons eligible for  
10 medical assistance under this Code, in accordance with  
11 regulations promulgated by the Illinois Department. The rules  
12 and regulations shall require that proof of the receipt of  
13 prescription drugs, dentures, prosthetic devices and  
14 eyeglasses by eligible persons under this Section accompany  
15 each claim for reimbursement submitted by the dispenser of such  
16 medical services. No such claims for reimbursement shall be  
17 approved for payment by the Illinois Department without such  
18 proof of receipt, unless the Illinois Department shall have put  
19 into effect and shall be operating a system of post-payment  
20 audit and review which shall, on a sampling basis, be deemed  
21 adequate by the Illinois Department to assure that such drugs,  
22 dentures, prosthetic devices and eyeglasses for which payment  
23 is being made are actually being received by eligible  
24 recipients. Within 90 days after the effective date of this  
25 amendatory Act of 1984, the Illinois Department shall establish  
26 a current list of acquisition costs for all prosthetic devices  
27 and any other items recognized as medical equipment and  
28 supplies reimbursable under this Article and shall update such  
29 list on a quarterly basis, except that the acquisition costs of  
30 all prescription drugs shall be updated no less frequently than  
31 every 30 days as required by Section 5-5.12.

32 The rules and regulations of the Illinois Department shall  
33 require that a written statement including the required opinion  
34 of a physician shall accompany any claim for reimbursement for  
35 abortions, or induced miscarriages or premature births. This  
36 statement shall indicate what procedures were used in providing



1 such medical services.

2 The Illinois Department shall require all dispensers of  
3 medical services, other than an individual practitioner or  
4 group of practitioners, desiring to participate in the Medical  
5 Assistance program established under this Article to disclose  
6 all financial, beneficial, ownership, equity, surety or other  
7 interests in any and all firms, corporations, partnerships,  
8 associations, business enterprises, joint ventures, agencies,  
9 institutions or other legal entities providing any form of  
10 health care services in this State under this Article.

11 The Illinois Department may require that all dispensers of  
12 medical services desiring to participate in the medical  
13 assistance program established under this Article disclose,  
14 under such terms and conditions as the Illinois Department may  
15 by rule establish, all inquiries from clients and attorneys  
16 regarding medical bills paid by the Illinois Department, which  
17 inquiries could indicate potential existence of claims or liens  
18 for the Illinois Department.

19 Enrollment of a vendor that provides non-emergency medical  
20 transportation, defined by the Department by rule, shall be  
21 conditional for 180 days. During that time, the Department of  
22 Public Aid may terminate the vendor's eligibility to  
23 participate in the medical assistance program without cause.  
24 That termination of eligibility is not subject to the  
25 Department's hearing process.

26 The Illinois Department shall establish policies,  
27 procedures, standards and criteria by rule for the acquisition,  
28 repair and replacement of orthotic and prosthetic devices and  
29 durable medical equipment. Such rules shall provide, but not be  
30 limited to, the following services: (1) immediate repair or  
31 replacement of such devices by recipients without medical  
32 authorization; and (2) rental, lease, purchase or  
33 lease-purchase of durable medical equipment in a  
34 cost-effective manner, taking into consideration the  
35 recipient's medical prognosis, the extent of the recipient's  
36 needs, and the requirements and costs for maintaining such

1 equipment. Such rules shall enable a recipient to temporarily  
2 acquire and use alternative or substitute devices or equipment  
3 pending repairs or replacements of any device or equipment  
4 previously authorized for such recipient by the Department.  
5 Rules under clause (2) above shall not provide for purchase or  
6 lease-purchase of durable medical equipment or supplies used  
7 for the purpose of oxygen delivery and respiratory care.

8 The Department shall execute, relative to the nursing home  
9 prescreening project, written inter-agency agreements with the  
10 Department of Human Services and the Department on Aging, to  
11 effect the following: (i) intake procedures and common  
12 eligibility criteria for those persons who are receiving  
13 non-institutional services; and (ii) the establishment and  
14 development of non-institutional services in areas of the State  
15 where they are not currently available or are undeveloped.

16 The Illinois Department shall develop and operate, in  
17 cooperation with other State Departments and agencies and in  
18 compliance with applicable federal laws and regulations,  
19 appropriate and effective systems of health care evaluation and  
20 programs for monitoring of utilization of health care services  
21 and facilities, as it affects persons eligible for medical  
22 assistance under this Code.

23 The Illinois Department shall report annually to the  
24 General Assembly, no later than the second Friday in April of  
25 1979 and each year thereafter, in regard to:

26 (a) actual statistics and trends in utilization of  
27 medical services by public aid recipients;

28 (b) actual statistics and trends in the provision of  
29 the various medical services by medical vendors;

30 (c) current rate structures and proposed changes in  
31 those rate structures for the various medical vendors; and

32 (d) efforts at utilization review and control by the  
33 Illinois Department.

34 The period covered by each report shall be the 3 years  
35 ending on the June 30 prior to the report. The report shall  
36 include suggested legislation for consideration by the General

1 Assembly. The filing of one copy of the report with the  
2 Speaker, one copy with the Minority Leader and one copy with  
3 the Clerk of the House of Representatives, one copy with the  
4 President, one copy with the Minority Leader and one copy with  
5 the Secretary of the Senate, one copy with the Legislative  
6 Research Unit, and such additional copies with the State  
7 Government Report Distribution Center for the General Assembly  
8 as is required under paragraph (t) of Section 7 of the State  
9 Library Act shall be deemed sufficient to comply with this  
10 Section.

11 (Source: P.A. 92-16, eff. 6-28-01; 92-651, eff. 7-11-02;  
12 92-789, eff. 8-6-02; 93-632, eff. 2-1-04.)