



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

HB5088

Introduced 2/5/2004, by Mary E. Flowers

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.6 new
215 ILCS 5/356z.7 new
215 ILCS 5/356z.8 new
215 ILCS 5/356z.9 new
215 ILCS 125/5-3 from Ch. 111 1/2, par. 1411.2
215 ILCS 165/10 from Ch. 32, par. 604
30 ILCS 805/8.28 new

Amends the State Employees Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Illinois Insurance Code, the Health Maintenance Organization Act, and the Voluntary Health Services Plans Act to require coverage for a federally approved AIDS vaccine, prescription nutritional supplements, physician prescribed or ordered pain medication, and intravenous feeding. Amends the State Mandates Act to require implementation without reimbursement by the State.

LRB093 13617 SAS 40096 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning insurance coverage.

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 356u, 356w,
13 356x, 356z.2, ~~and~~ 356z.4, 356z.6, 356z.7, 356z.8, and 356z.9 of
14 the Illinois Insurance Code. The program of health benefits
15 must comply with Section 155.37 of the Illinois Insurance Code.
16 (Source: P.A. 92-440, eff. 8-17-01; 92-764, eff. 1-1-03;
17 93-102, eff. 1-1-04.)

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

20 (55 ILCS 5/5-1069.3)

21 Sec. 5-1069.3. Required health benefits. If a county,
22 including a home rule county, is a self-insurer for purposes of
23 providing health insurance coverage for its employees, the
24 coverage shall include coverage for the post-mastectomy care
25 benefits required to be covered by a policy of accident and
26 health insurance under Section 356t and the coverage required
27 under Sections 356u, 356w, ~~and~~ 356x, 356z.6, 356z.7, 356z.8,
28 and 356z.9 of the Illinois Insurance Code. The requirement that
29 health benefits be covered as provided in this Section is an
30 exclusive power and function of the State and is a denial and

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

4 (Source: P.A. 90-7, eff. 6-10-97; 90-741, eff. 1-1-99.)

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

7 (65 ILCS 5/10-4-2.3)

8 Sec. 10-4-2.3. Required health benefits. If a
9 municipality, including a home rule municipality, is a
10 self-insurer for purposes of providing health insurance
11 coverage for its employees, the coverage shall include coverage
12 for the post-mastectomy care benefits required to be covered by
13 a policy of accident and health insurance under Section 356t
14 and the coverage required under Sections 356u, 356w, ~~and~~ 356x,
15 356z.6, 356z.7, 356z.8, and 356z.9 of the Illinois Insurance
16 Code. The requirement that health benefits be covered as
17 provided in this is an exclusive power and function of the
18 State and is a denial and limitation under Article VII, Section
19 6, subsection (h) of the Illinois Constitution. A home rule
20 municipality to which this Section applies must comply with
21 every provision of this Section.

22 (Source: P.A. 90-7, eff. 6-10-97; 90-741, eff. 1-1-99.)

23 Section 20. The School Code is amended by changing Section
24 10-22.3f as follows:

25 (105 ILCS 5/10-22.3f)

26 Sec. 10-22.3f. Required health benefits. Insurance
27 protection and benefits for employees shall provide the
28 post-mastectomy care benefits required to be covered by a
29 policy of accident and health insurance under Section 356t and
30 the coverage required under Sections 356u, 356w, ~~and~~ 356x,
31 356z.6, 356z.7, 356z.8, and 356z.9 of the Illinois Insurance
32 Code.

1 (Source: P.A. 90-7, eff. 6-10-97; 90-741, eff. 1-1-99.)

2 Section 25. The Illinois Insurance Code is amended by
3 adding Sections 356z.6, 356z.7, 356z.8, and 356z.9 as follows:

4 (215 ILCS 5/356z.6 new)

5 Sec. 356z.6. AIDS vaccine.

6 (a) A group or individual policy of accident and health and
7 health insurance or managed care plan amended, delivered,
8 issued, or renewed after the effective date of this amendatory
9 Act of the 93rd General Assembly must provide coverage for a
10 vaccine for acquired immune deficiency syndrome (AIDS) that is
11 approved for marketing by the federal Food and Drug
12 Administration and that is recommended by the United States
13 Public Health Service.

14 (b) This Section does not require a policy of accident and
15 health insurance to provide coverage for any clinical trials
16 relating to an AIDS vaccine or for any AIDS vaccine that has
17 been approved by the federal Food and Drug Administration in
18 the form of an investigational new drug application.

19 (215 ILCS 5/356z.7 new)

20 Sec. 356z.7. Prescription nutritional supplements. A group
21 or individual policy of accident and health insurance or
22 managed care plan amended, delivered, issued, or renewed after
23 the effective date of this amendatory Act of the 93rd General
24 Assembly that provides coverage for prescription drugs must
25 provide coverage for reimbursement for medically appropriate
26 prescription nutritional supplements when ordered by a
27 physician licensed to practice medicine in all its branches and
28 the insured suffers from a condition that prevents him or her
29 from taking sufficient oral nourishment to sustain life.

30 (215 ILCS 5/356z.8 new)

31 Sec. 356z.8. Pain medication coverage. A group or
32 individual policy of accident and health insurance or managed

1 care plan amended, delivered, issued, or renewed after the
2 effective date of this amendatory Act of the 93rd General
3 Assembly that provides coverage for prescription drugs must
4 provide coverage for any pain medication prescribed or ordered
5 by the insured's treating physician.

6 (215 ILCS 5/356z.9 new)

7 Sec. 356z.9. Intravenous feeding. A group or individual
8 policy of accident and health insurance or managed care plan
9 amended, delivered, issued, or renewed after the effective date
10 of this amendatory Act of the 93rd General Assembly must
11 provide coverage for intravenous feeding. The benefits under
12 this Section shall be at least as favorable as for other
13 coverages under the policy and may be subject to the same
14 dollar amount limits, deductibles, and co-insurance
15 requirements applicable generally to other coverages under the
16 policy.

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

19 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

20 Sec. 5-3. Insurance Code provisions.

21 (a) Health Maintenance Organizations shall be subject to
22 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
23 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
24 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
25 356y, 356z.2, 356z.4, 356z.6, 356z.7, 356z.8, 356z.9, 367.2,
26 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 401, 401.1, 402,
27 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c)
28 of subsection (2) of Section 367, and Articles IIA, VIII 1/2,
29 XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois
30 Insurance Code.

31 (b) For purposes of the Illinois Insurance Code, except for
32 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health
33 Maintenance Organizations in the following categories are

1 deemed to be "domestic companies":

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

4 (2) a corporation organized under the laws of this
5 State; or

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

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

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

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

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

29 (A) certification by an independent actuary of the
30 adequacy of the reserves of the Health Maintenance
31 Organization sought to be acquired;

32 (B) pro forma financial statements reflecting the
33 combined balance sheets of the acquiring company and
34 the Health Maintenance Organization sought to be
35 acquired as of the end of the preceding year and as of
36 a date 90 days prior to the acquisition, as well as pro

1 forma financial statements reflecting projected
2 combined operation for a period of 2 years;

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

7 (D) such other information as the Director shall
8 require.

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

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

25 (f) Except for small employer groups as defined in the
26 Small Employer Rating, Renewability and Portability Health
27 Insurance Act and except for medicare supplement policies as
28 defined in Section 363 of the Illinois Insurance Code, a Health
29 Maintenance Organization may by contract agree with a group or
30 other enrollment unit to effect refunds or charge additional
31 premiums under the following terms and conditions:

32 (i) the amount of, and other terms and conditions with
33 respect to, the refund or additional premium are set forth
34 in the group or enrollment unit contract agreed in advance
35 of the period for which a refund is to be paid or
36 additional premium is to be charged (which period shall not

1 be less than one year); and

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

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

29 In no event shall the Illinois Health Maintenance
30 Organization Guaranty Association be liable to pay any
31 contractual obligation of an insolvent organization to pay any
32 refund authorized under this Section.

33 (Source: P.A. 92-764, eff. 1-1-03; 93-102, eff. 1-1-04; 93-261,
34 eff. 1-1-04; 93-477, eff. 8-8-03; 93-529, eff. 8-14-03; revised
35 9-25-03.)

1 Section 35. The Voluntary Health Services Plans Act is
2 amended by changing Section 10 as follows:

3 (215 ILCS 165/10) (from Ch. 32, par. 604)

4 Sec. 10. Application of Insurance Code provisions. Health
5 services plan corporations and all persons interested therein
6 or dealing therewith shall be subject to the provisions of
7 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
8 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,
9 356y, 356z.1, 356z.2, 356z.4, 356z.6, 356z.7, 356z.8, 356z.9,
10 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412,
11 and paragraphs (7) and (15) of Section 367 of the Illinois
12 Insurance Code.

13 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01;
14 92-651, eff. 7-11-02; 92-764, eff. 1-1-03; 93-102, eff. 1-1-04;
15 93-529, eff. 8-14-03; revised 9-25-03.)

16 Section 90. The State Mandates Act is amended by adding
17 Section 8.28 as follows:

18 (30 ILCS 805/8.28 new)

19 Sec. 8.28. Exempt mandate. Notwithstanding Sections 6 and
20 8 of this Act, no reimbursement by the State is required for
21 the implementation of any mandate created by this amendatory
22 Act of the 93rd General Assembly.