

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 Illinois Insurance Code is amended by
5 adding Section 356z.4 as follows:

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

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

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

21 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

22 Sec. 5-3. Insurance Code provisions.

23 (a) Health Maintenance Organizations shall be subject to
24 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
25 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
26 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
27 356y, 356z.2, 356z.4, 367i, 368a, 401, 401.1, 402, 403, 403A,
28 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of
29 subsection (2) of Section 367, and Articles IIA, VIII 1/2,

1 XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois
2 Insurance Code.

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

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

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

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

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

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

26 (2)(i) the criteria specified in subsection (1)(b)
27 of Section 131.8 of the Illinois Insurance Code shall not
28 apply and (ii) the Director, in making his determination
29 with respect to the merger, consolidation, or other
30 acquisition of control, need not take into account the
31 effect on competition of the merger, consolidation, or
32 other acquisition of control;

33 (3) the Director shall have the power to require
34 the following information:

1 (A) certification by an independent actuary of
2 the adequacy of the reserves of the Health
3 Maintenance Organization sought to be acquired;

4 (B) pro forma financial statements reflecting
5 the combined balance sheets of the acquiring company
6 and the Health Maintenance Organization sought to be
7 acquired as of the end of the preceding year and as
8 of a date 90 days prior to the acquisition, as well
9 as pro forma financial statements reflecting
10 projected combined operation for a period of 2
11 years;

12 (C) a pro forma business plan detailing an
13 acquiring party's plans with respect to the
14 operation of the Health Maintenance Organization
15 sought to be acquired for a period of not less than
16 3 years; and

17 (D) such other information as the Director
18 shall require.

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

25 (e) In considering any management contract or service
26 agreement subject to Section 141.1 of the Illinois Insurance
27 Code, the Director (i) shall, in addition to the criteria
28 specified in Section 141.2 of the Illinois Insurance Code,
29 take into account the effect of the management contract or
30 service agreement on the continuation of benefits to
31 enrollees and the financial condition of the health
32 maintenance organization to be managed or serviced, and (ii)
33 need not take into account the effect of the management
34 contract or service agreement on competition.

1 (f) Except for small employer groups as defined in the
2 Small Employer Rating, Renewability and Portability Health
3 Insurance Act and except for medicare supplement policies as
4 defined in Section 363 of the Illinois Insurance Code, a
5 Health Maintenance Organization may by contract agree with a
6 group or other enrollment unit to effect refunds or charge
7 additional premiums under the following terms and conditions:

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

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

29 The Health Maintenance Organization shall include a
30 statement in the evidence of coverage issued to each enrollee
31 describing the possibility of a refund or additional premium,
32 and upon request of any group or enrollment unit, provide to
33 the group or enrollment unit a description of the method used
34 to calculate (1) the Health Maintenance Organization's

1 profitable experience with respect to the group or enrollment
2 unit and the resulting refund to the group or enrollment unit
3 or (2) the Health Maintenance Organization's unprofitable
4 experience with respect to the group or enrollment unit and
5 the resulting additional premium to be paid by the group or
6 enrollment unit.

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

11 (Source: P.A. 91-357, eff. 7-29-99; 91-406, eff. 1-1-00;
12 91-549, eff. 8-14-99; 91-605, eff. 12-14-99; 91-788, eff.
13 6-9-00; 92-764, eff. 1-1-03.)

14 Section 15. The Voluntary Health Services Plans Act is
15 amended by changing Section 10 as follows:

16 (215 ILCS 165/10) (from Ch. 32, par. 604)

17 Sec. 10. Application of Insurance Code provisions.
18 Health services plan corporations and all persons interested
19 therein or dealing therewith shall be subject to the
20 provisions of Articles IIA and XII 1/2 and Sections 3.1, 133,
21 140, 143, 143c, 149, 155.37, 354, 355.2, 356r, 356t, 356u,
22 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 367.2, 368a,
23 401, 401.1, 402, 403, 403A, 408, 408.2, and 412, and
24 paragraphs (7) and (15) of Section 367 of the Illinois
25 Insurance Code.

26 (Source: P.A. 91-406, eff. 1-1-00; 91-549, eff. 8-14-99;
27 91-605, eff. 12-14-99; 91-788, eff. 6-9-00; 92-130, eff.
28 7-20-01; 92-440, eff. 8-17-01; 92-651, eff. 7-11-02; 92-764,
29 eff. 1-1-03.)

30 Section 99. Effective date. This Act takes effect upon
31 becoming law.