

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. Morbid obesity.

8 (a) A group or individual policy of accident and health  
9 insurance amended, delivered, issued, or renewed after the  
10 effective date of this amendatory Act of the 93rd General  
11 Assembly must provide benefits for the expenses of the  
12 surgical treatment of morbid obesity for the following  
13 individuals:

14 (1) individuals with a body-mass index equal to or  
15 greater than 40 kilograms per meter squared;

16 (2) individuals with a body-mass index equal to or  
17 greater than 35 kilograms per meter squared, with  
18 comorbidities or coexisting medical conditions, such as  
19 hypertension, cardiopulmonary conditions, sleep apnea, or  
20 diabetes; and

21 (3) individuals who meet the guidelines for the  
22 surgical treatment of morbid obesity as set forth by the  
23 national institutes of health.

24 (b) The benefits provided under subsection (a) shall  
25 include benefits for examinations and laboratory tests  
26 performed in accordance with the guidelines of the national  
27 institutes of health for the surgical treatment of morbid  
28 obesity.

29 (c) The benefits provided under subsection (a) shall be  
30 no less extensive than those provided for any other medically  
31 necessary surgical procedure under the policy and shall be

1 subject to the same terms and conditions, including copayment  
2 charges.

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

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

6 Sec. 5-3. Insurance Code provisions.

7 (a) Health Maintenance Organizations shall be subject to  
8 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
9 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
10 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,  
11 356y, 356z.2, 356z.4, 367i, 368a, 401, 401.1, 402, 403, 403A,  
12 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of  
13 subsection (2) of Section 367, and Articles IIA, VIII 1/2,  
14 XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois  
15 Insurance Code.

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

20 (1) a corporation authorized under the Dental  
21 Service Plan Act or the Voluntary Health Services Plans  
22 Act;

23 (2) a corporation organized under the laws of this  
24 State; or

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

31 (c) In considering the merger, consolidation, or other  
32 acquisition of control of a Health Maintenance Organization

1 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

2 (1) the Director shall give primary consideration  
3 to the continuation of benefits to enrollees and the  
4 financial conditions of the acquired Health Maintenance  
5 Organization after the merger, consolidation, or other  
6 acquisition of control takes effect;

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

14 (3) the Director shall have the power to require  
15 the following information:

16 (A) certification by an independent actuary of  
17 the adequacy of the reserves of the Health  
18 Maintenance Organization sought to be acquired;

19 (B) pro forma financial statements reflecting  
20 the combined balance sheets of the acquiring company  
21 and the Health Maintenance Organization sought to be  
22 acquired as of the end of the preceding year and as  
23 of a date 90 days prior to the acquisition, as well  
24 as pro forma financial statements reflecting  
25 projected combined operation for a period of 2  
26 years;

27 (C) a pro forma business plan detailing an  
28 acquiring party's plans with respect to the  
29 operation of the Health Maintenance Organization  
30 sought to be acquired for a period of not less than  
31 3 years; and

32 (D) such other information as the Director  
33 shall require.

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

1 Insurance Code and this Section 5-3 shall apply to the sale  
2 by any health maintenance organization of greater than 10% of  
3 its enrollee population (including without limitation the  
4 health maintenance organization's right, title, and interest  
5 in and 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  
12 enrollees and the financial condition of the health  
13 maintenance organization to be managed or serviced, and (ii)  
14 need not take into account the effect of the management  
15 contract or service 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  
24 with respect to, the refund or additional premium are set  
25 forth in the group or enrollment unit contract agreed in  
26 advance of the period for which a refund is to be paid or  
27 additional premium is to be charged (which period shall  
28 not be less than one year); and

29 (ii) the amount of the refund or additional premium  
30 shall not exceed 20% of the Health Maintenance  
31 Organization's profitable or unprofitable experience with  
32 respect to the group or other enrollment unit for the  
33 period (and, for purposes of a refund or additional  
34 premium, the profitable or unprofitable experience shall

1 be calculated taking into account a pro rata share of the  
2 Health Maintenance Organization's administrative and  
3 marketing expenses, but shall not include any refund to  
4 be made or additional premium to be paid pursuant to this  
5 subsection (f)). The Health Maintenance Organization and  
6 the group or enrollment unit may agree that the  
7 profitable or unprofitable experience may be calculated  
8 taking into account the refund period and the immediately  
9 preceding 2 plan years.

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

22 In no event shall the Illinois Health Maintenance  
23 Organization Guaranty Association be liable to pay any  
24 contractual obligation of an insolvent organization to pay  
25 any refund authorized under this Section.

26 (Source: P.A. 91-357, eff. 7-29-99; 91-406, eff. 1-1-00;  
27 91-549, eff. 8-14-99; 91-605, eff. 12-14-99; 91-788, eff.  
28 6-9-00; 92-764, eff. 1-1-03.)

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

31 (215 ILCS 165/10) (from Ch. 32, par. 604)

32 Sec. 10. Application of Insurance Code provisions.

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

9 (Source: P.A. 91-406, eff. 1-1-00; 91-549, eff. 8-14-99;  
10 91-605, eff. 12-14-99; 91-788, eff. 6-9-00; 92-130, eff.  
11 7-20-01; 92-440, eff. 8-17-01; 92-651, eff. 7-11-02; 92-764,  
12 eff. 1-1-03.)