



Rep. Thomas Holbrook

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LRB093 17610 WGH 50576 a

1 AMENDMENT TO SENATE BILL 2339

2 AMENDMENT NO. _____. Amend Senate Bill 2339, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Insurance Code is amended by
6 adding Section 364.01 as follows:

7 (215 ILCS 5/364.01 new)

8 Sec. 364.01. Qualified cancer trials.

9 (a) No individual or group policy of accident and health
10 insurance issued or renewed in this State may be cancelled or
11 non-renewed for any individual based on that individual's
12 participation in a qualified clinical trial.

13 (b) Qualified cancer trials must meet the following
14 criteria:

15 (1) the effectiveness of the treatment has not been
16 determined relative to established therapies;

17 (2) the trial is under clinical investigation as part
18 of an approved cancer research trial in Phase II, Phase
19 III, or Phase IV of investigation;

20 (3) the trial is:

21 (A) approved by the Food and Drug Administration;

22 or

23 (B) approved and funded by the National Institutes
24 of Health, the Centers for Disease Control and

1 Prevention, the Agency for Healthcare Research and
2 Quality, the United States Department of Defense, the
3 United States Department of Veterans Affairs, or the
4 United States Department of Energy in the form of an
5 investigational new drug application, or a cooperative
6 group or center of any entity described in this
7 subdivision (B); and

8 (4) the patient's primary care physician, if any, is
9 involved in the coordination of care.

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

12 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

13 Sec. 5-3. Insurance Code provisions.

14 (a) Health Maintenance Organizations shall be subject to
15 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
16 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
17 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
18 356y, 356z.2, 356z.4, 356z.5, 364.01, 367.2, 367.2-5, 367i,
19 368a, 368b, 368c, 368d, 368e, 401, 401.1, 402, 403, 403A, 408,
20 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
21 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
22 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

29 (2) a corporation organized under the laws of this
30 State; or

31 (3) a corporation organized under the laws of another
32 state, 30% or more of the enrollees of which are residents

1 of this State, except a corporation subject to
2 substantially the same requirements in its state of
3 organization as is a "domestic company" under Article VIII
4 1/2 of the Illinois Insurance Code.

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

8 (1) the Director shall give primary consideration to
9 the continuation of benefits to enrollees and the financial
10 conditions of the acquired Health Maintenance Organization
11 after the merger, consolidation, or other acquisition of
12 control takes effect;

13 (2) (i) the criteria specified in subsection (1) (b) of
14 Section 131.8 of the Illinois Insurance Code shall not
15 apply and (ii) the Director, in making his determination
16 with respect to the merger, consolidation, or other
17 acquisition of control, need not take into account the
18 effect on competition of the merger, consolidation, or
19 other acquisition of control;

20 (3) the Director shall have the power to require the
21 following information:

22 (A) certification by an independent actuary of the
23 adequacy of the reserves of the Health Maintenance
24 Organization sought to be acquired;

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

32 (C) a pro forma business plan detailing an
33 acquiring party's plans with respect to the operation
34 of the Health Maintenance Organization sought to be

1 acquired for a period of not less than 3 years; and

2 (D) such other information as the Director shall
3 require.

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

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

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

27 (i) the amount of, and other terms and conditions with
28 respect to, the refund or additional premium are set forth
29 in the group or enrollment unit contract agreed in advance
30 of the period for which a refund is to be paid or
31 additional premium is to be charged (which period shall not
32 be less than one year); and

33 (ii) the amount of the refund or additional premium
34 shall not exceed 20% of the Health Maintenance

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

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

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

30 (Source: P.A. 92-764, eff. 1-1-03; 93-102, eff. 1-1-04; 93-261,
31 eff. 1-1-04; 93-477, eff. 8-8-03; 93-529, eff. 8-14-03; revised
32 9-25-03.)

33 Section 15. The Voluntary Health Services Plans Act is

1 amended by changing Section 10 as follows:

2 (215 ILCS 165/10) (from Ch. 32, par. 604)

3 Sec. 10. Application of Insurance Code provisions. Health
4 services plan corporations and all persons interested therein
5 or dealing therewith shall be subject to the provisions of
6 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
7 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,
8 356y, 356z.1, 356z.2, 356z.4, 356z.5, 364.01, 367.2, 368a, 401,
9 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
10 and (15) of Section 367 of the Illinois Insurance Code.

11 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01;
12 92-651, eff. 7-11-02; 92-764, eff. 1-1-03; 93-102, eff. 1-1-04;
13 93-529, eff. 8-14-03; revised 9-25-03.)

14 Section 20. The Illinois Public Aid Code is amended by
15 changing Section 5-16.8 as follows:

16 (305 ILCS 5/5-16.8)

17 Sec. 5-16.8. Required health benefits. The medical
18 assistance program shall (i) provide the post-mastectomy care
19 benefits required to be covered by a policy of accident and
20 health insurance under Section 356t and the coverage required
21 under Sections 356u, 356w, and 356x of the Illinois Insurance
22 Code and (ii) be subject to the provisions of Section 364.01 of
23 the Illinois Insurance Code.

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