



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

Introduced 2/6/2004, by Richard J. Winkel Jr.

**SYNOPSIS AS INTRODUCED:**

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

Amends the Illinois Insurance Code, the Health Maintenance Organization Act, and the Voluntary Health Services Plans Act. Requires individual and group accident and health insurance policies and coverage by a health maintenance organization or under a health service plan to include coverage for nonprescription enteral formulas and reduced-protein foods that are necessary for the treatment or management of certain gastrointestinal conditions or inherited diseases involving amino acids. Effective January 1, 2005.

LRB093 21163 SAS 47235 b

1 AN ACT concerning insurance coverage for certain  
2 conditions.

3 **Be it enacted by the People of the State of Illinois,**  
4 **represented in the General Assembly:**

5 Section 5. The Illinois Insurance Code is amended by adding  
6 Section 356z.6

7 (215 ILCS 5/356z.6 new)

8 Sec. 356z.6. Treatment of certain metabolic diseases.

9 (a) An individual or group policy of accident and health  
10 insurance that is issued, delivered, amended, or renewed in  
11 this State on or after January 1, 2005 shall include the  
12 following:

13 (1) Coverage for prescription enteral and oral  
14 formulas for home use, for which a physician has issued a  
15 written order and which are medically necessary for the  
16 treatment or management of inherited diseases involving  
17 amino acids or organic acids (including, but not limited  
18 to, phenylketonuria).

19 (2) Coverage for up to \$2,500 per year worth of food  
20 products modified to be low in protein, for which a  
21 physician has issued a written order and which are  
22 medically necessary for the management of phenylketonuria  
23 or other inherited diseases involving amino acids or other  
24 organic acids.

25 (b) The coverage required under subsection (a) shall also  
26 be provided by health maintenance organizations, limited  
27 health service organizations, and voluntary health services  
28 plans.

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

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

2 Sec. 5-3. Insurance Code provisions.

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

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

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

18 (2) a corporation organized under the laws of this  
19 State; or

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

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

29 (1) the Director shall give primary consideration to  
30 the continuation of benefits to enrollees and the financial  
31 conditions of the acquired Health Maintenance Organization  
32 after the merger, consolidation, or other acquisition of  
33 control takes effect;

34 (2) (i) the criteria specified in subsection (1) (b) of  
35 Section 131.8 of the Illinois Insurance Code shall not  
36 apply and (ii) the Director, in making his determination

1 with respect to the merger, consolidation, or other  
2 acquisition of control, need not take into account the  
3 effect on competition of the merger, consolidation, or  
4 other acquisition of control;

5 (3) the Director shall have the power to require the  
6 following information:

7 (A) certification by an independent actuary of the  
8 adequacy of the reserves of the Health Maintenance  
9 Organization sought to be acquired;

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

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

21 (D) such other information as the Director shall  
22 require.

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

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

1 effect of the management contract or service agreement on  
2 competition.

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

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

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

31 The Health Maintenance Organization shall include a  
32 statement in the evidence of coverage issued to each enrollee  
33 describing the possibility of a refund or additional premium,  
34 and upon request of any group or enrollment unit, provide to  
35 the group or enrollment unit a description of the method used  
36 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 the  
5 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 any  
10 refund authorized under this Section.

11 (Source: P.A. 92-764, eff. 1-1-03; 93-102, eff. 1-1-04; 93-261,  
12 eff. 1-1-04; 93-477, eff. 8-8-03; 93-529, eff. 8-14-03; revised  
13 9-25-03.)

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. Health  
18 services plan corporations and all persons interested therein  
19 or dealing therewith shall be subject to the provisions of  
20 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,  
21 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,  
22 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6 367.2, 368a, 401,  
23 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
24 and (15) of Section 367 of the Illinois Insurance Code.

25 (Source: P.A. 92-130, eff. 7-20-01; 92-440, eff. 8-17-01;  
26 92-651, eff. 7-11-02; 92-764, eff. 1-1-03; 93-102, eff. 1-1-04;  
27 93-529, eff. 8-14-03; revised 9-25-03.)

28 Section 99. Effective date. This Act takes effect January  
29 1, 2005.