



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB0640

Introduced 1/28/2005, by Rep. 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.7 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 805/8.29 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 non-occupational post-exposure prophylaxis to prevent HIV infection within 72 hours after exposure from sexual intercourse, sexual assault, injection drug use, or accidents. Amends the State Mandates Act to require implementation without reimbursement by the State.

LRB094 06984 LJB 37103 b

FISCAL NOTE ACT
MAY APPLY

HOME RULE NOTE
ACT MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

1 AN ACT concerning insurance.

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, 356z.4, ~~and~~ 356z.6, and 356z.7 of the Illinois
14 Insurance Code. The program of health benefits must comply with
15 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; 93-853, eff. 1-1-05.)

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, 356x, ~~and~~ 356z.6, and 356z.7 of the
28 Illinois Insurance Code. The requirement that health benefits
29 be covered as provided in this Section is an exclusive power
30 and function of the State and is a denial and limitation under

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

4 (Source: P.A. 93-853, eff. 1-1-05.)

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, 356x, ~~and~~
15 356z.6, and 356z.7 of the Illinois Insurance Code. The
16 requirement that health benefits be covered as provided in this
17 is an exclusive power and function of the State and is a denial
18 and limitation under Article VII, Section 6, subsection (h) of
19 the Illinois Constitution. A home rule municipality to which
20 this Section applies must comply with every provision of this
21 Section.

22 (Source: P.A. 93-853, eff. 1-1-05.)

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, 356x, ~~and~~
31 356z.6, and 356z.7 of the Illinois Insurance Code.

32 (Source: P.A. 93-853, eff. 1-1-05.)

1 Section 25. The Illinois Insurance Code is amended by
2 adding Section 356z.7 as follows:

3 (215 ILCS 5/356z.7 new)

4 Sec. 356z.7. Coverage for non-occupational post-exposure
5 prophylaxis. An individual or group policy of accident and
6 health insurance or a managed care plan amended, delivered,
7 issued, or renewed after the effective date of this amendatory
8 Act of the 94th General Assembly shall provide coverage for
9 non-occupational post-exposure prophylaxis (nPEP) pursuant to
10 recommendations of the Centers for Disease Control and
11 Prevention to prevent human immunodeficiency virus (HIV)
12 infection within 72 hours after exposure to HIV through sexual
13 intercourse, sexual assault, injection drug use, or accidents.

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

16 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

17 Sec. 5-3. Insurance Code provisions.

18 (a) Health Maintenance Organizations shall be subject to
19 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
20 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
21 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
22 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.7, 364.01, 367.2,
23 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 401, 401.1, 402,
24 403, 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c)
25 of subsection (2) of Section 367, and Articles IIA, VIII 1/2,
26 XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois
27 Insurance Code.

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

32 (1) a corporation authorized under the Dental Service

1 Plan Act or the Voluntary Health Services Plans Act;

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

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

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

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

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

25 (3) the Director shall have the power to require the
26 following information:

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

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

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

5 (D) such other information as the Director shall
6 require.

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

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

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

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

36 (ii) the amount of the refund or additional premium

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

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

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

31 (Source: P.A. 92-764, eff. 1-1-03; 93-102, eff. 1-1-04; 93-261,
32 eff. 1-1-04; 93-477, eff. 8-8-03; 93-529, eff. 8-14-03; 93-853,
33 eff. 1-1-05; 93-1000, eff. 1-1-05; revised 10-14-04.)

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

1 (215 ILCS 165/10) (from Ch. 32, par. 604)

2 Sec. 10. Application of Insurance Code provisions. Health
3 services plan corporations and all persons interested therein
4 or dealing therewith shall be subject to the provisions of
5 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
6 149, 155.37, 354, 355.2, 356r, 356t, 356u, 356v, 356w, 356x,
7 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.7, 364.01,
8 367.2, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412,
9 and paragraphs (7) and (15) of Section 367 of the Illinois
10 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; 93-853, eff. 1-1-05; 93-1000, eff.
14 1-1-05; revised 10-14-04.)

15 Section 90. The State Mandates Act is amended by adding
16 Section 8.29 as follows:

17 (30 ILCS 805/8.29 new)

18 Sec. 8.29. Exempt mandate. Notwithstanding Sections 6 and 8
19 of this Act, no reimbursement by the State is required for the
20 implementation of any mandate created by this amendatory Act of
21 the 94th General Assembly.