



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0718

Introduced 2/6/2009, by Rep. Sidney H. Mathias

SYNOPSIS AS INTRODUCED:

5 ILCS 375/6.11

215 ILCS 5/356z.15 new

215 ILCS 125/5-3

from Ch. 111 1/2, par. 1411.2

Amends the State Employees Group Insurance Act of 1971, the Illinois Insurance Code, and the Health Maintenance Organization Act. Provides that a policy or plan that provides coverage for hospital or medical treatment on an expense incurred basis may offer wellness coverage that allows for certain incentives for participation in a health behavior wellness, maintenance, or improvement program. Provides that the insured or enrollee may be required to provide evidence of participation in a program or demonstrative compliance with treatment recommendations. Provides that "wellness coverage" means health care coverage with the primary purpose to engage and motivate the insured or enrollee through: incentives; provision of health education, counseling, and self-management skills; identification of modifiable health risks; and other activities to influence health behavior changes. Sets forth requirements concerning (1) opportunities for participants to qualify for incentives, (2) alternatives for participants to satisfy applicable wellness program standards where it is unreasonably difficult due to the participant's medical condition, and (3) the ratio of the total incentive monetary amount to the cost of employee-only coverage. Makes other changes. Effective January 1, 2010.

LRB096 04792 RPM 14856 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 (Text of Section before amendment by P.A. 95-958)

8 Sec. 6.11. Required health benefits; Illinois Insurance
9 Code requirements. The program of health benefits shall provide
10 the post-mastectomy care benefits required to be covered by a
11 policy of accident and health insurance under Section 356t of
12 the Illinois Insurance Code. The program of health benefits
13 shall provide the coverage required under Sections 356g.5,
14 356u, 356w, 356x, 356z.2, 356z.4, 356z.6, 356z.9, 356z.10,
15 356z.13 ~~356z.11~~, ~~and~~ 356z.14, and 356z.15 of the Illinois
16 Insurance Code. The program of health benefits must comply with
17 Section 155.37 of the Illinois Insurance Code.

18 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
19 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-978, eff.
20 1-1-09; 95-1005, eff. 12-12-08; revised 12-15-08.)

21 (Text of Section after amendment by P.A. 95-958)

22 Sec. 6.11. Required health benefits; Illinois Insurance

1 Code requirements. The program of health benefits shall provide
2 the post-mastectomy care benefits required to be covered by a
3 policy of accident and health insurance under Section 356t of
4 the Illinois Insurance Code. The program of health benefits
5 shall provide the coverage required under Sections 356g.5,
6 356u, 356w, 356x, 356z.2, 356z.4, 356z.6, 356z.9, 356z.10,
7 356z.11, ~~and 356z.12, 356z.13~~ 356z.11, and 356z.14, and 356z.15
8 of the Illinois Insurance Code. The program of health benefits
9 must comply with Section 155.37 of the Illinois Insurance Code.
10 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
11 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-958, eff.
12 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; revised
13 12-15-08.)

14 Section 10. The Illinois Insurance Code is amended by
15 adding Section 356z.15 as follows:

16 (215 ILCS 5/356z.15 new)

17 Sec. 356z.15. Wellness coverage.

18 (a) A group or individual policy of accident and health
19 insurance or managed care plan amended, delivered, issued, or
20 renewed after the effective date of this amendatory Act of the
21 96th General Assembly that provides coverage for hospital or
22 medical treatment on an expense incurred basis may offer a
23 reasonably designed program for wellness coverage that allows
24 for a reward, a health spending account contribution, a

1 reduction in premiums or reduced medical, prescription drug, or
2 equipment copayments, coinsurance, or deductibles, or a
3 combination of these incentives, for participation in any
4 health behavior wellness, maintenance, or improvement program
5 approved or offered by the insurer or managed care plan. The
6 insured or enrollee may be required to provide evidence of
7 participation in a program or demonstrative compliance with
8 treatment recommendations as determined by the health insurer
9 or managed care plan.

10 (b) For purposes of this Section, "wellness coverage" means
11 health care coverage with the primary purpose to engage and
12 motivate the insured or enrollee through: incentives;
13 provision of health education, counseling, and self-management
14 skills; identification of modifiable health risks; and other
15 activities to influence health behavior changes.

16 (c) Incentives as outlined in this Section are specific and
17 unique to the offering of wellness coverage and have no
18 application to any other required or optional health care
19 benefit.

20 (d) Such wellness coverage must satisfy the requirements
21 for an exception from the general prohibition against
22 discrimination based on a health factor under the federal
23 Health Insurance Portability and Accountability Act of 1996
24 (P.L. 104-191; 110 Stat. 1936), including any federal
25 regulations that are adopted pursuant to that Act.

26 (e) A plan offering wellness coverage must do the

1 following:

2 (i) give participants the opportunity to qualify for
3 offered incentives at least once a year;

4 (ii) allow a reasonable alternative to any individual
5 for whom it is unreasonably difficult, due to a medical
6 condition, to satisfy otherwise applicable wellness
7 program standards; plans may seek physician verification
8 that health factors make it unreasonably difficult or
9 medically inadvisable for the participant to satisfy the
10 standards; and

11 (iii) not provide a total incentive that exceeds 20% of
12 the cost of employee-only coverage; the cost of
13 employee-only coverage includes both employer and employee
14 contributions; for plans offering family coverage, the 20%
15 limitation applies to cost of family coverage and applies
16 to the entire family.

17 (f) A reward, health spending account contribution, or
18 reduction established under this Section does not violate
19 Section 151 of this Code.

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

22 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

23 (Text of Section before amendment by P.A. 95-958)

24 Sec. 5-3. Insurance Code provisions.

1 (a) Health Maintenance Organizations shall be subject to
2 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
3 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
4 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
5 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,
6 356z.13 ~~356z.11~~, 356z.14, 356z.15, 364.01, 367.2, 367.2-5,
7 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403,
8 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of
9 subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII,
10 XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois
11 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

1 acquisition of control of a Health Maintenance Organization
2 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

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

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

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

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

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

1 Maintenance Organization may by contract agree with a group or
2 other enrollment unit to effect refunds or charge additional
3 premiums under the following terms and conditions:

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

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

25 The Health Maintenance Organization shall include a
26 statement in the evidence of coverage issued to each enrollee

1 describing the possibility of a refund or additional premium,
2 and upon request of any group or enrollment unit, provide to
3 the group or enrollment unit a description of the method used
4 to calculate (1) the Health Maintenance Organization's
5 profitable experience with respect to the group or enrollment
6 unit and the resulting refund to the group or enrollment unit
7 or (2) the Health Maintenance Organization's unprofitable
8 experience with respect to the group or enrollment unit and the
9 resulting additional premium to be paid by the group or
10 enrollment unit.

11 In no event shall the Illinois Health Maintenance
12 Organization Guaranty Association be liable to pay any
13 contractual obligation of an insolvent organization to pay any
14 refund authorized under this Section.

15 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;
16 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
17 8-21-08; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; revised
18 12-15-08.)

19 (Text of Section after amendment by P.A. 95-958)

20 Sec. 5-3. Insurance Code provisions.

21 (a) Health Maintenance Organizations shall be subject to
22 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
23 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
24 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
25 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,

1 356z.11, 356z.12, 356z.13 ~~356z.11~~, 356z.14, 356z.15, 364.01,
2 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401,
3 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1,
4 paragraph (c) of subsection (2) of Section 367, and Articles
5 IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of
6 the Illinois Insurance Code.

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

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

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

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

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

24 (1) the Director shall give primary consideration to
25 the continuation of benefits to enrollees and the financial
26 conditions of the acquired Health Maintenance Organization

1 after the merger, consolidation, or other acquisition of
2 control takes effect;

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

10 (3) the Director shall have the power to require the
11 following information:

12 (A) certification by an independent actuary of the
13 adequacy of the reserves of the Health Maintenance
14 Organization sought to be acquired;

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

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

26 (D) such other information as the Director shall

1 require.

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

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

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

25 (i) the amount of, and other terms and conditions with
26 respect to, the refund or additional premium are set forth

1 in the group or enrollment unit contract agreed in advance
2 of the period for which a refund is to be paid or
3 additional premium is to be charged (which period shall not
4 be less than one year); and

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

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

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

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

10 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;
11 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
12 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
13 eff. 12-12-08; revised 12-15-08.)

14 Section 95. No acceleration or delay. Where this Act makes
15 changes in a statute that is represented in this Act by text
16 that is not yet or no longer in effect (for example, a Section
17 represented by multiple versions), the use of that text does
18 not accelerate or delay the taking effect of (i) the changes
19 made by this Act or (ii) provisions derived from any other
20 Public Act.

21 Section 99. Effective date. This Act takes effect January
22 1, 2010.