



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB0927

Introduced 2/10/2009, by Rep. Frank J. Mautino

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 a reward, a health spending account contribution, a reduction in premiums or reduced medical, prescription drug or equipment copayments, coinsurance, or deductibles, or a combination of these incentives. 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. Provides that the insured or enrollee may be required to provide evidence of participation in a program, or demonstrative compliance with treatment recommendations as determined by the health insurer or managed care plan. 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. Imposes conditions on any rulemaking authority. Makes other changes. Effective January 1, 2010.

LRB096 04473 RPM 14525 b

1 AN ACT concerning regulation.

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 (g) Rulemaking authority to implement this amendatory Act
21 of the 96th General Assembly, if any, is conditioned on the
22 rules being adopted in accordance with all provisions of the
23 Illinois Administrative Procedure Act and all rules and
24 procedures of the Joint Committee on Administrative Rules; any
25 purported rule not so adopted, for whatever reason, is
26 unauthorized.

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

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

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

5 Sec. 5-3. Insurance Code provisions.

6 (a) Health Maintenance Organizations shall be subject to
7 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
8 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
9 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
10 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,
11 356z.13 ~~356z.11~~, 356z.14, 356z.15, 364.01, 367.2, 367.2-5,
12 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403,
13 403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of
14 subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII,
15 XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois
16 Insurance Code.

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

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

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

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

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

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

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

22 (3) the Director shall have the power to require the
23 following information:

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

1 (B) pro forma financial statements reflecting the
2 combined balance sheets of the acquiring company and
3 the Health Maintenance Organization sought to be
4 acquired as of the end of the preceding year and as of
5 a date 90 days prior to the acquisition, as well as pro
6 forma financial statements reflecting projected
7 combined operation for a period of 2 years;

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

12 (D) such other information as the Director shall
13 require.

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

20 (e) In considering any management contract or service
21 agreement subject to Section 141.1 of the Illinois Insurance
22 Code, the Director (i) shall, in addition to the criteria
23 specified in Section 141.2 of the Illinois Insurance Code, take
24 into account the effect of the management contract or service
25 agreement on the continuation of benefits to enrollees and the
26 financial condition of the health maintenance organization to

1 be managed or serviced, and (ii) need not take into account the
2 effect of the management contract or service agreement on
3 competition.

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

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

17 (ii) the amount of the refund or additional premium
18 shall not exceed 20% of the Health Maintenance
19 Organization's profitable or unprofitable experience with
20 respect to the group or other enrollment unit for the
21 period (and, for purposes of a refund or additional
22 premium, the profitable or unprofitable experience shall
23 be calculated taking into account a pro rata share of the
24 Health Maintenance Organization's administrative and
25 marketing expenses, but shall not include any refund to be
26 made or additional premium to be paid pursuant to this

1 subsection (f)). The Health Maintenance Organization and
2 the group or enrollment unit may agree that the profitable
3 or unprofitable experience may be calculated taking into
4 account the refund period and the immediately preceding 2
5 plan years.

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

18 In no event shall the Illinois Health Maintenance
19 Organization Guaranty Association be liable to pay any
20 contractual obligation of an insolvent organization to pay any
21 refund authorized under this Section.

22 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;
23 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
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8 356z.11, 356z.12, 356z.13 ~~356z.11~~, 356z.14, 356z.15, 364.01,
9 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401,
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8 unit and the resulting refund to the group or enrollment unit
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10 experience with respect to the group or enrollment unit and the
11 resulting additional premium to be paid by the group or
12 enrollment unit.

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

17 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;
18 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
19 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
20 eff. 12-12-08; revised 12-15-08.)

21 Section 95. No acceleration or delay. Where this Act makes
22 changes in a statute that is represented in this Act by text
23 that is not yet or no longer in effect (for example, a Section
24 represented by multiple versions), the use of that text does
25 not accelerate or delay the taking effect of (i) the changes

1 made by this Act or (ii) provisions derived from any other
2 Public Act.

3 Section 99. Effective date. This Act takes effect January
4 1, 2010.