

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

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2 the post-mastectomy care benefits required to be covered by a
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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 contribution, a reduction in premiums or

1 reduced medical, prescription drug, or equipment copayments,
2 coinsurance, or deductibles, or a combination of these
3 incentives, for participation in any health behavior wellness,
4 maintenance, or improvement program approved or offered by the
5 insurer or managed care plan. The insured or enrollee may be
6 required to provide evidence of participation in a program.
7 Individuals unable to participate in these incentives due to an
8 adverse health factor shall not be penalized based upon an
9 adverse health status.

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 For the purposes of this Section, "reasonably designed
17 program" means a program of wellness coverage that has a
18 reasonable chance of improving health or preventing disease; is
19 not overly burdensome; does not discriminate based upon factors
20 of health; and is not otherwise contrary to law.

21 (c) Incentives as outlined in this Section are specific and
22 unique to the offering of wellness coverage and have no
23 application to any other required or optional health care
24 benefit.

25 (d) Such wellness coverage must satisfy the requirements
26 for an exception from the general prohibition against

1 discrimination based on a health factor under the federal
2 Health Insurance Portability and Accountability Act of 1996
3 (P.L. 104-191; 110 Stat. 1936), including any federal
4 regulations that are adopted pursuant to that Act.

5 (e) A plan offering wellness coverage must do the
6 following:

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

9 (ii) allow a reasonable alternative to any individual
10 for whom it is unreasonably difficult, due to a medical
11 condition, to satisfy otherwise applicable wellness
12 program standards. Plans may seek physician verification
13 that health factors make it unreasonably difficult or
14 medically inadvisable for the participant to satisfy the
15 standards; and

16 (iii) not provide a total incentive that exceeds 20% of
17 the cost of employee-only coverage. The cost of
18 employee-only coverage includes both employer and employee
19 contributions. For plans offering family coverage, the 20%
20 limitation applies to cost of family coverage and applies
21 to the entire family.

22 (f) A reward, contribution, or reduction established under
23 this Section and included in the policy or certificate does not
24 violate Section 151 of this Code.

25 Section 15. The Health Maintenance Organization Act is

1 amended by changing Section 5-3 as follows:

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

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

4 Sec. 5-3. Insurance Code provisions.

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

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

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

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

24 (3) a corporation organized under the laws of another
25 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

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

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

10 (D) such other information as the Director shall
11 require.

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

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

1 competition.

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

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

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

1 or unprofitable experience may be calculated taking into
2 account the refund period and the immediately preceding 2
3 plan years.

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

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

20 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;
21 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
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7 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401,
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16 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
17 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
18 eff. 12-12-08; revised 12-15-08.)

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

1 Section 99. Effective date. This Act takes effect January
2 1, 2010.