



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB3748

Introduced 2/25/2009, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/368b	
215 ILCS 5/368c	
215 ILCS 5/368d	
215 ILCS 5/368e	
215 ILCS 5/370	from Ch. 73, par. 982
215 ILCS 5/370a	from Ch. 73, par. 982a
215 ILCS 5/370b	from Ch. 73, par. 982b

Amends the Illinois Insurance Code. In the provisions concerning remittance advice and procedures and recoupment, provides that no recoupment or offset may be requested or withheld from future payments 60 or more days after the original payment was made. Provides that the provisions concerning administration and enforcement are deemed incorporated into health care professional and health care provider service contracts entered into on or before the effective date of the amendatory Act. Provides that the Director may require an insurance company that issues a policy in wilful violation of the Act to pay a penalty in a sum not exceeding \$5,000 (instead of \$1,000). Makes other changes.

LRB096 08037 RPM 18143 b

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 Illinois Insurance Code is amended by  
5 changing Sections 368b, 368c, 368d, 368e, 370, 370a, and 370b  
6 as follows:

7 (215 ILCS 5/368b)

8 Sec. 368b. Contracting procedures.

9 (a) A health care professional or health care provider  
10 offered a contract by an insurer, health maintenance  
11 organization, independent practice association, or physician  
12 hospital organization for signature after the effective date of  
13 this amendatory Act of the 93rd General Assembly shall be  
14 provided with a proposed health care professional or health  
15 care provider services contract including, if any, exhibits and  
16 attachments that the contract indicates are to be attached.  
17 Within 35 days after a written request, the health care  
18 professional or health care provider offered a contract shall  
19 be given the opportunity to review and obtain a copy of the  
20 following: a specialty-specific fee schedule sample based on a  
21 minimum of the 50 highest volume fee schedule codes with the  
22 rates applicable to the health care professional or health care  
23 provider to whom the contract is offered, the network provider

1 administration manual, and a summary capitation schedule, if  
2 payment is made on a capitation basis. If 50 codes do not exist  
3 for a particular specialty, the health care professional or  
4 health care provider offered a contract shall be given the  
5 opportunity to review or obtain a copy of a fee schedule sample  
6 with the codes applicable to that particular specialty. This  
7 information may be provided electronically. An insurer, health  
8 maintenance organization, independent practice association, or  
9 physician hospital organization may substitute the fee  
10 schedule sample with a document providing reference to the  
11 information needed to calculate the fee schedule that is  
12 available to the public at no charge and the percentage or  
13 conversion factor at which the insurer, health maintenance  
14 organization, preferred provider organization, independent  
15 practice association, or physician hospital organization sets  
16 its rates.

17 (b) The fee schedule, the capitation schedule, and the  
18 network provider administration manual constitute  
19 confidential, proprietary, and trade secret information and  
20 are subject to the provisions of the Illinois Trade Secrets  
21 Act. The health care professional or health care provider  
22 receiving such protected information may disclose the  
23 information on a need to know basis and only to individuals and  
24 entities that provide services directly related to the health  
25 care professional's or health care provider's decision to enter  
26 into the contract or keep the contract in force. Any person or

1 entity receiving or reviewing such protected information  
2 pursuant to this Section shall not disclose the information to  
3 any other person, organization, or entity, unless the  
4 disclosure is requested pursuant to a valid court order or  
5 required by a state or federal government agency. Individuals  
6 or entities receiving such information from a health care  
7 professional or health care provider as delineated in this  
8 subsection are subject to the provisions of the Illinois Trade  
9 Secrets Act.

10 (c) The health care professional or health care provider  
11 shall be allowed at least 30 days to review the health care  
12 professional or health care provider services contract,  
13 including exhibits and attachments, if any, before signing. The  
14 30-day review period begins upon receipt of the health care  
15 professional or health care provider services contract, unless  
16 the information available upon request in subsection (a) is not  
17 included. If information is not included in the professional  
18 services contract and is requested pursuant to subsection (a),  
19 the 30-day review period begins on the date of receipt of the  
20 information. Nothing in this subsection shall prohibit a health  
21 care professional or health care provider from signing a  
22 contract prior to the expiration of the 30-day review period.

23 (d) The insurer, health maintenance organization,  
24 independent practice association, or physician hospital  
25 organization shall provide all contracted health care  
26 professionals or health care providers with any changes to the

1 fee schedule provided under subsection (a) not later than 35  
2 days after the effective date of the changes, unless such  
3 changes are specified in the contract and the health care  
4 professional or health care provider is able to calculate the  
5 changed rates based on information in the contract and  
6 information available to the public at no charge. For the  
7 purposes of this subsection, "changes" means an increase or  
8 decrease in the fee schedule referred to in subsection (a).  
9 This information may be made available by mail, e-mail,  
10 newsletter, website listing, or other reasonable method. Upon  
11 request, a health care professional or health care provider may  
12 request an updated copy of the fee schedule referred to in  
13 subsection (a) every calendar quarter.

14 (e) Upon termination of a contract with an insurer, health  
15 maintenance organization, independent practice association, or  
16 physician hospital organization and at the request of the  
17 patient, a health care professional or health care provider  
18 shall provide ~~transfer~~ copies of the patient's medical records.  
19 Any other provision of law notwithstanding, the costs for  
20 copying and transferring copies of medical records shall be  
21 assigned per the arrangements agreed upon, if any, in the  
22 health care professional or health care provider services  
23 contract.

24 (Source: P.A. 93-261, eff. 1-1-04.)

1           Sec. 368c. Remittance advice and procedures.

2           (a) A remittance advice shall be furnished to a health care  
3 professional or health care provider that identifies the  
4 disposition of each claim. The remittance advice shall identify  
5 the services billed; the patient responsibility, if any; the  
6 actual payment, if any, for the services billed; and the reason  
7 for any reduction to the amount for which the claim was  
8 submitted. For any reductions to the amount for which the claim  
9 was submitted, the remittance shall identify any withholds and  
10 the reason for any denial or reduction.

11           A remittance advice for capitation or prospective payment  
12 arrangements shall be furnished to a health care professional  
13 or health care provider pursuant to a contract with an insurer,  
14 health maintenance organization, independent practice  
15 association, or physician hospital organization in accordance  
16 with the terms of the contract.

17           (b) When health care services are provided by a  
18 non-participating health care professional or health care  
19 provider, an insurer, health maintenance organization,  
20 independent practice association, or physician hospital  
21 organization shall ~~may~~ pay for covered services ~~either to a~~  
22 ~~patient~~ directly ~~or~~ to the non-participating health care  
23 professional or health care provider, if the benefits have been  
24 assigned by the patient.

25           (c) When a person presents a benefits information card, a  
26 health care professional or health care provider shall make a

1 good faith effort to inform the person if the health care  
2 professional or health care provider has a participation  
3 contract with the insurer, health maintenance organization, or  
4 other entity identified on the card.

5 (d) No recoupment or offset may be requested or withheld  
6 from future payments 60 or more days after the original payment  
7 was made.

8 (Source: P.A. 93-261, eff. 1-1-04.)

9 (215 ILCS 5/368d)

10 Sec. 368d. Recoupments.

11 (a) A health care professional or health care provider  
12 shall be provided a remittance advice, which must include an  
13 explanation of a recoupment or offset taken by an insurer,  
14 health maintenance organization, independent practice  
15 association, or physician hospital organization, if any. The  
16 recoupment explanation shall, at a minimum, include the name of  
17 the patient; the date of service; the service code or if no  
18 service code is available a service description; the recoupment  
19 amount; and the reason for the recoupment or offset. In  
20 addition, an insurer, health maintenance organization,  
21 independent practice association, or physician hospital  
22 organization shall provide with the remittance advice a  
23 telephone number or mailing address to initiate an appeal of  
24 the recoupment or offset.

25 (b) It is not a recoupment when a health care professional

1 or health care provider is paid an amount prospectively or  
2 concurrently under a contract with an insurer, health  
3 maintenance organization, independent practice association, or  
4 physician hospital organization that requires a retrospective  
5 reconciliation based upon specific conditions outlined in the  
6 contract.

7 (c) No recoupment or offset may be requested or withheld  
8 from future payments 60 or more days after the original payment  
9 was made.

10 (Source: P.A. 93-261, eff. 1-1-04.)

11 (215 ILCS 5/368e)

12 Sec. 368e. Administration and enforcement.

13 (a) Other than the duties specifically created in Sections  
14 368b, 368c, and 368d, nothing in those Sections is intended to  
15 preclude, prevent, or require the adoption, modification, or  
16 termination of any utilization management, quality management,  
17 or claims processing methodologies or other provisions of a  
18 contract applicable to services provided under a contract  
19 between an insurer, health maintenance organization,  
20 independent practice association, or physician hospital  
21 organization and a health care professional or health care  
22 provider.

23 (b) Nothing in Sections 368b, 368c, and 368d precludes,  
24 prevents, or requires the adoption, modification, or  
25 termination of any health plan term, benefit, coverage or



1 eligibility provision, or payment methodology.

2 (c) The provisions of Sections 368b, 368c, and 368d are  
3 deemed incorporated into health care professional and health  
4 care provider service contracts entered into on or before  
5 January 1, 2004 (the effective date of Public Act 93-261) ~~this~~  
6 ~~amendatory Act of the 93rd General Assembly~~ and do not require  
7 an insurer, health maintenance organization, independent  
8 practice association, or physician hospital organization to  
9 renew or renegotiate the contracts with a health care  
10 professional or health care provider.

11 (c-5) The amendatory provisions of Sections 368b, 368c,  
12 368d, 370a, and 370b are deemed incorporated into health care  
13 professional and health care provider service contracts  
14 entered into on or before the effective date of this amendatory  
15 Act of the 96th General Assembly and do not require an insurer,  
16 health maintenance organization, independent practice  
17 association, or physician hospital organization to renew or  
18 renegotiate the contracts with a health care professional or  
19 health care provider.

20 (d) The Department shall enforce the provisions of this  
21 Section and Sections 368b, 368c, and 368d pursuant to the  
22 enforcement powers granted to it by law.

23 (e) The Department is hereby granted specific authority to  
24 issue a cease and desist order against, fine, or otherwise  
25 penalize independent practice associations and  
26 physician-hospital organizations for violations.

1 (f) The Department shall adopt reasonable rules to enforce  
2 compliance with this Section and Sections 368b, 368c, and 368d.

3 (Source: P.A. 93-261, eff. 1-1-04.)

4 (215 ILCS 5/370) (from Ch. 73, par. 982)

5 Sec. 370. Policies issued in violation of article-Penalty.

6 (1) Any company, or any officer or agent thereof, issuing  
7 or delivering to any person in this State any policy in wilful  
8 violation of the provision of this article shall be guilty of a  
9 petty offense.

10 (2) The Director may revoke the license of any foreign or  
11 alien company, or of the agent thereof wilfully violating any  
12 provision of this article or suspend such license for any  
13 period of time up to, but not to exceed, two years; or may by  
14 order require such insurance company or agent to pay to the  
15 people of the State of Illinois a penalty in a sum not  
16 exceeding \$5,000 ~~\$1,000~~, and upon the failure of such insurance  
17 company or agent to pay such penalty within twenty days after  
18 the mailing of such order, postage prepaid, registered, and  
19 addressed to the last known place of business of such insurance  
20 company or agent, unless such order is stayed by an order of a  
21 court of competent jurisdiction, the Director of Insurance may  
22 revoke or suspend the license of such insurance company or  
23 agent for any period of time up to, but not exceeding a period  
24 of, two years.

25 (Source: P.A. 93-32, eff. 7-1-03.)

1 (215 ILCS 5/370a) (from Ch. 73, par. 982a)

2 Sec. 370a. Assignability of Accident and Health Insurance.

3 (a) No provision of the Illinois Insurance Code, or any  
4 other law, prohibits an insured under any policy of accident  
5 and health insurance or any other person who may be the owner  
6 of any rights under such policy from making an assignment of  
7 all or any part of his rights and privileges under the policy  
8 including but not limited to the right to designate a  
9 beneficiary and to have an individual policy issued in  
10 accordance with its terms. Subject to the terms of the policy  
11 or any contract relating thereto, an assignment by an insured  
12 or by any other owner of rights under the policy, made before  
13 or after the effective date of this amendatory Act of 1969 is  
14 valid for the purpose of vesting in the assignee, in accordance  
15 with any provisions included therein as to the time at which it  
16 is effective, all rights and privileges so assigned. However,  
17 such assignment is without prejudice to the company on account  
18 of any payment it makes or individual policy it issues before  
19 receipt of notice of the assignment. This amendatory Act of  
20 1969 acknowledges, declares and codifies the existing right of  
21 assignment of interests under accident and health insurance  
22 policies.

23 (b) For the purposes of payment for covered services, if ~~if~~  
24 an enrollee or insured of an insurer, health maintenance  
25 organization, managed care plan, health care plan, preferred

1 provider organization, or third party administrator assigns a  
2 claim to a health care professional or health care facility,  
3 then payment shall be made directly to the health care  
4 professional or health care facility regardless of whether the  
5 professional is a participating or non-participating provider,  
6 including any interest required under Section 368a, of this  
7 Code for failure to pay claims within 30 days after receipt by  
8 the insurer of due proof of loss. Nothing in this Section shall  
9 be construed to prevent any parties from reconciling duplicate  
10 payments.

11 (Source: P.A. 91-605, eff. 12-14-99; 91-788, eff. 6-9-00.)

12 (215 ILCS 5/370b) (from Ch. 73, par. 982b)

13 Sec. 370b. Reimbursement on equal basis. Notwithstanding  
14 any provision of any individual or group policy of accident and  
15 health insurance, or any provision of a policy, contract, plan  
16 or agreement for hospital or medical service or indemnity,  
17 wherever such policy, contract, plan or agreement provides for  
18 reimbursement for any service provided by persons licensed  
19 under the Medical Practice Act of 1987 or the Podiatric Medical  
20 Practice Act of 1987, the person entitled to benefits or person  
21 performing services under such policy, contract, plan or  
22 agreement is entitled to reimbursement on an equal basis for  
23 such service, when the service is performed by a person  
24 licensed under the Medical Practice Act of 1987 or the  
25 Podiatric Medical Practice Act of 1987 whether the person is a

1 participating or non-participating provider. The provisions of  
2 this Section do not apply to any policy, contract, plan or  
3 agreement in effect prior to September 19, 1969 or to preferred  
4 provider arrangements or benefit agreements.

5 (Source: P.A. 90-14, eff. 7-1-97.)