



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5085

Introduced 1/29/2010, by Rep. Greg Harris

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.19 new
215 ILCS 5/364.01
215 ILCS 125/5-3 from Ch. 111 1/2, par. 1411.2
215 ILCS 165/10 from Ch. 32, par. 604

Amends the State Employees Group Insurance Act of 1971, Counties Code, Illinois Municipal Code, School Code, Illinois Insurance Code, Health Maintenance Organization Act, and Voluntary Health Services Plans Act. Provides that accident and health insurance policies that provide coverage for prescription drugs or cancer chemotherapy treatment must provide coverage for prescribed orally-administered cancer medication used to kill or slow the growth of cancerous cells. Provides that an insurer shall ensure that the financial requirements and treatment limitations for orally-administered cancer medication coverage are no more restrictive than the requirements and limitations applied to intravenously administered cancer medications. Provides that accident and health insurance policies shall provide coverage to a qualified individual for participation in a qualified clinical cancer trial. Provides that an insurer shall not deny, limit, or impose additional conditions on the coverage of routine patient costs. Provides that the payment rate shall be at the agreed rate for covered items and services provided by a participating provider and at the usual and customary rate for covered items and services provided by a nonparticipating provider. Makes other changes. Contains a nonacceleration clause. Effective immediately.

LRB096 17984 RPM 33355 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 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 356g,
13 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, ~~and~~
15 356z.13, ~~and~~ 356z.14, 356z.15 ~~and 356z.14~~, ~~and~~ 356z.17 ~~356z.15~~,
16 356z.19, and 364.01 of the Illinois Insurance Code. The program
17 of health benefits must comply with Section 155.37 of the
18 Illinois Insurance Code.

19 Rulemaking authority to implement Public Act 95-1045 ~~this~~
20 ~~amendatory Act of the 95th General Assembly~~, if any, is
21 conditioned on the rules being adopted in accordance with all
22 provisions of the Illinois Administrative Procedure Act and all
23 rules and procedures of the Joint Committee on Administrative

1 Rules; any purported rule not so adopted, for whatever reason,
2 is unauthorized.

3 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
4 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-958, eff.
5 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; 95-1044,
6 eff. 3-26-09; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
7 96-139, eff. 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10;
8 revised 10-22-09.)

9 Section 10. The Counties Code is amended by changing
10 Section 5-1069.3 as follows:

11 (55 ILCS 5/5-1069.3)

12 Sec. 5-1069.3. Required health benefits. If a county,
13 including a home rule county, is a self-insurer for purposes of
14 providing health insurance coverage for its employees, the
15 coverage shall include coverage for the post-mastectomy care
16 benefits required to be covered by a policy of accident and
17 health insurance under Section 356t and the coverage required
18 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,
19 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, ~~and~~
20 356z.13, ~~and~~ 356z.14, ~~and~~ 356z.15 ~~356z.14~~, 356z.19, and 364.01
21 of the Illinois Insurance Code. The requirement that health
22 benefits be covered as provided in this Section is an exclusive
23 power and function of the State and is a denial and limitation
24 under Article VII, Section 6, subsection (h) of the Illinois

1 Constitution. A home rule county to which this Section applies
2 must comply with every provision of this Section.

3 Rulemaking authority to implement Public Act 95-1045 ~~this~~
4 ~~amendatory Act of the 95th General Assembly~~, if any, is
5 conditioned on the rules being adopted in accordance with all
6 provisions of the Illinois Administrative Procedure Act and all
7 rules and procedures of the Joint Committee on Administrative
8 Rules; any purported rule not so adopted, for whatever reason,
9 is unauthorized.

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; 95-1045,
13 eff. 3-27-09; 95-1049, eff. 1-1-10; 96-139, eff. 1-1-10;
14 96-328, eff. 8-11-09; revised 10-22-09.)

15 Section 15. The Illinois Municipal Code is amended by
16 changing Section 10-4-2.3 as follows:

17 (65 ILCS 5/10-4-2.3)

18 Sec. 10-4-2.3. Required health benefits. If a
19 municipality, including a home rule municipality, is a
20 self-insurer for purposes of providing health insurance
21 coverage for its employees, the coverage shall include coverage
22 for the post-mastectomy care benefits required to be covered by
23 a policy of accident and health insurance under Section 356t
24 and the coverage required under Sections 356g, 356g.5,

1 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,
2 356z.11, 356z.12, ~~and~~ 356z.13, ~~and~~ 356z.14, ~~and~~ 356z.15
3 ~~356z.14~~, 356z.19, and 364.01 of the Illinois Insurance Code.

4 The requirement that health benefits be covered as provided in
5 this is an exclusive power and function of the State and is a
6 denial and limitation under Article VII, Section 6, subsection
7 (h) of the Illinois Constitution. A home rule municipality to
8 which this Section applies must comply with every provision of
9 this Section.

10 Rulemaking authority to implement Public Act 95-1045 ~~this~~
11 ~~amendatory Act of the 95th General Assembly~~, if any, is
12 conditioned on the rules being adopted in accordance with all
13 provisions of the Illinois Administrative Procedure Act and all
14 rules and procedures of the Joint Committee on Administrative
15 Rules; any purported rule not so adopted, for whatever reason,
16 is unauthorized.

17 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
18 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-958, eff.
19 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; 95-1045,
20 eff. 3-27-09; 95-1049, eff. 1-1-10; 96-139, eff. 1-1-10;
21 96-328, eff. 8-11-09; revised 10-23-09.)

22 Section 20. The School Code is amended by changing Section
23 10-22.3f as follows:

24 (105 ILCS 5/10-22.3f)

1 Sec. 10-22.3f. Required health benefits. Insurance
2 protection and benefits for employees shall provide the
3 post-mastectomy care benefits required to be covered by a
4 policy of accident and health insurance under Section 356t and
5 the coverage required under Sections 356g, 356g.5, 356g.5-1,
6 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12,
7 356z.13, ~~and 356z.14, and 356z.15~~ 356z.14, 356z.19, and 364.01
8 of the Illinois Insurance Code.

9 Rulemaking authority to implement Public Act 95-1045 ~~this~~
10 ~~amendatory Act of the 95th General Assembly~~, if any, is
11 conditioned on the rules being adopted in accordance with all
12 provisions of the Illinois Administrative Procedure Act and all
13 rules and procedures of the Joint Committee on Administrative
14 Rules; any purported rule not so adopted, for whatever reason,
15 is unauthorized.

16 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
17 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
18 95-1005, 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
19 1-1-10; 96-139, eff. 1-1-10; 96-328, eff. 8-11-09; revised
20 10-23-09.)

21 Section 25. The Illinois Insurance Code is amended by
22 adding Section 356z.19 and by changing Section 364.01 as
23 follows:

24 (215 ILCS 5/356z.19 new)

1 Sec. 356z.19. Cancer drug parity.

2 (a) As used in this Section:

3 "Financial requirement" means deductibles, copayments,
4 coinsurance, out-of-pocket expenses, aggregate lifetime
5 limits, and annual limits.

6 "Treatment limitation" means limits on the frequency of
7 treatment, days of coverage, or other similar limits on the
8 scope or duration of treatment.

9 (b) An individual or group policy of accident and health
10 insurance amended, delivered, issued, or renewed on or after
11 the effective date of this amendatory Act of the 96th General
12 Assembly that provides coverage for prescription drugs or
13 cancer chemotherapy treatment must provide coverage for
14 prescribed orally-administered cancer medication used to kill
15 or slow the growth of cancerous cells. An insurer providing
16 coverage under this Section shall ensure that:

17 (1) the financial requirements applicable to such
18 prescribed orally-administered cancer medications are no
19 more restrictive than the financial requirements applied
20 to intravenously administered or injected cancer
21 medications that are covered by the policy and that there
22 are no separate cost-sharing requirements that are
23 applicable only with respect to such prescribed
24 orally-administered cancer medications; and

25 (2) the treatment limitations applicable to such
26 prescribed orally-administered cancer medications are no

1 more restrictive than the treatment limitations applied to
2 intravenously administered or injected cancer medications
3 that are covered by the policy and that there are no
4 separate treatment limitations that are applicable only
5 with respect to such prescribed orally-administered cancer
6 medications.

7 (215 ILCS 5/364.01)

8 Sec. 364.01. Qualified clinical cancer trials.

9 (a) No individual or group policy of accident and health
10 insurance issued or renewed in this State may be cancelled or
11 non-renewed for any individual based on that individual's
12 participation in a qualified clinical cancer trial.

13 (b) Qualified clinical cancer trials must meet the
14 following criteria:

15 (1) the effectiveness of the treatment has not been
16 determined relative to established therapies;

17 (2) the trial is under clinical investigation as part
18 of an approved cancer research trial in Phase II, Phase
19 III, or Phase IV of investigation;

20 (3) the trial is:

21 (A) approved by the Food and Drug Administration;

22 or

23 (B) approved and funded by the National Institutes
24 of Health, the Centers for Disease Control and
25 Prevention, the Agency for Healthcare Research and

1 Quality, the United States Department of Defense, the
2 United States Department of Veterans Affairs, or the
3 United States Department of Energy in the form of an
4 investigational new drug application, or a cooperative
5 group or center of any entity described in this
6 subdivision (B); and

7 (4) the patient's primary care physician, if any, is
8 involved in the coordination of care.

9 (c) An individual or group policy of accident and health
10 insurance amended, delivered, issued, or renewed on or after
11 the effective date of this amendatory Act of the 96th General
12 Assembly shall provide coverage to a qualified individual for
13 participation in a qualified clinical cancer trial.

14 (d) An insurer providing coverage under this Section shall
15 not:

16 (1) deny the qualified individual participation in the
17 qualified clinical cancer trial;

18 (2) subject to subsection (f) of this Section, deny,
19 limit, or impose additional conditions on the coverage of
20 routine patient costs for items and services furnished in
21 connection with participation in the qualified clinical
22 cancer trial; or

23 (3) discriminate against the qualified individual on
24 the basis of the individual's participation in the
25 qualified clinical cancer trial.

26 (e) If one or more participating providers is participating

1 in a qualified clinical cancer trial, nothing in subsections
2 (c) or (d) of this Section shall be construed as preventing an
3 insurer from requiring that a qualified individual participate
4 in the trial through such a participating provider if the
5 provider will accept the individual as a participant in the
6 trial.

7 (f) An insurer shall provide for payment for routine
8 patient costs but is not required to pay for the costs of items
9 and services that are customarily provided by the research
10 sponsors free of charge for individuals participating in the
11 qualified clinical cancer trial. In the case of covered items
12 and services provided by a participating provider, the payment
13 rate shall be at the agreed upon rate. In the case of covered
14 items and services provided by a nonparticipating provider, the
15 payment rate shall be at the usual and customary rate for
16 comparable items and services provided by the participating
17 provider.

18 (g) As used in this Section:

19 "Qualified individual" means an individual who is a
20 participant or beneficiary in a group or individual policy of
21 accident and health insurance and who meets the following
22 conditions:

23 (1) the individual has been diagnosed with cancer;

24 (2) the individual is eligible to participate in a
25 qualified clinical cancer trial according to the trial
26 protocol with respect to treatment of such illness; and

1 (3) one of the following circumstances exists: (A) the
2 referring physician is a participating provider and has
3 concluded that the individual's participation in the trial
4 would be appropriate based upon the individual meeting the
5 conditions described in items (1) and (2) of this
6 definition or (B) the individual provides medical and
7 scientific information establishing that the individual's
8 participation in the trial would be appropriate based upon
9 the individual meeting the conditions described in items
10 (1) and (2) of this definition.

11 "Routine patient costs" mean all items and services
12 provided in the qualified cancer trial that are otherwise
13 generally available to the qualified individual, except:

14 (1) in the cases of items and services, the
15 investigational item or service itself; or

16 (2) items and services that are provided solely to
17 satisfy data collection and analysis needs and that are not
18 used in the direct clinical management of the patient.

19 (h) Nothing in this Section shall be construed to limit an
20 insurer's coverage with respect to clinical trials.

21 (Source: P.A. 93-1000, eff. 1-1-05.)

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

24 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

1 (Text of Section before amendment by P.A. 96-833)

2 Sec. 5-3. Insurance Code provisions.

3 (a) Health Maintenance Organizations shall be subject to
4 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
5 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
6 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,
7 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
8 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15 ~~356z.14~~,
9 356z.17 ~~356z.15~~, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a,
10 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408,
11 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
12 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
13 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

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

22 (3) a corporation organized under the laws of another
23 state, 30% or more of the enrollees of which are residents
24 of this State, except a corporation subject to
25 substantially the same requirements in its state of
26 organization as is a "domestic company" under Article VIII

1 1/2 of the Illinois Insurance Code.

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

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

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

17 (3) the Director shall have the power to require the
18 following information:

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

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

1 forma financial statements reflecting projected
2 combined operation for a period of 2 years;

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

7 (D) such other information as the Director shall
8 require.

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

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

25 (f) Except for small employer groups as defined in the
26 Small Employer Rating, Renewability and Portability Health

1 Insurance Act and except for medicare supplement policies as
2 defined in Section 363 of the Illinois Insurance Code, a Health
3 Maintenance Organization may by contract agree with a group or
4 other enrollment unit to effect refunds or charge additional
5 premiums under the following terms and conditions:

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

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

1 The Health Maintenance Organization shall include a
2 statement in the evidence of coverage issued to each enrollee
3 describing the possibility of a refund or additional premium,
4 and upon request of any group or enrollment unit, provide to
5 the group or enrollment unit a description of the method used
6 to calculate (1) the Health Maintenance Organization's
7 profitable experience with respect to the group or enrollment
8 unit and the resulting refund to the group or enrollment unit
9 or (2) the Health Maintenance Organization's unprofitable
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 (g) Rulemaking authority to implement Public Act 95-1045
18 ~~this amendatory Act of the 95th General Assembly~~, if any, is
19 conditioned on the rules being adopted in accordance with all
20 provisions of the Illinois Administrative Procedure Act and all
21 rules and procedures of the Joint Committee on Administrative
22 Rules; any purported rule not so adopted, for whatever reason,
23 is unauthorized.

24 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
25 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
26 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.

1 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; revised
2 10-23-09.)

3 (Text of Section after amendment by P.A. 96-833)

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, 356g.5-1, 356m, 356v, 356w,
9 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
10 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,
11 356z.18, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,
12 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,
13 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of
14 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
15 XIII 1/2, XXV, and XXVI of the Illinois 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 (g) Rulemaking authority to implement Public Act 95-1045,
21 if any, is conditioned on the rules being adopted in accordance
22 with all provisions of the Illinois Administrative Procedure
23 Act and all rules and procedures of the Joint Committee on
24 Administrative Rules; any purported rule not so adopted, for
25 whatever reason, is unauthorized.

26 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;

1 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
2 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
3 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.
4 6-1-10.)

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

7 (215 ILCS 165/10) (from Ch. 32, par. 604)

8 (Text of Section before amendment by P.A. 96-833)

9 Sec. 10. Application of Insurance Code provisions. Health
10 services plan corporations and all persons interested therein
11 or dealing therewith shall be subject to the provisions of
12 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
13 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,
14 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,
15 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
16 356z.14, 356z.15 ~~356z.14~~, 356z.19, 364.01, 367.2, 368a, 401,
17 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
18 and (15) of Section 367 of the Illinois Insurance Code.

19 Rulemaking authority to implement Public Act 95-1045 ~~this~~
20 ~~amendatory Act of the 95th General Assembly~~, if any, is
21 conditioned on the rules being adopted in accordance with all
22 provisions of the Illinois Administrative Procedure Act and all
23 rules and procedures of the Joint Committee on Administrative
24 Rules; any purported rule not so adopted, for whatever reason,

1 is unauthorized.

2 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
3 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
4 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
5 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
6 96-328, eff. 8-11-09; revised 9-25-09.)

7 (Text of Section after amendment by P.A. 96-833)

8 Sec. 10. Application of Insurance Code provisions. Health
9 services plan corporations and all persons interested therein
10 or dealing therewith shall be subject to the provisions of
11 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
12 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,
13 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
15 356z.14, 356z.15, 356z.18, 356z.19, 364.01, 367.2, 368a, 401,
16 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
17 and (15) of Section 367 of the Illinois Insurance Code.

18 Rulemaking authority to implement Public Act 95-1045, if
19 any, is conditioned on the rules being adopted in accordance
20 with all provisions of the Illinois Administrative Procedure
21 Act and all rules and procedures of the Joint Committee on
22 Administrative Rules; any purported rule not so adopted, for
23 whatever reason, is unauthorized.

24 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
25 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.

1 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
2 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
3 96-328, eff. 8-11-09; 96-833, eff. 6-1-10.)

4 Section 97. No acceleration or delay. Where this Act makes
5 changes in a statute that is represented in this Act by text
6 that is not yet or no longer in effect (for example, a Section
7 represented by multiple versions), the use of that text does
8 not accelerate or delay the taking effect of (i) the changes
9 made by this Act or (ii) provisions derived from any other
10 Public Act.

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.