



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5473

Introduced 2/5/2010, by Rep. Mary E. Flowers

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 5/356f.1 new	
215 ILCS 125/5-3	from Ch. 111 1/2, par. 1411.2
215 ILCS 130/4003	from Ch. 73, par. 1504-3
215 ILCS 165/10	from Ch. 32, par. 604

Amends the State Employees Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Illinois Insurance Code, the Health Maintenance Organization Act, the Limited Health Service Organization Act, and the Voluntary Health Services Plans Act. Provides that a policy of accident or health insurance or managed care plan shall establish and maintain an appeals procedure related to the denial of health care benefits. Sets forth guidelines for maintaining an appeals procedure, including an expedited process for an enrollee with (1) an ongoing course of treatment ordered by a health care provider, the denial of which could significantly increase the risk to an enrollee's health or (2) a treatment referral, service, or procedure, the denial of which could significantly increase the risk to an enrollee's health. Provides that if an initial appeal is denied by the policy or plan, an enrollee is entitled to seek external independent review of the decision made by the policy or plan. Sets forth guidelines and requirements for the external independent review process. Provides that nothing in the provision shall be construed to require a policy or plan to pay for a health care service not covered under the enrollee's certificate of coverage or policy. Provides that a policy or plan shall provide each enrollee, prospective enrollee, and enrollee representative with written notification of the policy's or plan's appeal processes. Contains a nonacceleration clause. Makes other changes.

LRB096 19476 RPM 34868 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 356f.1,
13 356g, 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 of the Illinois Insurance Code. The program of health benefits
17 must comply with Section 155.37 of the Illinois Insurance Code.

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

1 is unauthorized.

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

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

10 (55 ILCS 5/5-1069.3)

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

1 every provision of this Section.

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

9 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
10 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-958, eff.
11 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; 95-1045,
12 eff. 3-27-09; 95-1049, eff. 1-1-10; 96-139, eff. 1-1-10;
13 96-328, eff. 8-11-09; revised 10-22-09.)

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

16 (65 ILCS 5/10-4-2.3)

17 Sec. 10-4-2.3. Required health benefits. If a
18 municipality, including a home rule municipality, is a
19 self-insurer for purposes of providing health insurance
20 coverage for its employees, the coverage shall include coverage
21 for the post-mastectomy care benefits required to be covered by
22 a policy of accident and health insurance under Section 356t
23 and the coverage required under Sections 356f.1, 356g, 356g.5,
24 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,

1 356z.11, 356z.12, ~~and 356z.13, and 356z.14~~, and 356z.15 ~~356z.14~~
2 of the Illinois Insurance Code. The requirement that health
3 benefits be covered as provided in this is an exclusive power
4 and function of the State and is a denial and limitation under
5 Article VII, Section 6, subsection (h) of the Illinois
6 Constitution. A home rule municipality to which this Section
7 applies must comply with every provision of this Section.

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

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

20 Section 20. The School Code is amended by changing Section
21 10-22.3f as follows:

22 (105 ILCS 5/10-22.3f)

23 Sec. 10-22.3f. Required health benefits. Insurance
24 protection and benefits for employees shall provide the

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

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

14 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
15 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
16 95-1005, 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
17 1-1-10; 96-139, eff. 1-1-10; 96-328, eff. 8-11-09; revised
18 10-23-09.)

19 Section 25. The Illinois Insurance Code is amended by
20 adding Section 356f.1 as follows:

21 (215 ILCS 5/356f.1 new)

22 Sec. 356f.1. Health care services appeals, complaints, and
23 external independent reviews.

24 (a) A policy of accident or health insurance or managed

1 care plan shall establish and maintain an appeals procedure as
2 outlined in this Section. Compliance with this Section's
3 appeals procedures shall satisfy a policy or plan's obligation
4 to provide appeal procedures under any other State law or
5 rules.

6 (b) When an appeal concerns a decision or action by a
7 policy of accident or health insurance or managed care plan,
8 its employees, or its subcontractors that relates to (i) health
9 care services, procedures, or treatments for an enrollee with
10 an ongoing course of treatment ordered by a health care
11 provider, the denial of which could significantly increase the
12 risk to an enrollee's health or (ii) a treatment referral,
13 service, or procedure, the denial of which could significantly
14 increase the risk to an enrollee's health, the policy or plan
15 must allow for the filing of an appeal either orally or in
16 writing. Upon submission of the appeal, a policy or plan must
17 notify the party filing the appeal, as soon as possible, but in
18 no event more than 24 hours after the submission of the appeal,
19 of all information that the plan requires to evaluate the
20 appeal. The policy or plan shall render a decision on the
21 appeal within 24 hours after receipt of the required
22 information. The policy or plan shall notify the party filing
23 the appeal and the enrollee, enrollee's primary care physician,
24 and any health care provider who recommended the health care
25 service involved in the appeal of its decision orally
26 followed-up by a written notice of the determination.

1 (c) An appeal under subsection (b) may be filed by the
2 enrollee, the enrollee's designee or guardian, the enrollee's
3 primary care physician, or the enrollee's health care provider.
4 A policy or plan shall designate a clinical peer to review
5 appeals, because these appeals pertain to medical or clinical
6 matters and such an appeal must be reviewed by an appropriate
7 health care professional. No one reviewing an appeal may have
8 had any involvement in the initial determination that is the
9 subject of the appeal. The written notice of determination
10 required under subsection (b) shall include (i) clear and
11 detailed reasons for the determination, (ii) the medical or
12 clinical criteria for the determination, which shall be based
13 upon sound clinical evidence and reviewed on a periodic basis,
14 and (iii) in the case of an adverse determination, the
15 procedures for requesting an external independent review under
16 subsection (e).

17 (d) If an appeal filed under subsection (b) is denied
18 because the treatment is not viewed as medically necessary,
19 then any involved party may request an external independent
20 review under subsection (e) of the adverse determination.

21 (e) The party seeking an external independent review shall
22 so notify the policy or plan. The policy or plan shall seek to
23 resolve all external independent reviews in the most
24 expeditious manner and shall make a determination and provide
25 notice of the determination no more than 24 hours after the
26 receipt of all necessary information when a delay would

1 significantly increase the risk to an enrollee's health or when
2 extended health care services for an enrollee undergoing a
3 course of treatment prescribed by a health care provider are at
4 issue. In such cases, the following provisions shall apply:

5 (1) Within 30 days after the enrollee receives written
6 notice of an adverse determination, if the enrollee decides
7 to initiate an external independent review, the enrollee
8 shall send to the policy or plan a written request for an
9 external independent review, including any information or
10 documentation to support the enrollee's request for the
11 covered service or claim for a covered service.

12 (2) Within 30 days after the policy or plan receives a
13 request for an external independent review from an enrollee
14 or within 24 hours after the receipt of a request if a
15 delay would significantly increase the risk to the
16 enrollee's health, the policy or plan shall:

17 (a) provide a mechanism for joint selection of an
18 external independent reviewer by the enrollee, the
19 enrollee's physician or other health care provider,
20 and the policy or plan; and

21 (b) forward to the independent reviewer all
22 medical records and supporting documentation
23 pertaining to the case, a summary description of the
24 applicable issues including a statement of the
25 decision made by, the criteria used, and the medical
26 and clinical reasons for that decision.

1 (3) Within 5 days after receipt of all necessary
2 information or within 24 hours when a delay would
3 significantly increase the risk to an enrollee's health,
4 the independent reviewer shall evaluate and analyze the
5 case and render a decision that is based on whether or not
6 the health care service or claim for the health care
7 service is medically necessary. The decision by the
8 independent reviewer is final. If the external independent
9 reviewer determines the health care service to be medically
10 necessary, then the policy or plan shall pay for the health
11 care service.

12 (4) The policy or plan shall be solely responsible for
13 paying the fees of the external independent reviewer who is
14 selected to perform the review.

15 (5) An external independent reviewer who acts in good
16 faith shall have immunity from any civil or criminal
17 liability or professional discipline as a result of acts or
18 omissions with respect to any external independent review,
19 unless the acts or omissions constitute wilful and wanton
20 misconduct. For purposes of any proceeding, the good faith
21 of the person participating shall be presumed.

22 (6) Future contractual or employment action by the
23 policy or plan regarding the patient's physician or other
24 health care provider shall not be based solely on the
25 physician's or other health care provider's participation
26 in this procedure.

1 (7) For the purposes of this Section, an external
2 independent reviewer shall:

3 (a) be a clinical peer;

4 (b) have no direct financial interest in
5 connection with the case; and

6 (c) have not been informed of the specific identity
7 of the enrollee.

8 (f) Nothing in this Section shall be construed to require a
9 policy or plan to pay for a health care service not covered
10 under the enrollee's certificate of coverage or policy.

11 (g) A policy of accident or health insurance or managed
12 care plan shall provide each enrollee, prospective enrollee,
13 and enrollee representative with written notification of the
14 policy's or plan's appeal process and any external review
15 appeals process that is available to the enrollee. This
16 notification shall be provided at the time the insured enrolls
17 in the health insurance or managed care plan, renews such
18 enrollment, or requests to reverse or modify an adverse
19 determination made by the insurer or managed care plan. The
20 notice outlined in this subsection (g) shall describe the
21 policy's or plan's appeals process, any applicable forms, and
22 the time frames for appeals, complaints, and external review
23 appeals and shall include a phone number to call for more
24 information from the policy or plan concerning the appeals
25 process.

1 Section 30. 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. 96-833)

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, 356f.1, 356g.5-1, 356m,
10 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8,
11 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15
12 ~~356z.14~~, 356z.17 ~~356z.15~~, 364.01, 367.2, 367.2-5, 367i, 368a,
13 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408,
14 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
15 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
16 XIII, XIII 1/2, XXV, and XXVI of the Illinois 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

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

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

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

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

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

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

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

26 (B) pro forma financial statements reflecting the

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

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

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

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

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

1 effect of the management contract or service agreement on
2 competition.

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

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

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

1 the group or enrollment unit may agree that the profitable
2 or unprofitable experience may be calculated taking into
3 account the refund period and the immediately preceding 2
4 plan years.

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

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

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

1 is unauthorized.

2 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
3 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
4 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
5 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; revised
6 10-23-09.)

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

8 Sec. 5-3. Insurance Code provisions.

9 (a) Health Maintenance Organizations shall be subject to
10 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
11 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
12 154.6, 154.7, 154.8, 155.04, 355.2, 356f.1, 356g.5-1, 356m,
13 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8,
14 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15,
15 356z.17, 356z.18, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,
16 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,
17 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of
18 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
19 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

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

3 (3) a corporation organized under the laws of another
4 state, 30% or more of the enrollees of which are residents
5 of this State, except a corporation subject to
6 substantially the same requirements in its state of
7 organization as is a "domestic company" under Article VIII
8 1/2 of the Illinois Insurance Code.

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

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

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

24 (3) the Director shall have the power to require the
25 following information:

26 (A) certification by an independent actuary of the

1 adequacy of the reserves of the Health Maintenance
2 Organization sought to be acquired;

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

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

14 (D) such other information as the Director shall
15 require.

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

22 (e) In considering any management contract or service
23 agreement subject to Section 141.1 of the Illinois Insurance
24 Code, the Director (i) shall, in addition to the criteria
25 specified in Section 141.2 of the Illinois Insurance Code, take
26 into account the effect of the management contract or service

1 agreement on the continuation of benefits to enrollees and the
2 financial condition of the health maintenance organization to
3 be managed or serviced, and (ii) need not take into account the
4 effect of the management contract or service agreement on
5 competition.

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

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

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

1 marketing expenses, but shall not include any refund to be
2 made or additional premium to be paid pursuant to this
3 subsection (f)). The Health Maintenance Organization and
4 the group or enrollment unit may agree that the profitable
5 or unprofitable experience may be calculated taking into
6 account the refund period and the immediately preceding 2
7 plan years.

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

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

24 (g) Rulemaking authority to implement Public Act 95-1045,
25 if any, is conditioned on the rules being adopted in accordance
26 with all provisions of the Illinois Administrative Procedure

1 Act and all rules and procedures of the Joint Committee on
2 Administrative Rules; any purported rule not so adopted, for
3 whatever reason, is unauthorized.

4 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
5 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
6 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
7 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.
8 6-1-10.)

9 Section 35. The Limited Health Service Organization Act is
10 amended by changing Section 4003 as follows:

11 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

12 Sec. 4003. Illinois Insurance Code provisions. Limited
13 health service organizations shall be subject to the provisions
14 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,
15 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,
16 155.04, 155.37, 355.2, 356f.1, 356v, 356z.10, 368a, 401, 401.1,
17 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and
18 Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and
19 XXVI of the Illinois Insurance Code. For purposes of the
20 Illinois Insurance Code, except for Sections 444 and 444.1 and
21 Articles XIII and XIII 1/2, limited health service
22 organizations in the following categories are deemed to be
23 domestic companies:

24 (1) a corporation under the laws of this State; or

1 (2) a corporation organized under the laws of another
2 state, 30% of 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 (Source: P.A. 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

8 Section 40. The Voluntary Health Services Plans Act is
9 amended by changing Section 10 as follows:

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

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

12 Sec. 10. Application of Insurance Code provisions. Health
13 services plan corporations and all persons interested therein
14 or dealing therewith shall be subject to the provisions of
15 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
16 149, 155.37, 354, 355.2, 356f.1, 356g, 356g.5, 356g.5-1, 356r,
17 356t, 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4,
18 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
19 356z.13, 356z.14, 356z.15 ~~356z.14~~, 364.01, 367.2, 368a, 401,
20 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
21 and (15) of Section 367 of the Illinois Insurance Code.

22 Rulemaking authority to implement Public Act 95-1045 ~~this~~
23 ~~amendatory Act of the 95th General Assembly~~, if any, is
24 conditioned on the rules being adopted in accordance with all

1 provisions of the Illinois Administrative Procedure Act and all
2 rules and procedures of the Joint Committee on Administrative
3 Rules; any purported rule not so adopted, for whatever reason,
4 is unauthorized.

5 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
6 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
7 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
8 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
9 96-328, eff. 8-11-09; revised 9-25-09.)

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

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

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

1 whatever reason, 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; 96-833, eff. 6-1-10.)

7 Section 95. No acceleration or delay. Where this Act makes
8 changes in a statute that is represented in this Act by text
9 that is not yet or no longer in effect (for example, a Section
10 represented by multiple versions), the use of that text does
11 not accelerate or delay the taking effect of (i) the changes
12 made by this Act or (ii) provisions derived from any other
13 Public Act.