



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB6061

Introduced 2/11/2010, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.19 new
215 ILCS 5/364a new
215 ILCS 125/4-6.1a new
215 ILCS 125/5-3

from Ch. 111 1/2, par. 1411.2

Amends the Illinois Insurance Code. Provides that accident and health insurance policies shall provide coverage for maternity care. Provides that an insurer providing coverage shall ensure that the financial requirements and treatment limitations applicable to maternity benefits are no more restrictive than the predominant requirements and limitations applied to substantially all hospital and medical benefits covered by the policy. Provides that an insurer shall not refuse or limit coverage or charge a different rate for the same coverage solely on the basis that an individual is pregnant or had a previous cesarean delivery. Provides that no company may determine the premium or underwriting through a method that is in any way based upon the gender of any person. Amends the Health Maintenance Organization Act. Provides that every contract or evidence of coverage shall provide coverage for maternity care. Provides that no health maintenance organization shall refuse or limit coverage or charge a different rate for the same coverage solely on the basis that an individual is pregnant or had a previous cesarean delivery. Provides that health maintenance organizations shall be subject to the provisions of the Illinois Insurance Code prohibiting gender rating. Contains a nonacceleration clause. Effective July 1, 2010.

LRB096 19504 RPM 34896 b

1 AN ACT concerning insurance, which may be referred to as
2 the Women's Health Insurance Justice Law.

3 **Be it enacted by the People of the State of Illinois,**
4 **represented in the General Assembly:**

5 Section 5. The Illinois Insurance Code is amended by adding
6 Sections 356z.19 and 364a as follows:

7 (215 ILCS 5/356z.19 new)

8 Sec. 356z.19. Maternity coverage.

9 (a) As used in this Section:

10 "Maternity care" shall include diagnoses of pregnancy,
11 prenatal care, delivery, care for complications of pregnancy,
12 and other maternity services including physician services,
13 hospital services, operating or other special procedure rooms,
14 radiology and laboratory services, appropriate medications,
15 and anesthesia.

16 "Financial requirement" means deductibles, copayments,
17 coinsurance, out-of-pocket expenses, aggregate lifetime
18 limits, and annual limits.

19 "Treatment limitation" means limits on the frequency of
20 treatment, number of visits, days of coverage, or other similar
21 limits on the scope or duration of treatment.

22 (b) A group or individual policy of accident and health
23 insurance that is amended, delivered, issued, or renewed after

1 the effective date of this amendatory Act of the 96th General
2 Assembly shall provide coverage for maternity care.

3 (c) An insurer providing coverage under this Section shall
4 ensure that:

5 (1) the financial requirements applicable to such
6 maternity benefits are no more restrictive than the
7 predominant financial requirements applied to
8 substantially all hospital and medical benefits covered by
9 the policy, and that there are no separate cost-sharing
10 requirements that are applicable only with respect to
11 maternity benefits; and

12 (2) the treatment limitations applicable to such
13 maternity benefits are no more restrictive than the
14 predominant treatment limitations applied to substantially
15 all hospital and medical benefits covered by the policy and
16 that there are no separate treatment limitations that are
17 applicable only with respect to maternity benefits.

18 (d) Notwithstanding any other provision of law, an insurer
19 shall not impose any preexisting condition exclusion relating
20 to pregnancy as a preexisting condition.

21 (e) An insurer shall not refuse to insure, refuse to
22 continue to insure, limit the amount or extent or kind of
23 coverage available to an individual, or charge an individual a
24 different rate for the same coverage solely on the basis that
25 the individual is pregnant or had a previous cesarean delivery.

26 (f) This Section shall not be construed as limiting

1 benefits that are otherwise available to an individual under a
2 policy of accident and health insurance.

3 (215 ILCS 5/364a new)

4 Sec. 364a. Gender rating prohibited. No company, in any
5 policy of accident or health insurance issued in this State,
6 may determine the premium rate or any other underwriting
7 decision, including initial issuance, through a method that is
8 in any way based upon the gender of any person covered or to be
9 covered under the policy.

10 Section 10. The Health Maintenance Organization Act is
11 amended by changing Section 5-3 and by adding Section 4-6.1a as
12 follows:

13 (215 ILCS 125/4-6.1a new)

14 Sec. 4-6.1a. Maternity care and coverage for pregnant
15 women.

16 (a) As used in this Section:

17 "Maternity care" shall include diagnoses of pregnancy,
18 prenatal care, delivery, care for complications of pregnancy,
19 and other maternity services including physician services,
20 hospital services, operating or other special procedure rooms,
21 radiology and laboratory services, appropriate medications,
22 and anesthesia.

23 (b) Every contract or evidence of coverage issued by a

1 health maintenance organization after the effective date of
2 this amendatory Act of the 96th General Assembly for persons
3 who are residents of this State shall provide coverage for
4 maternity care.

5 (c) No health maintenance organization shall refuse to
6 insure, refuse to continue to insure, limit the amount or
7 extent or kind of coverage available to an individual, or
8 charge an individual a different rate for the same coverage
9 solely on the basis that the individual is pregnant or had a
10 previous cesarean delivery.

11 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

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

13 Sec. 5-3. Insurance Code provisions.

14 (a) Health Maintenance Organizations shall be subject to
15 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
16 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
17 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,
18 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
19 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15 ~~356z.14,~~
20 356z.17 ~~356z.15,~~ 364a, 364.01, 367.2, 367.2-5, 367i, 368a,
21 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408,
22 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
23 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
24 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

25 (b) For purposes of the Illinois Insurance Code, except for

1 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health
2 Maintenance Organizations in the following categories are
3 deemed to be "domestic companies":

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

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

8 (3) a corporation organized under the laws of another
9 state, 30% or more of the enrollees of which are residents
10 of this State, except a corporation subject to
11 substantially the same requirements in its state of
12 organization as is a "domestic company" under Article VIII
13 1/2 of the Illinois Insurance Code.

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

17 (1) the Director shall give primary consideration to
18 the continuation of benefits to enrollees and the financial
19 conditions of the acquired Health Maintenance Organization
20 after the merger, consolidation, or other acquisition of
21 control takes effect;

22 (2) (i) the criteria specified in subsection (1) (b) of
23 Section 131.8 of the Illinois Insurance Code shall not
24 apply and (ii) the Director, in making his determination
25 with respect to the merger, consolidation, or other
26 acquisition of control, need not take into account the

1 effect on competition of the merger, consolidation, or
2 other acquisition of control;

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

5 (A) certification by an independent actuary of the
6 adequacy of the reserves of the Health Maintenance
7 Organization sought to be acquired;

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

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

19 (D) such other information as the Director shall
20 require.

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

1 (e) In considering any management contract or service
2 agreement subject to Section 141.1 of the Illinois Insurance
3 Code, the Director (i) shall, in addition to the criteria
4 specified in Section 141.2 of the Illinois Insurance Code, take
5 into account the effect of the management contract or service
6 agreement on the continuation of benefits to enrollees and the
7 financial condition of the health maintenance organization to
8 be managed or serviced, and (ii) need not take into account the
9 effect of the management contract or service agreement on
10 competition.

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

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

24 (ii) the amount of the refund or additional premium
25 shall not exceed 20% of the Health Maintenance
26 Organization's profitable or unprofitable experience with

1 respect to the group or other enrollment unit for the
2 period (and, for purposes of a refund or additional
3 premium, the profitable or unprofitable experience shall
4 be calculated taking into account a pro rata share of the
5 Health Maintenance Organization's administrative and
6 marketing expenses, but shall not include any refund to be
7 made or additional premium to be paid pursuant to this
8 subsection (f)). The Health Maintenance Organization and
9 the group or enrollment unit may agree that the profitable
10 or unprofitable experience may be calculated taking into
11 account the refund period and the immediately preceding 2
12 plan years.

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

25 In no event shall the Illinois Health Maintenance
26 Organization Guaranty Association be liable to pay any

1 contractual obligation of an insolvent organization to pay any
2 refund authorized under this Section.

3 (g) Rulemaking authority to implement Public Act 95-1045
4 ~~this 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. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
11 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
12 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
13 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; revised
14 10-23-09.)

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

16 Sec. 5-3. Insurance Code provisions.

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20 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,
21 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
22 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,
23 356z.18, 364a, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c,
24 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2, 409,
25 412, 444, and 444.1, paragraph (c) of subsection (2) of Section

1 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2,
2 XXV, and XXVI of the Illinois Insurance Code.

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

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

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

11 (3) a corporation organized under the laws of another
12 state, 30% or more of the enrollees of which are residents
13 of this State, except a corporation subject to
14 substantially the same requirements in its state of
15 organization as is a "domestic company" under Article VIII
16 1/2 of the Illinois Insurance Code.

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

20 (1) the Director shall give primary consideration to
21 the continuation of benefits to enrollees and the financial
22 conditions of the acquired Health Maintenance Organization
23 after the merger, consolidation, or other acquisition of
24 control takes effect;

25 (2) (i) the criteria specified in subsection (1) (b) of
26 Section 131.8 of the Illinois Insurance Code shall not

1 apply and (ii) the Director, in making his determination
2 with respect to the merger, consolidation, or other
3 acquisition of control, need not take into account the
4 effect on competition of the merger, consolidation, or
5 other acquisition of control;

6 (3) the Director shall have the power to require the
7 following information:

8 (A) certification by an independent actuary of the
9 adequacy of the reserves of the Health Maintenance
10 Organization sought to be acquired;

11 (B) pro forma financial statements reflecting the
12 combined balance sheets of the acquiring company and
13 the Health Maintenance Organization sought to be
14 acquired as of the end of the preceding year and as of
15 a date 90 days prior to the acquisition, as well as pro
16 forma financial statements reflecting projected
17 combined operation for a period of 2 years;

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

22 (D) such other information as the Director shall
23 require.

24 (d) The provisions of Article VIII 1/2 of the Illinois
25 Insurance Code and this Section 5-3 shall apply to the sale by
26 any health maintenance organization of greater than 10% of its

1 enrollee population (including without limitation the health
2 maintenance organization's right, title, and interest in and to
3 its health care certificates).

4 (e) In considering any management contract or service
5 agreement subject to Section 141.1 of the Illinois Insurance
6 Code, the Director (i) shall, in addition to the criteria
7 specified in Section 141.2 of the Illinois Insurance Code, take
8 into account the effect of the management contract or service
9 agreement on the continuation of benefits to enrollees and the
10 financial condition of the health maintenance organization to
11 be managed or serviced, and (ii) need not take into account the
12 effect of the management contract or service agreement on
13 competition.

14 (f) Except for small employer groups as defined in the
15 Small Employer Rating, Renewability and Portability Health
16 Insurance Act and except for medicare supplement policies as
17 defined in Section 363 of the Illinois Insurance Code, a Health
18 Maintenance Organization may by contract agree with a group or
19 other enrollment unit to effect refunds or charge additional
20 premiums under the following terms and conditions:

21 (i) the amount of, and other terms and conditions with
22 respect to, the refund or additional premium are set forth
23 in the group or enrollment unit contract agreed in advance
24 of the period for which a refund is to be paid or
25 additional premium is to be charged (which period shall not
26 be less than one year); and

1 (ii) the amount of the refund or additional premium
2 shall not exceed 20% of the Health Maintenance
3 Organization's profitable or unprofitable experience with
4 respect to the group or other enrollment unit for the
5 period (and, for purposes of a refund or additional
6 premium, the profitable or unprofitable experience shall
7 be calculated taking into account a pro rata share of the
8 Health Maintenance Organization's administrative and
9 marketing expenses, but shall not include any refund to be
10 made or additional premium to be paid pursuant to this
11 subsection (f)). The Health Maintenance Organization and
12 the group or enrollment unit may agree that the profitable
13 or unprofitable experience may be calculated taking into
14 account the refund period and the immediately preceding 2
15 plan years.

16 The Health Maintenance Organization shall include a
17 statement in the evidence of coverage issued to each enrollee
18 describing the possibility of a refund or additional premium,
19 and upon request of any group or enrollment unit, provide to
20 the group or enrollment unit a description of the method used
21 to calculate (1) the Health Maintenance Organization's
22 profitable experience with respect to the group or enrollment
23 unit and the resulting refund to the group or enrollment unit
24 or (2) the Health Maintenance Organization's unprofitable
25 experience with respect to the group or enrollment unit and the
26 resulting additional premium to be paid by the group or

1 enrollment unit.

2 In no event shall the Illinois Health Maintenance
3 Organization Guaranty Association be liable to pay any
4 contractual obligation of an insolvent organization to pay any
5 refund authorized under this Section.

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

12 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
13 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
14 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
15 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.
16 6-1-10.)

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

24 Section 99. Effective date. This Act takes effect July 1,
25 2010.