

# SB1877



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB1877

Introduced 2/20/2009, by Sen. Dan Kotowski

#### SYNOPSIS AS INTRODUCED:

5 ILCS 375/6.11

215 ILCS 5/356z.15 new

215 ILCS 125/5-3

from Ch. 111 1/2, par. 1411.2

Amends the State Employees Group Insurance Act of 1971, the Illinois Insurance Code, and the Health Maintenance Organization Act. Provides that a policy or plan that provides coverage for hospital or medical treatment on an expense incurred basis, may offer a reasonably designed program for wellness coverage that allows for certain incentives for participation in health behavior wellness programs that are approved or offered by the insurer or plan. Provides that wellness coverage, as defined in the Act, shall satisfy the requirements for an exception from the general prohibition against discrimination based on a health factor under the federal Health Insurance Portability and Accountability Act of 1996. Contains a nonacceleration clause. Makes other changes. Effective January 1, 2010.

LRB096 11290 RPM 21719 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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

8 Sec. 6.11. Required health benefits; Illinois Insurance  
9 Code requirements. The program of health benefits shall provide  
10 the post-mastectomy care benefits required to be covered by a  
11 policy of accident and health insurance under Section 356t of  
12 the Illinois Insurance Code. The program of health benefits  
13 shall provide the coverage required under Sections 356g.5,  
14 356u, 356w, 356x, 356z.2, 356z.4, 356z.6, 356z.9, 356z.10,  
15 356z.13 ~~356z.11~~, ~~and~~ 356z.14, and 356z.15 of the Illinois  
16 Insurance Code. The program of health benefits must comply with  
17 Section 155.37 of the Illinois Insurance Code.

18 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;  
19 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-978, eff.  
20 1-1-09; 95-1005, eff. 12-12-08; revised 12-15-08.)

21 (Text of Section after amendment by P.A. 95-958)

22 Sec. 6.11. Required health benefits; Illinois Insurance

1 Code requirements. The program of health benefits shall provide  
2 the post-mastectomy care benefits required to be covered by a  
3 policy of accident and health insurance under Section 356t of  
4 the Illinois Insurance Code. The program of health benefits  
5 shall provide the coverage required under Sections 356g.5,  
6 356u, 356w, 356x, 356z.2, 356z.4, 356z.6, 356z.9, 356z.10,  
7 356z.11, ~~and 356z.12, 356z.13~~ 356z.11, and 356z.14, and 356z.15  
8 of the Illinois Insurance Code. The program of health benefits  
9 must comply with Section 155.37 of the Illinois Insurance Code.  
10 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;  
11 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-958, eff.  
12 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; revised  
13 12-15-08.)

14 Section 10. The Illinois Insurance Code is amended by  
15 adding Section 356z.15 as follows:

16 (215 ILCS 5/356z.15 new)

17 Sec. 356z.15. Wellness coverage.

18 (a) A group or individual policy of accident and health  
19 insurance or managed care plan amended, delivered, issued, or  
20 renewed after the effective date of this amendatory Act of the  
21 96th General Assembly that provides coverage for hospital or  
22 medical treatment on an expense incurred basis may offer a  
23 reasonably designed program for wellness coverage that allows  
24 for a reward, a health spending account contribution, a

1 reduction in premiums or reduced medical, prescription drug, or  
2 equipment copayments, coinsurance, or deductibles, or a  
3 combination of these incentives, for participation in any  
4 health behavior wellness, maintenance, or improvement program  
5 approved or offered by the insurer or managed care plan. The  
6 insured or enrollee may be required to provide evidence of  
7 participation in a program, demonstrative compliance with  
8 treatment recommendations, or improvement of the individual's  
9 or dependent's health behaviors as determined by the health  
10 insurer or managed care plan.

11 (b) For purposes of this Section, "wellness coverage" means  
12 health care coverage with the primary purpose to engage and  
13 motivate the insured or enrollee through: incentives;  
14 provision of health education, counseling, and self-management  
15 skills; identification of modifiable health risks; and other  
16 activities to influence health behavior changes.

17 (c) Incentives as outlined in this Section are specific and  
18 unique to the offering of wellness coverage and have no  
19 application to any other required or optional health care  
20 benefit.

21 (d) Such wellness coverage shall satisfy the requirements  
22 for an exception from the general prohibition against  
23 discrimination based on a health factor under the federal  
24 Health Insurance Portability and Accountability Act of 1996  
25 (P.L. 104-191; 110 Stat. 1936), including any federal  
26 regulations that are adopted pursuant to that Act.

1       (e) A reward, health spending account contribution, or  
2       reduction established under this Section does not violate  
3       Section 151 of this Code.

4       Section 15. The Health Maintenance Organization Act is  
5       amended by changing Section 5-3 as follows:

6           (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

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

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, 356m, 356v, 356w, 356x,  
13       356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,  
14       356z.13 ~~356z.11~~, 356z.14, 356z.15, 364.01, 367.2, 367.2-5,  
15       367i, 368a, 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403,  
16       403A, 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of  
17       subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII,  
18       XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois  
19       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

1 Plan Act or the Voluntary Health Services Plans Act;

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

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

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

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

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

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

1           (A) certification by an independent actuary of the  
2           adequacy of the reserves of the Health Maintenance  
3           Organization sought to be acquired;

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

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

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

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

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

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

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

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

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



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

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

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

25 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;  
26 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.

1 8-21-08; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; revised  
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3 (Text of Section after amendment by P.A. 95-958)

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

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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.

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3 Small Employer Rating, Renewability and Portability Health  
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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:

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10 respect to, the refund or additional premium are set forth  
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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  
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24 made or additional premium to be paid pursuant to this  
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26 the group or enrollment unit may agree that the profitable

1 or unprofitable experience may be calculated taking into  
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5 statement in the evidence of coverage issued to each enrollee  
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11 unit and the resulting refund to the group or enrollment unit  
12 or (2) the Health Maintenance Organization's unprofitable  
13 experience with respect to the group or enrollment unit and the  
14 resulting additional premium to be paid by the group or  
15 enrollment unit.

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

20 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;  
21 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.  
22 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,  
23 eff. 12-12-08; revised 12-15-08.)

24 Section 95. No acceleration or delay. Where this Act makes  
25 changes in a statute that is represented in this Act by text

1 that is not yet or no longer in effect (for example, a Section  
2 represented by multiple versions), the use of that text does  
3 not accelerate or delay the taking effect of (i) the changes  
4 made by this Act or (ii) provisions derived from any other  
5 Public Act.

6 Section 99. Effective date. This Act takes effect January  
7 1, 2010.