



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB2516

Introduced 1/12/2010, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.19 new

215 ILCS 125/5-3

215 ILCS 165/10

from Ch. 111 1/2, par. 1411.2

from Ch. 32, par. 604

Amends the Illinois Insurance Code, the Voluntary Health Services Plans Act, and the Voluntary Health Services Plans Act to require coverage for hearing instruments and related services for all individuals when a hearing care professional prescribes a hearing instrument. Provides that an insurer shall provide coverage for up to \$2,500 per hearing aid per insured's hearing impaired ear subject to certain restrictions. Provides that an insurer shall not be required to pay a claim if the insured filed the claim 36 months prior to the date of filing the claim with the insurer and the claim was paid by any insurer. Contains a nonacceleration clause. Effective immediately.

LRB096 16893 RPM 32205 b

1 AN ACT concerning insurance.

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

4 Section 5. The Illinois Insurance Code is amended by adding
5 Section 356z.19 as follows:

6 (215 ILCS 5/356z.19 new)

7 Sec. 356z.19. Coverage for hearing aids for all
8 individuals.

9 (a) As used in this Section:

10 "Hearing care professional" means a person who is a
11 licensed audiologist, licensed physician, or a licensed
12 hearing instrument dispenser.

13 "Hearing instrument" or "hearing aid" means any wearable
14 non-disposable instrument or device designed to aid or
15 compensate for impaired human hearing in cases where functional
16 ability cannot be restored either medically or surgically and
17 any parts, attachments, or accessories for the instrument or
18 device, including an ear mold but excluding batteries and
19 cords.

20 "Related services" means those services necessary to
21 assess, select, and adjust or fit the hearing instrument to
22 ensure optimal performance including but not limited to:
23 audiological exams, replacement ear molds, and repairs to the

1 hearing instrument.

2 (b) An individual or group policy of accident and health
3 insurance or managed care plan that is amended, delivered,
4 issued, or renewed after the effective date of this amendatory
5 Act of the 96th General Assembly must provide coverage for
6 hearing instruments and related services for all individuals
7 when a hearing care professional prescribes a hearing
8 instrument to augment communication.

9 (c) An insurer shall provide coverage, subject to all
10 applicable co-payments, co-insurance, deductibles, and
11 out-of-pocket limits, for up to \$2,500 per hearing aid per
12 insured's hearing impaired ear subject to the following
13 restrictions:

14 (1) for all insured individuals, hearing aids may be
15 replaced up to once every 36 months as prescribed and
16 dispensed by a hearing care professional;

17 (2) for all insured individuals, any hearing aid may be
18 replaced at any time regardless of the above restrictions
19 if there is a significant change in the insured
20 individual's hearing status; such significant change is
21 defined as a change of 10 decibels HL on the
22 three-frequency pure-tone average (500 Hz, 1000 Hz and 2000
23 Hz) on a valid audiogram provided by a hearing care
24 professional; and

25 (3) for all insured individuals, related services,
26 such as audiological exams, ear molds, and hearing aid

1 repairs, shall be covered at all times when prescribed by a
2 hearing care professional.

3 (d) An insurer shall not be required to pay a claim filed
4 by its insured for the payment of the cost of a hearing aid
5 covered by this Section if less than 36 months prior to the
6 date of the claim its insured filed a claim for payment of the
7 cost of the hearing aid and the claim was paid by any insurer.

8 Section 10. The Health Maintenance Organization Act is
9 amended by changing Section 5-3 as follows:

10 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

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

12 Sec. 5-3. Insurance Code provisions.

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

24 (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.

17 (a) Health Maintenance Organizations shall be subject to
18 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
19 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
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, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,
24 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,
25 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of

1 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
2 XIII 1/2, 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 15. The Voluntary Health Services Plans Act is
18 amended by changing Section 10 as follows:

19 (215 ILCS 165/10) (from Ch. 32, par. 604)

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

21 Sec. 10. Application of Insurance Code provisions. Health
22 services plan corporations and all persons interested therein
23 or dealing therewith shall be subject to the provisions of
24 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,

1 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,
2 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,
3 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
4 356z.14, 356z.15 ~~356z.14~~, 356z.19, 364.01, 367.2, 368a, 401,
5 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
6 and (15) of Section 367 of the 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; 95-331, eff. 8-21-07;
15 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
16 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
17 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
18 96-328, eff. 8-11-09; revised 9-25-09.)

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21 services plan corporations and all persons interested therein
22 or dealing therewith shall be subject to the provisions of
23 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
24 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,
25 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,

1 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
2 356z.14, 356z.15, 356z.18, 356z.19, 364.01, 367.2, 368a, 401,
3 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
4 and (15) of Section 367 of the Illinois Insurance Code.

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

11 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
12 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
13 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
14 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
15 96-328, eff. 8-11-09; 96-833, eff. 6-1-10.)

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

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.