



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3188

Introduced 2/9/2010, by Sen. Mike Jacobs

SYNOPSIS AS INTRODUCED:

5 ILCS 375/6.11
55 ILCS 5/5-1069.3
65 ILCS 5/10-4-2.3
105 ILCS 5/10-22.3f
215 ILCS 5/356z.3
215 ILCS 5/356z.3a new
215 ILCS 125/5-3 from Ch. 111 1/2, par. 1411.2
215 ILCS 165/10 from Ch. 32, par. 604

Amends the State Employees Group Insurance Act of 1971, Counties Code, Illinois Municipal Code, School Code, Illinois Insurance Code, Health Maintenance Organization Act, and Voluntary Health Services Plans Act. Provides that when a beneficiary utilizes a participating network hospital or a participating network ambulatory surgery center and services at the network hospital or network ambulatory surgery center are provided by a nonparticipating facility-based physician or provider, the insurer shall ensure that the beneficiary shall incur no greater out-of-pocket liability than had the beneficiary received services from a participating physician or provider for covered services. Sets forth conditions under which an insurer may initiate binding arbitration regarding the reasonableness of the charges of the nonparticipating physician or provider. Provides that the Department of Insurance shall publish a list of approved arbitrators or entities that shall provide binding arbitration. Provides that the nonprevailing party shall pay the arbitrator's fees. Makes other changes. Contains a nonacceleration clause. Effective January 1, 2011.

LRB096 20286 RPM 35897 b

1 AN ACT concerning insurance.

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

4 Section 5. The State Employees Group Insurance Act of 1971
5 is amended by changing Section 6.11 as follows:

6 (5 ILCS 375/6.11)

7 Sec. 6.11. Required health benefits; Illinois Insurance
8 Code requirements. The program of health benefits shall provide
9 the post-mastectomy care benefits required to be covered by a
10 policy of accident and health insurance under Section 356t of
11 the Illinois Insurance Code. The program of health benefits
12 shall provide the coverage required under Sections 356g,
13 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, ~~and~~
15 356z.13, ~~and~~ 356z.14, 356z.15 ~~and 356z.14~~, and 356z.17 ~~356z.15~~
16 of the Illinois Insurance Code and shall be subject to the
17 provisions set forth in Section 356z.3a of the Illinois
18 Insurance Code. The program of health benefits must comply with
19 Section 155.37 of the Illinois Insurance Code.

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

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

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

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

12 (55 ILCS 5/5-1069.3)

13 Sec. 5-1069.3. Required health benefits. If a county,
14 including a home rule county, is a self-insurer for purposes of
15 providing health insurance coverage for its employees, the
16 coverage shall include coverage for the post-mastectomy care
17 benefits required to be covered by a policy of accident and
18 health insurance under Section 356t and the coverage required
19 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,
20 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, ~~and~~
21 356z.13, ~~and~~ 356z.14, and 356z.15 ~~356z.14~~ of the Illinois
22 Insurance Code and shall be subject to the provisions set forth
23 in Section 356z.3a of the Illinois Insurance Code. The
24 requirement that health benefits be covered as provided in this

1 Section is an exclusive power and function of the State and is
2 a denial and limitation under Article VII, Section 6,
3 subsection (h) of the Illinois Constitution. A home rule county
4 to which this Section applies must comply with every provision
5 of this Section.

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

13 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
14 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-958, eff.
15 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; 95-1045,
16 eff. 3-27-09; 95-1049, eff. 1-1-10; 96-139, eff. 1-1-10;
17 96-328, eff. 8-11-09; revised 10-22-09.)

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

20 (65 ILCS 5/10-4-2.3)

21 Sec. 10-4-2.3. Required health benefits. If a
22 municipality, including a home rule municipality, is a
23 self-insurer for purposes of providing health insurance
24 coverage for its employees, the coverage shall include coverage

1 for the post-mastectomy care benefits required to be covered by
2 a policy of accident and health insurance under Section 356t
3 and the coverage required under Sections 356g, 356g.5,
4 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,
5 356z.11, 356z.12, ~~and 356z.13, and 356z.14~~, and 356z.15 ~~356z.14~~
6 of the Illinois Insurance Code and shall be subject to the
7 provisions set forth in Section 356z.3a of the Illinois
8 Insurance Code. The requirement that health benefits be covered
9 as provided in this is an exclusive power and function of the
10 State and is a denial and limitation under Article VII, Section
11 6, subsection (h) of the Illinois Constitution. A home rule
12 municipality to which this Section applies must comply with
13 every provision of this Section.

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

21 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
22 95-520, eff. 8-28-07; 95-876, eff. 8-21-08; 95-958, eff.
23 6-1-09; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; 95-1045,
24 eff. 3-27-09; 95-1049, eff. 1-1-10; 96-139, eff. 1-1-10;
25 96-328, eff. 8-11-09; revised 10-23-09.)

1 Section 20. The School Code is amended by changing Section
2 10-22.3f as follows:

3 (105 ILCS 5/10-22.3f)

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

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

20 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
21 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
22 95-1005, 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
23 1-1-10; 96-139, eff. 1-1-10; 96-328, eff. 8-11-09; revised
24 10-23-09.)

1 Section 25. The Illinois Insurance Code is amended by
2 changing Section 356z.3 and by adding Section 356z.3a as
3 follows:

4 (215 ILCS 5/356z.3)

5 Sec. 356z.3. Disclosure of limited benefit. An insurer that
6 issues, delivers, amends, or renews an individual or group
7 policy of accident and health insurance in this State after the
8 effective date of this amendatory Act of the 92nd General
9 Assembly and arranges, contracts with, or administers
10 contracts with a provider whereby beneficiaries are provided an
11 incentive to use the services of such provider must include the
12 following disclosure on its contracts and evidences of
13 coverage: "WARNING, LIMITED BENEFITS WILL BE PAID WHEN
14 NON-PARTICIPATING PROVIDERS ARE USED. You should be aware that
15 when you elect to utilize the services of a non-participating
16 provider for a covered service in non-emergency situations,
17 benefit payments to such non-participating provider are not
18 based upon the amount billed. The basis of your benefit payment
19 will be determined according to your policy's fee schedule,
20 usual and customary charge (which is determined by comparing
21 charges for similar services adjusted to the geographical area
22 where the services are performed), or other method as defined
23 by the policy. YOU CAN EXPECT TO PAY MORE THAN THE COINSURANCE
24 AMOUNT DEFINED IN THE POLICY AFTER THE PLAN HAS PAID ITS
25 REQUIRED PORTION. Non-participating providers may bill members

1 for any amount up to the billed charge after the plan has paid
2 its portion of the bill, except for emergency services and as
3 provided in Section 356z.3a of this Code. Participating
4 providers have agreed to accept discounted payments for
5 services with no additional billing to the member other than
6 co-insurance and deductible amounts. You may obtain further
7 information about the participating status of professional
8 providers and information on out-of-pocket expenses by calling
9 the toll free telephone number on your identification card."

10 (Source: P.A. 95-331, eff. 8-21-07.)

11 (215 ILCS 5/356z.3a new)

12 Sec. 356z.3a. Nonparticipating physicians and providers.

13 (a) When a beneficiary utilizes a participating network
14 hospital or a participating network ambulatory surgery center
15 and services at the network hospital or network ambulatory
16 surgery center are provided by a nonparticipating
17 facility-based physician or provider, the insurer shall ensure
18 that the beneficiary shall incur no greater out-of-pocket
19 liability than had the beneficiary received services from a
20 participating physician or provider for covered services. This
21 Section does not apply to a beneficiary who willfully chooses
22 to access a nonparticipating facility-based physician or
23 provider for health care services available through the
24 insurer's network of participating physicians and providers.

25 (b) An insurer may initiate binding arbitration with the

1 nonparticipating physician or provider regarding the
2 reasonableness of the charges of the nonparticipating
3 physician or provider submitted to the insurer by filing a
4 request with the Department of Insurance. In order for an
5 insurer to initiate binding arbitration, the physician's or
6 provider's charge must be greater than either (1) what the
7 insurer would have paid to a participating network physician or
8 provider in the same specialty and same geographical area where
9 the services were performed or (2) 125% of Medicare coverage
10 for the same services.

11 (c) The Department of Insurance shall publish a list of
12 approved arbitrators or entities that shall provide binding
13 arbitration. Binding arbitration shall provide for resolution
14 within 30 days after the insurer has filed the request with the
15 Department of Insurance. The nonprevailing party shall pay the
16 arbitrator's fees.

17 (d) The nonparticipating facility-based physician or
18 provider shall not bill the beneficiary except for applicable
19 deductible, copayment, or coinsurance amounts that would apply
20 if the beneficiary utilized a participating physician or
21 provider for covered services. If the physician or other
22 provider bills the member in violation of this Section, then
23 the Department of Insurance shall refer the matter to the
24 Office of the Attorney General for civil action and injunctive
25 relief against the physician or other provider.

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, 356g.5-1, 356m, 356v, 356w,
10 356x, 356y, 356z.2, 356z.3a, 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, 356g.5-1, 356m, 356v, 356w,
13 356x, 356y, 356z.2, 356z.3a, 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 Voluntary Health Services Plans Act is
10 amended by changing Section 10 as follows:

11 (215 ILCS 165/10) (from Ch. 32, par. 604)

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

13 Sec. 10. Application of Insurance Code provisions. Health
14 services plan corporations and all persons interested therein
15 or dealing therewith shall be subject to the provisions of
16 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
17 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,
18 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.3a, 356z.4,
19 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
20 356z.13, 356z.14, 356z.15 ~~356z.14~~, 364.01, 367.2, 368a, 401,
21 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
22 and (15) of Section 367 of the Illinois Insurance Code.

23 Rulemaking authority to implement Public Act 95-1045 ~~this~~
24 ~~amendatory Act of the 95th General Assembly~~, if any, is

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

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

11 (Text of Section after 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, 356g, 356g.5, 356g.5-1, 356r, 356t,
17 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.3a, 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.18, 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, if
23 any, is conditioned on the rules being adopted in accordance
24 with all provisions of the Illinois Administrative Procedure
25 Act and all rules and procedures of the Joint Committee on

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

3 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
4 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
5 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
6 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
7 96-328, eff. 8-11-09; 96-833, eff. 6-1-10.)

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

15 Section 99. Effective date. This Act takes effect January
16 1, 2011.