



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB1530

Introduced 2/15/2011, by Rep. Lou Lang

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.14	
215 ILCS 5/356z.15	
215 ILCS 5/370c	from Ch. 73, par. 982c
215 ILCS 5/370c.1 new	
215 ILCS 125/5-3	from Ch. 111 1/2, par. 1411.2

Amends the Illinois Insurance Code in the provisions concerning autism spectrum disorders, habilitative services for children, and mental and emotional disorders to provide that certain coverage provided under those respective provisions through a group or individual policy of accident and health insurance or managed care plan shall be subject to the parity requirements of the provision concerning mental health parity. Sets forth a provision concerning mental health parity. Provides that every insurer that amends, delivers, issues, or renews a group policy of accident and health insurance in the State providing coverage for hospital or medical treatment and for the treatment of mental, emotional, nervous, or substance use disorders or conditions shall ensure adherence to the provisions concerning financial requirements and treatment limitations. Sets forth provisions concerning aggregate lifetime and annual limits. Amends the Health Maintenance Organization Act to comport with the provision of the Illinois Insurance Code concerning mental health parity. Makes other changes. Effective immediately.

LRB097 09356 RPM 49491 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
5 changing Sections 356z.14, 356z.15, and 370c and by adding
6 Section 370c.1 as follows:

7 (215 ILCS 5/356z.14)

8 Sec. 356z.14. Autism spectrum disorders.

9 (a) A group or individual policy of accident and health
10 insurance or managed care plan amended, delivered, issued, or
11 renewed after the effective date of this amendatory Act of the
12 95th General Assembly must provide individuals under 21 years
13 of age coverage for the diagnosis of autism spectrum disorders
14 and for the treatment of autism spectrum disorders to the
15 extent that the diagnosis and treatment of autism spectrum
16 disorders are not already covered by the policy of accident and
17 health insurance or managed care plan.

18 (b) Coverage provided under this Section through a group or
19 individual policy of accident and health insurance or managed
20 care plan shall be subject to the parity requirements of
21 Section 370c.1 of this Code; provided, however, that a group or
22 individual policy of accident and health insurance or managed
23 care plan amended, delivered, issued, or renewed on or after

1 the effective date of this amendatory Act of the 97th General
2 Assembly must provide a minimum ~~maximum~~ benefit of \$36,000 per
3 year, and ~~but~~ shall not be subject to any limits on the number
4 of visits to a service provider. After December 30, 2009, the
5 Director of ~~the Division of~~ Insurance shall, on an annual
6 basis, adjust the minimum ~~maximum~~ benefit for inflation using
7 the Medical Care Component of the United States Department of
8 Labor Consumer Price Index for All Urban Consumers. Payments
9 made by an insurer on behalf of a covered individual for any
10 care, treatment, intervention, service, or item, the provision
11 of which was for the treatment of a health condition not
12 diagnosed as an autism spectrum disorder, shall not be applied
13 toward any minimum ~~maximum~~ benefit established under this
14 subsection.

15 (c) (Blank). ~~Coverage under this Section shall be subject~~
16 ~~to copayment, deductible, and coinsurance provisions of a~~
17 ~~policy of accident and health insurance or managed care plan to~~
18 ~~the extent that other medical services covered by the policy of~~
19 ~~accident and health insurance or managed care plan are subject~~
20 ~~to these provisions.~~

21 (d) This Section shall not be construed as limiting
22 benefits that are otherwise available to an individual under a
23 policy of accident and health insurance or managed care plan
24 ~~and benefits provided under this Section may not be subject to~~
25 ~~dollar limits, deductibles, copayments, or coinsurance~~
26 ~~provisions that are less favorable to the insured than the~~

1 ~~dollar limits, deductibles, or coinsurance provisions that~~
2 ~~apply to physical illness generally.~~

3 (e) An insurer may not deny or refuse to provide otherwise
4 covered services, or refuse to renew, refuse to reissue, or
5 otherwise terminate or restrict coverage under an individual
6 contract to provide services to an individual because the
7 individual or their dependent is diagnosed with an autism
8 spectrum disorder or due to the individual utilizing benefits
9 in this Section.

10 (f) Upon request of the reimbursing insurer, a provider of
11 treatment for autism spectrum disorders shall furnish medical
12 records, clinical notes, or other necessary data that
13 substantiate that initial or continued medical treatment is
14 medically necessary and is resulting in improved clinical
15 status. When treatment is anticipated to require continued
16 services to achieve demonstrable progress, the insurer may
17 request a treatment plan consisting of diagnosis, proposed
18 treatment by type, frequency, anticipated duration of
19 treatment, the anticipated outcomes stated as goals, and the
20 frequency by which the treatment plan will be updated.

21 (g) When making a determination of medical necessity for a
22 treatment modality for autism spectrum disorders, an insurer
23 must make the determination in a manner that is consistent with
24 the manner used to make that determination with respect to
25 other diseases or illnesses covered under the policy, including
26 an appeals process. During the appeals process, any challenge

1 to medical necessity must be viewed as reasonable only if the
2 review includes a physician with expertise in the most current
3 and effective treatment modalities for autism spectrum
4 disorders.

5 (h) Coverage for medically necessary early intervention
6 services must be delivered by certified early intervention
7 specialists, as defined in 89 Ill. Admin. Code 500 and any
8 subsequent amendments thereto.

9 (i) As used in this Section:

10 "Autism spectrum disorders" means pervasive developmental
11 disorders as defined in the most recent edition of the
12 Diagnostic and Statistical Manual of Mental Disorders,
13 including autism, Asperger's disorder, and pervasive
14 developmental disorder not otherwise specified.

15 "Diagnosis of autism spectrum disorders" means one or more
16 tests, evaluations, or assessments to diagnose whether an
17 individual has autism spectrum disorder that is prescribed,
18 performed, or ordered by (A) a physician licensed to practice
19 medicine in all its branches or (B) a licensed clinical
20 psychologist with expertise in diagnosing autism spectrum
21 disorders.

22 "Medically necessary" means any care, treatment,
23 intervention, service or item which will or is reasonably
24 expected to do any of the following: (i) prevent the onset of
25 an illness, condition, injury, disease or disability; (ii)
26 reduce or ameliorate the physical, mental or developmental

1 effects of an illness, condition, injury, disease or
2 disability; or (iii) assist to achieve or maintain maximum
3 functional activity in performing daily activities.

4 "Treatment for autism spectrum disorders" shall include
5 the following care prescribed, provided, or ordered for an
6 individual diagnosed with an autism spectrum disorder by (A) a
7 physician licensed to practice medicine in all its branches or
8 (B) a certified, registered, or licensed health care
9 professional with expertise in treating effects of autism
10 spectrum disorders when the care is determined to be medically
11 necessary and ordered by a physician licensed to practice
12 medicine in all its branches:

13 (1) Psychiatric care, meaning direct, consultative, or
14 diagnostic services provided by a licensed psychiatrist.

15 (2) Psychological care, meaning direct or consultative
16 services provided by a licensed psychologist.

17 (3) Habilitative or rehabilitative care, meaning
18 professional, counseling, and guidance services and
19 treatment programs, including applied behavior analysis,
20 that are intended to develop, maintain, and restore the
21 functioning of an individual. As used in this subsection
22 (i), "applied behavior analysis" means the design,
23 implementation, and evaluation of environmental
24 modifications using behavioral stimuli and consequences to
25 produce socially significant improvement in human
26 behavior, including the use of direct observation,

1 measurement, and functional analysis of the relations
2 between environment and behavior.

3 (4) Therapeutic care, including behavioral, speech,
4 occupational, and physical therapies that provide
5 treatment in the following areas: (i) self care and
6 feeding, (ii) pragmatic, receptive, and expressive
7 language, (iii) cognitive functioning, (iv) applied
8 behavior analysis, intervention, and modification, (v)
9 motor planning, and (vi) sensory processing.

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

17 (Source: P.A. 95-1005, eff. 12-12-08; 96-1000, eff. 7-2-10.)

18 (215 ILCS 5/356z.15)

19 Sec. 356z.15. Habilitative services for children.

20 (a) As used in this Section, "habilitative services" means
21 occupational therapy, physical therapy, speech therapy, and
22 other services prescribed by the insured's treating physician
23 pursuant to a treatment plan to enhance the ability of a child
24 to function with a congenital, genetic, or early acquired
25 disorder. A congenital or genetic disorder includes, but is not

1 limited to, hereditary disorders. An early acquired disorder
2 refers to a disorder resulting from illness, trauma, injury, or
3 some other event or condition suffered by a child prior to that
4 child developing functional life skills such as, but not
5 limited to, walking, talking, or self-help skills. Congenital,
6 genetic, and early acquired disorders may include, but are not
7 limited to, autism or an autism spectrum disorder, cerebral
8 palsy, and other disorders resulting from early childhood
9 illness, trauma, or injury.

10 (b) A group or individual policy of accident and health
11 insurance or managed care plan amended, delivered, issued, or
12 renewed after the effective date of this amendatory Act of the
13 95th General Assembly must provide coverage for habilitative
14 services for children under 19 years of age with a congenital,
15 genetic, or early acquired disorder so long as all of the
16 following conditions are met:

17 (1) A physician licensed to practice medicine in all
18 its branches has diagnosed the child's congenital,
19 genetic, or early acquired disorder.

20 (2) The treatment is administered by a licensed
21 speech-language pathologist, licensed audiologist,
22 licensed occupational therapist, licensed physical
23 therapist, licensed physician, licensed nurse, licensed
24 optometrist, licensed nutritionist, licensed social
25 worker, or licensed psychologist upon the referral of a
26 physician licensed to practice medicine in all its

1 branches.

2 (3) The initial or continued treatment must be
3 medically necessary and therapeutic and not experimental
4 or investigational.

5 (c) The coverage required by this Section shall be subject
6 to other general exclusions and limitations of the policy,
7 including coordination of benefits, participating provider
8 requirements, restrictions on services provided by family or
9 household members, utilization review of health care services,
10 including review of medical necessity, case management,
11 experimental, and investigational treatments, and other
12 managed care provisions.

13 (d) Coverage under this Section does not apply to those
14 services that are solely educational in nature or otherwise
15 paid under State or federal law for purely educational
16 services. Nothing in this subsection (d) relieves an insurer or
17 similar third party from an otherwise valid obligation to
18 provide or to pay for services provided to a child with a
19 disability.

20 (e) Coverage under this Section for children under age 19
21 shall not apply to treatment of mental or emotional disorders
22 or illnesses as covered under Section 370 of this Code as well
23 as any other benefit based upon a specific diagnosis that may
24 be otherwise required by law.

25 (f) The provisions of this Section do not apply to
26 short-term travel, accident-only, limited, or specific disease

1 policies.

2 (g) Any denial of care for habilitative services shall be
3 subject to appeal and external independent review procedures as
4 provided by Section 45 of the Managed Care Reform and Patient
5 Rights Act.

6 (h) Upon request of the reimbursing insurer, the provider
7 under whose supervision the habilitative services are being
8 provided shall furnish medical records, clinical notes, or
9 other necessary data to allow the insurer to substantiate that
10 initial or continued medical treatment is medically necessary
11 and that the patient's condition is clinically improving. When
12 the treating provider anticipates that continued treatment is
13 or will be required to permit the patient to achieve
14 demonstrable progress, the insurer may request that the
15 provider furnish a treatment plan consisting of diagnosis,
16 proposed treatment by type, frequency, anticipated duration of
17 treatment, the anticipated goals of treatment, and how
18 frequently the treatment plan will be updated.

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

26 (j) Coverage provided under this Section through a group or

1 individual policy of accident and health insurance or managed
2 care plan for the treatment of mental, emotional, nervous, or
3 substance use disorders or conditions shall be subject to the
4 parity requirements of Section 370c.1 of this Code.

5 (Source: P.A. 95-1049, eff. 1-1-10; 96-833, eff. 6-1-10;
6 96-1000, eff. 7-2-10.)

7 (215 ILCS 5/370c) (from Ch. 73, par. 982c)

8 Sec. 370c. Mental and emotional disorders.

9 (a) (1) On and after the effective date of this amendatory
10 Act of the 97th General Assembly Section, every insurer which
11 amends, delivers, issues, or renews ~~delivers, issues for~~
12 ~~delivery or renews or modifies~~ group accident and health A&H
13 policies providing coverage for hospital or medical treatment
14 or services for illness on an expense-incurred basis shall
15 offer to the applicant or group policyholder subject to the
16 insurer's ~~insurers~~ standards of insurability, coverage for
17 reasonable and necessary treatment and services for mental,
18 emotional or nervous disorders or conditions, other than
19 serious mental illnesses as defined in item (2) of subsection
20 (b), consistent with the parity requirements of Section 370c.1
21 of this Code ~~up to the limits provided in the policy for other~~
22 ~~disorders or conditions, except (i) the insured may be required~~
23 ~~to pay up to 50% of expenses incurred as a result of the~~
24 ~~treatment or services, and (ii) the annual benefit limit may be~~
25 ~~limited to the lesser of \$10,000 or 25% of the lifetime policy~~

1 ~~limit.~~

2 (2) Each insured that is covered for mental, emotional, ~~or~~
3 nervous, or substance use disorders or conditions shall be free
4 to select the physician licensed to practice medicine in all
5 its branches, licensed clinical psychologist, licensed
6 clinical social worker, licensed clinical professional
7 counselor, ~~or~~ licensed marriage and family therapist, licensed
8 speech therapist, or other individual licensed pursuant to the
9 Illinois Alcoholism and Other Drug Dependency Act of his choice
10 to treat such disorders, and the insurer shall pay the covered
11 charges of such physician licensed to practice medicine in all
12 its branches, licensed clinical psychologist, licensed
13 clinical social worker, licensed clinical professional
14 counselor, ~~or~~ licensed marriage and family therapist, licensed
15 speech therapist, or other individual licensed pursuant to the
16 Illinois Alcoholism and Other Drug Dependency Act up to the
17 limits of coverage, provided (i) the disorder or condition
18 treated is covered by the policy, and (ii) the physician,
19 licensed psychologist, licensed clinical social worker,
20 licensed clinical professional counselor, ~~or~~ licensed marriage
21 and family therapist, licensed speech therapist, or other
22 individual licensed pursuant to the Illinois Alcoholism and
23 Other Drug Dependency Act is authorized to provide said
24 services under the statutes of this State and in accordance
25 with accepted principles of his profession.

26 (3) Insofar as this Section applies solely to licensed

1 clinical social workers, licensed clinical professional
2 counselors, and licensed marriage and family therapists, those
3 persons who may provide services to individuals shall do so
4 after the licensed clinical social worker, licensed clinical
5 professional counselor, or licensed marriage and family
6 therapist has informed the patient of the desirability of the
7 patient conferring with the patient's primary care physician
8 and the licensed clinical social worker, licensed clinical
9 professional counselor, or licensed marriage and family
10 therapist has provided written notification to the patient's
11 primary care physician, if any, that services are being
12 provided to the patient. That notification may, however, be
13 waived by the patient on a written form. Those forms shall be
14 retained by the licensed clinical social worker, licensed
15 clinical professional counselor, or licensed marriage and
16 family therapist for a period of not less than 5 years.

17 (b) (1) An insurer that provides coverage for hospital or
18 medical expenses under a group policy of accident and health
19 insurance or health care plan amended, delivered, issued, or
20 renewed after the effective date of this amendatory Act of the
21 97th 92nd General Assembly shall provide coverage under the
22 policy for treatment of serious mental illness consistent with
23 the parity requirements of Section 370c.1 of this Code ~~under~~
24 ~~the same terms and conditions as coverage for hospital or~~
25 ~~medical expenses related to other illnesses and diseases. The~~
26 ~~coverage required under this Section must provide for same~~

1 ~~durational limits, amount limits, deductibles, and~~
2 ~~co-insurance requirements for serious mental illness as are~~
3 ~~provided for other illnesses and diseases.~~ This subsection does
4 not apply to any group policy of accident and health insurance
5 or health care plan for any plan year of a small employer as
6 defined in Section 5 of the Illinois Health Insurance
7 Portability and Accountability Act ~~coverage provided to~~
8 ~~employees by employers who have 50 or fewer employees.~~

9 (2) "Serious mental illness" means the following
10 psychiatric illnesses as defined in the most current edition of
11 the Diagnostic and Statistical Manual (DSM) published by the
12 American Psychiatric Association:

13 (A) schizophrenia;

14 (B) paranoid and other psychotic disorders;

15 (C) bipolar disorders (hypomanic, manic, depressive,
16 and mixed);

17 (D) major depressive disorders (single episode or
18 recurrent);

19 (E) schizoaffective disorders (bipolar or depressive);

20 (F) pervasive developmental disorders;

21 (G) obsessive-compulsive disorders;

22 (H) depression in childhood and adolescence;

23 (I) panic disorder;

24 (J) post-traumatic stress disorders (acute, chronic,
25 or with delayed onset); ~~and~~

26 (K) anorexia nervosa and bulimia nervosa; and.

1 (L) substance use disorders, with the exception of
2 caffeine and nicotine-related substance use disorders.

3 (3) Consistent with the parity requirements of Section
4 370c.1 of this Code, ~~Upon request of~~ the reimbursing insurer, a
5 provider of treatment of serious mental illness shall furnish
6 medical records or other necessary data that substantiate that
7 initial or continued treatment is at all times medically
8 necessary. An insurer shall provide a mechanism for the timely
9 review by a provider holding the same license and practicing in
10 the same specialty as the patient's provider, who is
11 unaffiliated with the insurer, jointly selected by the patient
12 (or the patient's next of kin or legal representative if the
13 patient is unable to act for himself or herself), the patient's
14 provider, and the insurer in the event of a dispute between the
15 insurer and patient's provider regarding the medical necessity
16 of a treatment proposed by a patient's provider. If the
17 reviewing provider determines the treatment to be medically
18 necessary, the insurer shall provide reimbursement for the
19 treatment. Future contractual or employment actions by the
20 insurer regarding the patient's provider may not be based on
21 the provider's participation in this procedure. Nothing
22 prevents the insured from agreeing in writing to continue
23 treatment at his or her expense. When making a determination of
24 the medical necessity for a treatment modality for serious
25 mental illness, an insurer must make the determination in a
26 manner that is consistent with the manner used to make that

1 determination with respect to other diseases or illnesses
2 covered under the policy, including an appeals process.

3 (4) A group health benefit plan amended, delivered, issued,
4 or renewed on or after the effective date of this amendatory
5 Act of the 97th General Assembly:

6 (A) shall provide coverage based upon medical
7 necessity for the ~~following~~ treatment of mental illness
8 consistent with the parity requirements of Section 370c.1
9 of this Code; provided, however, that in each calendar year
10 coverage shall not be less than the following:

11 (i) 45 days of inpatient treatment; and

12 (ii) beginning on June 26, 2006 (the effective date
13 of Public Act 94-921), 60 visits for outpatient
14 treatment including group and individual outpatient
15 treatment; and

16 (iii) for plans or policies delivered, issued for
17 delivery, renewed, or modified after January 1, 2007
18 (the effective date of Public Act 94-906), 20
19 additional outpatient visits for speech therapy for
20 treatment of pervasive developmental disorders that
21 will be in addition to speech therapy provided pursuant
22 to item (ii) of this subparagraph (A); and

23 (B) may not include a lifetime limit on the number of
24 days of inpatient treatment or the number of outpatient
25 visits covered under the plan. ~~and~~

26 (C) (Blank). ~~shall include the same amount limits,~~

1 ~~deductibles, copayments, and coinsurance factors for~~
2 ~~serious mental illness as for physical illness.~~

3 (5) An issuer of a group health benefit plan may not count
4 toward the number of outpatient visits required to be covered
5 under this Section an outpatient visit for the purpose of
6 medication management and shall cover the outpatient visits
7 under the same terms and conditions as it covers outpatient
8 visits for the treatment of physical illness.

9 (6) An issuer of a group health benefit plan may provide or
10 offer coverage required under this Section through a managed
11 care plan.

12 (7) (Blank). ~~This Section shall not be interpreted to~~
13 ~~require a group health benefit plan to provide coverage for~~
14 ~~treatment of:~~

15 ~~(A) an addiction to a controlled substance or cannabis~~
16 ~~that is used in violation of law; or~~

17 ~~(B) mental illness resulting from the use of a~~
18 ~~controlled substance or cannabis in violation of law.~~

19 (8) (Blank).

20 (9) With respect to substance use disorders, coverage for
21 inpatient treatment shall include coverage for treatment in a
22 residential treatment center licensed by the Department of
23 Human Services, Division of Alcoholism and Substance Abuse.

24 (c) This Section shall not be interpreted to require
25 coverage for speech therapy or other habilitative services for
26 those individuals covered under Section 356z.15 of this Code.

1 (Source: P.A. 95-331, eff. 8-21-07; 95-972, eff. 9-22-08;
2 95-973, eff. 1-1-09; 95-1049, eff. 1-1-10; 96-328, eff.
3 8-11-09; 96-1000, eff. 7-2-10.)

4 (215 ILCS 5/370c.1 new)

5 Sec. 370c.1. Mental health parity.

6 (a) On and after the effective date of this amendatory Act
7 of the 97th General Assembly, every insurer that amends,
8 delivers, issues, or renews a group policy of accident and
9 health insurance in this State providing coverage for hospital
10 or medical treatment and for the treatment of mental,
11 emotional, nervous, or substance use disorders or conditions
12 shall ensure that:

13 (1) the financial requirements applicable to such
14 mental, emotional, nervous, or substance use disorder or
15 condition benefits are no more restrictive than the
16 predominant financial requirements applied to
17 substantially all hospital and medical benefits covered by
18 the policy and that there are no separate cost-sharing
19 requirements that are applicable only with respect to
20 mental, emotional, nervous, or substance use disorder or
21 condition benefits; and

22 (2) the treatment limitations applicable to such
23 mental, emotional, nervous, or substance use disorder or
24 condition benefits are no more restrictive than the
25 predominant treatment limitations applied to substantially

1 all hospital and medical benefits covered by the policy and
2 that there are no separate treatment limitations that are
3 applicable only with respect to mental, emotional,
4 nervous, or substance use disorder or condition benefits.

5 (b) The following provisions shall apply concerning
6 aggregate lifetime limits:

7 (1) In the case of a group policy of accident and
8 health insurance amended, delivered, issued, or renewed in
9 this State on or after the effective date of this
10 amendatory Act of the 97th General Assembly that provides
11 coverage for hospital or medical treatment and for the
12 treatment of mental, emotional, nervous, or substance use
13 disorders or conditions the following provisions shall
14 apply:

15 (A) if the policy does not include an aggregate
16 lifetime limit on substantially all hospital and
17 medical benefits, then the policy may not impose any
18 aggregate lifetime limit on mental, emotional,
19 nervous, or substance use disorder or condition
20 benefits; or

21 (B) if the policy includes an aggregate lifetime
22 limit on substantially all hospital and medical
23 benefits (in this subsection referred to as the
24 "applicable lifetime limit"), then the policy shall
25 either:

26 (i) apply the applicable lifetime limit both

1 to the hospital and medical benefits to which it
2 otherwise would apply and to mental, emotional,
3 nervous, or substance use disorder or condition
4 benefits and not distinguish in the application of
5 the limit between the hospital and medical
6 benefits and mental, emotional, nervous, or
7 substance use disorder or condition benefits; or

8 (ii) not include any aggregate lifetime limit
9 on mental, emotional, nervous, or substance use
10 disorder or condition benefits that is less than
11 the applicable lifetime limit.

12 (2) In the case of a policy that is not described in
13 paragraph (1) of subsection (b) of this Section and that
14 includes no or different aggregate lifetime limits on
15 different categories of hospital and medical benefits, the
16 Director shall establish rules under which subparagraph
17 (B) of paragraph (1) of subsection (b) of this Section is
18 applied to such policy with respect to mental, emotional,
19 nervous, or substance use disorder or condition benefits by
20 substituting for the applicable lifetime limit an average
21 aggregate lifetime limit that is computed taking into
22 account the weighted average of the aggregate lifetime
23 limits applicable to such categories.

24 (c) The following provisions shall apply concerning annual
25 limits:

26 (1) In the case of a group policy of accident and

1 health insurance amended, delivered, issued, or renewed in
2 this State on or after the effective date of this
3 amendatory Act of the 97th General Assembly that provides
4 coverage for hospital or medical treatment and for the
5 treatment of mental, emotional, nervous, or substance use
6 disorders or conditions the following provisions shall
7 apply:

8 (A) if the policy does not include an annual limit
9 on substantially all hospital and medical benefits,
10 then the policy may not impose any annual limits on
11 mental, emotional, nervous, or substance use disorder
12 or condition benefits; or

13 (B) if the policy includes an annual limit on
14 substantially all hospital and medical benefits (in
15 this subsection referred to as the "applicable annual
16 limit"), then the policy shall either:

17 (i) apply the applicable annual limit both to
18 the hospital and medical benefits to which it
19 otherwise would apply and to mental, emotional,
20 nervous, or substance use disorder or condition
21 benefits and not distinguish in the application of
22 the limit between the hospital and medical
23 benefits and mental, emotional, nervous, or
24 substance use disorder or condition benefits; or

25 (ii) not include any annual limit on mental,
26 emotional, nervous, or substance use disorder or

1 condition benefits that is less than the
2 applicable annual limit.

3 (2) In the case of a policy that is not described in
4 paragraph (1) of subsection (c) of this Section and that
5 includes no or different annual limits on different
6 categories of hospital and medical benefits, the Director
7 shall establish rules under which subparagraph (B) of
8 paragraph (1) of subsection (c) of this Section is applied
9 to such policy with respect to mental, emotional, nervous,
10 or substance use disorder or condition benefits by
11 substituting for the applicable annual limit an average
12 annual limit that is computed taking into account the
13 weighted average of the annual limits applicable to such
14 categories.

15 (d) As used in this Section:

16 "Financial requirement" includes deductibles, copayments,
17 coinsurance, and out-of-pocket maximums, but does not include
18 an aggregate lifetime limit or an annual limit subject to
19 subsections (b) and (c).

20 "Treatment limitation" includes limits on benefits based
21 on the frequency of treatment, number of visits, days of
22 coverage, days in a waiting period, or other similar limits on
23 the scope or duration of treatment. "Treatment limitation"
24 includes both quantitative treatment limitations, which are
25 expressed numerically (such as 50 outpatient visits per year),
26 and nonquantitative treatment limitations, which otherwise

1 limit the scope or duration of treatment. A permanent exclusion
2 of all benefits for a particular condition or disorder shall
3 not be considered a treatment limitation.

4 Section 10. 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 Sec. 5-3. Insurance Code provisions.

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

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

23 (1) a corporation authorized under the Dental Service
24 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; 96-1000, eff. 7-2-10.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.