



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

HB5658

Introduced 2/16/2012, by Rep. Robyn Gabel

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.16	
215 ILCS 5/356z.22 new	
215 ILCS 125/5-3	from Ch. 111 1/2, par. 1411.2
215 ILCS 130/4003	from Ch. 73, par. 1504-3
215 ILCS 165/10	from Ch. 32, par. 604

Amends the Illinois Insurance Code. Provides that the provision concerning tobacco use cessation programs does not apply to short-term travel, disability income, long-term care, accident only, or limited or specified disease policies. Creates the Tobacco Dependence Coverage Law. Provides that group and individual accident and health policies and managed care plans issued to a resident of the State must provide coverage or reimbursement of up to \$500 annually for a tobacco use cessation program for insureds who are 18 years of age or older. Provides that notice of the availability of coverage shall be delivered to the insured. Provides that an insurer may not deny eligibility or continued eligibility to enroll or renew coverage solely for the purpose of avoiding the requirements of the Law. Provides that an insurer may not penalize or reduce or limit the reimbursement of an attending provider or provide incentives to induce the provider to provide care that is inconsistent with the Law. Amends the Health Maintenance Organization Act, Limited Health Service Organization Act, and Voluntary Health Services Plans Act to provide that those Acts shall be subject to the provisions of the Illinois Insurance Code concerning tobacco use cessation programs.

LRB097 17546 RPM 62751 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 Section 356z.16 and adding Section 356z.22 as follows:

6 (215 ILCS 5/356z.16)

7 Sec. 356z.16. Applicability of mandated benefits to
8 supplemental policies. Unless specified otherwise, the
9 following Sections of the Illinois Insurance Code do not apply
10 to short-term travel, disability income, long-term care,
11 accident only, or limited or specified disease policies: 356b,
12 356c, 356d, 356g, 356k, 356m, 356n, 356p, 356q, 356r, 356t,
13 356u, 356w, 356x, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6,
14 356z.8, 356z.12, 356z.19, 356z.21 ~~356z.19~~, 356z.22, 364.01,
15 367.2-5, and 367e.

16 (Source: P.A. 96-180, eff. 1-1-10; 96-1000, eff. 7-2-10;
17 96-1034, eff. 1-1-11; 97-91, eff. 1-1-12; 97-282, eff. 8-9-11;
18 97-592, eff. 1-1-12; revised 10-13-11.)

19 (215 ILCS 5/356z.22 new)

20 Sec. 356z.22. Tobacco use cessation programs.

21 (a) This Section may be referred to as the Tobacco
22 Dependence Coverage Law.

1 (b) Tobacco use is the number one cause of preventable
2 disease and death in Illinois, costing \$4.1 billion annually in
3 direct health care costs and an additional \$4.35 billion in
4 lost productivity. In Illinois, the smoking rates are highest
5 among African Americans (25.8%). Smoking rates among lesbian,
6 gay, and bisexual adults range from 25% to 44%. The U.S. Public
7 Health Service Clinical Practice Guideline 2008 Update found
8 that tobacco dependence treatments are both clinically
9 effective and highly cost effective. A study in the Journal of
10 Preventive Medicine concluded that comprehensive smoking
11 cessation treatment is one of the 3 most important and cost
12 effective preventive services that can be provided in medical
13 practice. Greater efforts are needed to achieve more of this
14 potential value by increasing current low levels of
15 performance.

16 (c) In this Section, "tobacco use cessation program" means
17 a program recommended by a physician that follows
18 evidence-based treatment, such as is outlined in the United
19 States Public Health Service guidelines for tobacco use
20 cessation. "Tobacco use cessation program" includes education
21 and medical treatment components designed to assist a person in
22 ceasing the use of tobacco products. "Tobacco use cessation
23 program" includes education and counseling by physicians or
24 associated medical personnel and all FDA approved medications
25 for the treatment of tobacco dependence irrespective of whether
26 they are available only over the counter, only by prescription,

1 or both over the counter and by prescription.

2 (d) A group or individual policy of accident and health
3 insurance or managed care plan amended, delivered, issued, or
4 renewed after the effective date of this amendatory Act of the
5 97th General Assembly to a resident of this State must provide
6 coverage or reimbursement of up to \$500 annually for a tobacco
7 use cessation program for a person enrolled in the plan who is
8 18 years of age or older.

9 (e) Written notice of the availability of coverage under
10 this Section shall be delivered to the insured upon enrollment
11 and annually thereafter. An insurer may not deny to an insured
12 eligibility or continued eligibility to enroll or to renew
13 coverage under the terms of the plan solely for the purpose of
14 avoiding the requirements of this Section. An insurer may not
15 penalize or reduce or limit the reimbursement of an attending
16 provider or provide incentives, monetary or otherwise, to an
17 attending provider to induce the provider to provide care to an
18 insured in a manner inconsistent with this Section.

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

21 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

22 Sec. 5-3. Insurance Code provisions.

23 (a) Health Maintenance Organizations shall be subject to
24 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,

1 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
2 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 356g.5-1,
3 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6,
4 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14,
5 356z.15, 356z.17, 356z.18, 356z.19, 356z.21 ~~356z.19~~, 356z.22,
6 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e,
7 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412,
8 444, and 444.1, paragraph (c) of subsection (2) of Section 367,
9 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV,
10 and XXVI of the Illinois Insurance Code.

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

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

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

19 (3) a corporation organized under the laws of another
20 state, 30% or more of the enrollees of which are residents
21 of this State, except a corporation subject to
22 substantially the same requirements in its state of
23 organization as is a "domestic company" under Article VIII
24 1/2 of the Illinois Insurance Code.

25 (c) In considering the merger, consolidation, or other
26 acquisition of control of a Health Maintenance Organization

1 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

2 (1) the Director shall give primary consideration to
3 the continuation of benefits to enrollees and the financial
4 conditions of the acquired Health Maintenance Organization
5 after the merger, consolidation, or other acquisition of
6 control takes effect;

7 (2) (i) the criteria specified in subsection (1) (b) of
8 Section 131.8 of the Illinois Insurance Code shall not
9 apply and (ii) the Director, in making his determination
10 with respect to the merger, consolidation, or other
11 acquisition of control, need not take into account the
12 effect on competition of the merger, consolidation, or
13 other acquisition of control;

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

16 (A) certification by an independent actuary of the
17 adequacy of the reserves of the Health Maintenance
18 Organization sought to be acquired;

19 (B) pro forma financial statements reflecting the
20 combined balance sheets of the acquiring company and
21 the Health Maintenance Organization sought to be
22 acquired as of the end of the preceding year and as of
23 a date 90 days prior to the acquisition, as well as pro
24 forma financial statements reflecting projected
25 combined operation for a period of 2 years;

26 (C) a pro forma business plan detailing an

1 acquiring party's plans with respect to the operation
2 of the Health Maintenance Organization sought to be
3 acquired for a period of not less than 3 years; and

4 (D) such other information as the Director shall
5 require.

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

12 (e) In considering any management contract or service
13 agreement subject to Section 141.1 of the Illinois Insurance
14 Code, the Director (i) shall, in addition to the criteria
15 specified in Section 141.2 of the Illinois Insurance Code, take
16 into account the effect of the management contract or service
17 agreement on the continuation of benefits to enrollees and the
18 financial condition of the health maintenance organization to
19 be managed or serviced, and (ii) need not take into account the
20 effect of the management contract or service agreement on
21 competition.

22 (f) Except for small employer groups as defined in the
23 Small Employer Rating, Renewability and Portability Health
24 Insurance Act and except for medicare supplement policies as
25 defined in Section 363 of the Illinois Insurance Code, a Health
26 Maintenance Organization may by contract agree with a group or

1 other enrollment unit to effect refunds or charge additional
2 premiums under the following terms and conditions:

3 (i) the amount of, and other terms and conditions with
4 respect to, the refund or additional premium are set forth
5 in the group or enrollment unit contract agreed in advance
6 of the period for which a refund is to be paid or
7 additional premium is to be charged (which period shall not
8 be less than one year); and

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

24 The Health Maintenance Organization shall include a
25 statement in the evidence of coverage issued to each enrollee
26 describing the possibility of a refund or additional premium,

1 and upon request of any group or enrollment unit, provide to
2 the group or enrollment unit a description of the method used
3 to calculate (1) the Health Maintenance Organization's
4 profitable experience with respect to the group or enrollment
5 unit and the resulting refund to the group or enrollment unit
6 or (2) the Health Maintenance Organization's unprofitable
7 experience with respect to the group or enrollment unit and the
8 resulting additional premium to be paid by the group or
9 enrollment unit.

10 In no event shall the Illinois Health Maintenance
11 Organization Guaranty Association be liable to pay any
12 contractual obligation of an insolvent organization to pay any
13 refund authorized under this Section.

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

20 (Source: P.A. 96-328, eff. 8-11-09; 96-639, eff. 1-1-10;
21 96-833, eff. 6-1-10; 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11;
22 97-343, eff. 1-1-12; 97-437, eff. 8-18-11; 97-486, eff. 1-1-12;
23 97-592, eff. 1-1-12; revised 10-13-11.)

24 Section 15. The Limited Health Service Organization Act is
25 amended by changing Section 4003 as follows:

1 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)
2 Sec. 4003. Illinois Insurance Code provisions. Limited
3 health service organizations shall be subject to the provisions
4 of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3,
5 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6,
6 154.7, 154.8, 155.04, 155.37, 355.2, 356v, 356z.10, 356z.21
7 ~~356z.19~~, 356z.22, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2,
8 409, 412, 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII
9 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance
10 Code. For purposes of the Illinois Insurance Code, except for
11 Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited
12 health service organizations in the following categories are
13 deemed to be domestic companies:

- 14 (1) a corporation under the laws of this State; or
15 (2) a corporation organized under the laws of another
16 state, 30% of more of the enrollees of which are residents
17 of this State, except a corporation subject to
18 substantially the same requirements in its state of
19 organization as is a domestic company under Article VIII
20 1/2 of the Illinois Insurance Code.

21 (Source: P.A. 97-486, eff. 1-1-12; 97-592, 1-1-12; revised
22 10-13-11.)

23 Section 20. The Voluntary Health Services Plans Act is
24 amended by changing Section 10 as follows:

1 (215 ILCS 165/10) (from Ch. 32, par. 604)

2 Sec. 10. Application of Insurance Code provisions. Health
3 services plan corporations and all persons interested therein
4 or dealing therewith shall be subject to the provisions of
5 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
6 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 356g, 356g.5,
7 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y, 356z.1,
8 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,
9 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18, 356z.19,
10 356z.21 ~~356z.19~~, 356z.22, 364.01, 367.2, 368a, 401, 401.1, 402,
11 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of
12 Section 367 of the Illinois Insurance Code.

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

19 (Source: P.A. 96-328, eff. 8-11-09; 96-833, eff. 6-1-10;
20 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11; 97-343, eff. 1-1-12;
21 97-486, eff. 1-1-12; 97-592, eff. 1-1-12; revised 10-13-11.)