

1 AN ACT concerning regulation.

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.19 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, 367.2-5, and 367e.

15 (Source: P.A. 96-180, eff. 1-1-10; 96-1000, eff. 7-2-10;  
16 96-1034, eff. 1-1-11.)

17 (215 ILCS 5/356z.19 new)

18 Sec. 356z.19. Tobacco use cessation programs; coverage  
19 offer.

20 (a) Tobacco use is the number one cause of preventable  
21 disease and death in Illinois, costing \$4.1 billion annually in  
22 direct health care costs and an additional \$4.35 billion in

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

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

25 (c) On or after the effective date of this amendatory Act  
26 of the 97th General Assembly, every insurer that amends,

1 delivers, issues, or renews group accident and health policies  
2 providing coverage for hospital or medical treatment or  
3 services on an expense-incurred basis shall offer, for an  
4 additional premium and subject to the insurer's standard of  
5 insurability, optional coverage or optional reimbursement of  
6 up to \$500 annually for a tobacco use cessation program for a  
7 person enrolled in the plan who is 18 years of age or older.

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

16 (e) For the coverage provided under this Section, an  
17 insurer may not penalize or reduce or limit the reimbursement  
18 of an attending provider or provide incentives, monetary or  
19 otherwise, to an attending provider to induce the provider to  
20 provide care to an insured in a manner inconsistent with the  
21 coverage under this Section.

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

24 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

1           Sec. 5-3. Insurance Code provisions.

2           (a) Health Maintenance Organizations shall be subject to  
3 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
4 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
5 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,  
6 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,  
7 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,  
8 356z.18, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,  
9 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,  
10 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of  
11 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,  
12 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

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

21           (3) a corporation organized under the laws of another  
22 state, 30% or more of the enrollees of which are residents  
23 of this State, except a corporation subject to  
24 substantially the same requirements in its state of  
25 organization as is a "domestic company" under Article VIII  
26 1/2 of the Illinois Insurance Code.

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

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

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

16 (3) the Director shall have the power to require the  
17 following information:

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

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

1 combined operation for a period of 2 years;

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

6 (D) such other information as the Director shall  
7 require.

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

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

24 (f) Except for small employer groups as defined in the  
25 Small Employer Rating, Renewability and Portability Health  
26 Insurance Act and except for medicare supplement policies as

1 defined in Section 363 of the Illinois Insurance Code, a Health  
2 Maintenance Organization may by contract agree with a group or  
3 other enrollment unit to effect refunds or charge additional  
4 premiums under the following terms and conditions:

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

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

26 The Health Maintenance Organization shall include a

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

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

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

22 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;  
23 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;  
24 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.  
25 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.  
26 6-1-10; 96-1000, eff. 7-2-10.)



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

3 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

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

16 (1) a corporation under the laws of this State; or

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

23 (Source: P.A. 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

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

3 (215 ILCS 165/10) (from Ch. 32, par. 604)

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

14 Rulemaking authority to implement Public Act 95-1045, if  
15 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. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;  
21 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.  
22 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,  
23 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;  
24 96-328, eff. 8-11-09; 96-833, eff. 6-1-10; 96-1000, eff.  
25 7-2-10.)