



## 97TH GENERAL ASSEMBLY

### State of Illinois

### 2011 and 2012

### SB1621

Introduced 2/9/2011, by Sen. Heather A. Steans

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.16	
215 ILCS 5/356z.19 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 07947 RPM 48065 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.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.

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

21 (b) Tobacco use is the number one cause of preventable  
22 disease and death in Illinois, costing \$4.1 billion annually in

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

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

26 (d) A group or individual policy of accident and health

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

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

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

19 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

20 Sec. 5-3. Insurance Code provisions.

21 (a) Health Maintenance Organizations shall be subject to  
22 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
23 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
24 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,

1 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,  
2 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,  
3 356z.18, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,  
4 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,  
5 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of  
6 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,  
7 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

14 (2) a corporation organized under the laws of this  
15 State; or

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

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

25 (1) the Director shall give primary consideration to  
26 the continuation of benefits to enrollees and the financial

1 conditions of the acquired Health Maintenance Organization  
2 after the merger, consolidation, or other acquisition of  
3 control takes effect;

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

11 (3) the Director shall have the power to require the  
12 following information:

13 (A) certification by an independent actuary of the  
14 adequacy of the reserves of the Health Maintenance  
15 Organization sought to be acquired;

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

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

1 (D) such other information as the Director shall  
2 require.

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

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

19 (f) Except for small employer groups as defined in the  
20 Small Employer Rating, Renewability and Portability Health  
21 Insurance Act and except for medicare supplement policies as  
22 defined in Section 363 of the Illinois Insurance Code, a Health  
23 Maintenance Organization may by contract agree with a group or  
24 other enrollment unit to effect refunds or charge additional  
25 premiums under the following terms and conditions:

26 (i) the amount of, and other terms and conditions with

1           respect to, the refund or additional premium are set forth  
2           in the group or enrollment unit contract agreed in advance  
3           of the period for which a refund is to be paid or  
4           additional premium is to be charged (which period shall not  
5           be less than one year); and

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

21          The Health Maintenance Organization shall include a  
22          statement in the evidence of coverage issued to each enrollee  
23          describing the possibility of a refund or additional premium,  
24          and upon request of any group or enrollment unit, provide to  
25          the group or enrollment unit a description of the method used  
26          to calculate (1) the Health Maintenance Organization's



1 profitable experience with respect to the group or enrollment  
2 unit and the resulting refund to the group or enrollment unit  
3 or (2) the Health Maintenance Organization's unprofitable  
4 experience with respect to the group or enrollment unit and the  
5 resulting additional premium to be paid by the group or  
6 enrollment unit.

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

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

17 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;  
18 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;  
19 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.  
20 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.  
21 6-1-10; 96-1000, eff. 7-2-10.)

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

24 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

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

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

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

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

23           (215 ILCS 165/10) (from Ch. 32, par. 604)

24           Sec. 10. Application of Insurance Code provisions. Health

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

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

16 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;  
17 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.  
18 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,  
19 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;  
20 96-328, eff. 8-11-09; 96-833, eff. 6-1-10; 96-1000, eff.  
21 7-2-10.)