



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3242

Introduced 2/1/2012, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

215 ILCS 5/355.3 new	
215 ILCS 110/25	from Ch. 32, par. 690.25
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, Dental Service Plan Act, Health Maintenance Organization Act, Limited Health Service Organization Act, and Voluntary Health Services Plans Act. Provides that no insurer may issue a service provider contract that requires a dentist to provide services to the insurer's policyholders at a fee set by the insurer unless the services are covered under the applicable policyholder agreement. Provides that the Director of Insurance is granted authority to enforce compliance with the provisions concerning noncovered dental services. Effective immediately.

LRB097 13788 RPM 58347 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 adding
5 Section 355.3 as follows:

6 (215 ILCS 5/355.3 new)

7 Sec. 355.3. Noncovered dental services.

8 (a) In this Section:

9 "Covered services" means dental care services for
10 which a reimbursement is available under an enrollee's plan
11 contract, or for which a reimbursement would be available
12 but for the application of contractual limitations such as
13 deductibles, copayments, coinsurance, waiting periods,
14 annual or lifetime maximums, frequency limitations,
15 alternative benefit payments, or any other limitation.

16 "Dental insurance" means any policy of insurance that
17 is issued by a company that provides coverage for dental
18 services.

19 "Usual and customary fee" means the fee for dental care
20 that is consistent with the average rate or charge for
21 similar services furnished by similar providers in the
22 geographic area in which the services were provided.

23 (b) No company that issues, delivers, amends, or renews an

1 individual or group policy of accident and health insurance on
2 or after the effective date of this amendatory Act of the 97th
3 General Assembly that provides dental insurance shall issue a
4 service provider contract that requires a dentist to provide
5 services to the insurer's policyholders at a fee set by the
6 insurer unless the services are covered under the applicable
7 policyholder agreement.

8 (c) The Director of Insurance shall adopt reasonable rules
9 to enforce compliance with this Section and is hereby granted
10 specific authority to issue a cease and desist order against,
11 fine, or otherwise penalize any insurer for violations of the
12 provisions set forth in this Section.

13 Section 10. The Dental Service Plan Act is amended by
14 changing Section 25 as follows:

15 (215 ILCS 110/25) (from Ch. 32, par. 690.25)

16 Sec. 25. Application of Insurance Code provisions. Dental
17 service plan corporations and all persons interested therein or
18 dealing therewith shall be subject to the provisions of
19 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
20 143, 143c, 149, 355.2, 355.3, 367.2, 401, 401.1, 402, 403,
21 403A, 408, 408.2, and 412, and subsection (15) of Section 367
22 of the Illinois Insurance Code.

23 (Source: P.A. 97-486, eff. 1-1-12.)

1 Section 15. 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 Sec. 5-3. Insurance Code provisions.

5 (a) Health Maintenance Organizations shall be subject to
6 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
7 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
8 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,
9 356g.5-1, 356m, 356v, 356w, 356x, 356y, 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.17, 356z.18, 356z.19, 356z.21 ~~356z.19,~~
12 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e,
13 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412,
14 444, and 444.1, paragraph (c) of subsection (2) of Section 367,
15 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV,
16 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 if any, is conditioned on the rules being adopted in accordance
23 with all provisions of the Illinois Administrative Procedure
24 Act and all rules and procedures of the Joint Committee on
25 Administrative Rules; any purported rule not so adopted, for
26 whatever reason, is unauthorized.

1 (Source: P.A. 96-328, eff. 8-11-09; 96-639, eff. 1-1-10;
2 96-833, eff. 6-1-10; 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11;
3 97-343, eff. 1-1-12; 97-437, eff. 8-18-11; 97-486, eff. 1-1-12;
4 97-592, eff. 1-1-12; revised 10-13-11.)

5 Section 20. The Limited Health Service Organization Act is
6 amended by changing Section 4003 as follows:

7 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

8 Sec. 4003. Illinois Insurance Code provisions. Limited
9 health service organizations shall be subject to the provisions
10 of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3,
11 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6,
12 154.7, 154.8, 155.04, 155.37, 355.2, 355.3, 356v, 356z.10,
13 356z.21 ~~356z.19~~, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2,
14 409, 412, 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII
15 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance
16 Code. For purposes of the Illinois Insurance Code, except for
17 Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited
18 health service organizations in the following categories are
19 deemed to be domestic companies:

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

21 (2) a corporation organized under the laws of another
22 state, 30% of 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

1 organization as is a domestic company under Article VIII
2 1/2 of the Illinois Insurance Code.

3 (Source: P.A. 97-486, eff. 1-1-12; 97-592, 1-1-12; revised
4 10-13-11.)

5 Section 25. The Voluntary Health Services Plans Act is
6 amended by changing Section 10 as follows:

7 (215 ILCS 165/10) (from Ch. 32, par. 604)

8 Sec. 10. Application of Insurance Code provisions. Health
9 services plan corporations and all persons interested therein
10 or dealing therewith shall be subject to the provisions of
11 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
12 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 356g,
13 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y,
14 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
15 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18,
16 356z.19, 356z.21 ~~356z.19~~, 364.01, 367.2, 368a, 401, 401.1, 402,
17 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of
18 Section 367 of the Illinois Insurance Code.

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

1 (Source: P.A. 96-328, eff. 8-11-09; 96-833, eff. 6-1-10;
2 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11; 97-343, eff. 1-1-12;
3 97-486, eff. 1-1-12; 97-592, eff. 1-1-12; revised 10-13-11.)

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.