



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3411

Introduced 2/7/2012, by Sen. Ira I. Silverstein

SYNOPSIS AS INTRODUCED:

5 ILCS 375/6.11	
55 ILCS 5/5-1069.3	
65 ILCS 5/10-4-2.3	
105 ILCS 5/10-22.3f	
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 State Employees Group Insurance Act of 1971, Counties Code, Illinois Municipal Code, School Code, Illinois Insurance Code, Health Maintenance Organization Act, Limited Health Service Organization Act, and Voluntary Health Services Plans Act. Provides that a policy of accident and health insurance or managed care plan that provides coverage for prescription drugs shall permit each participant to fill any mail order covered prescription, at his or her option, at any mail order pharmacy or network participating non-mail order retail pharmacy if the network participating non-mail order retail pharmacy offers to accept a price that is comparable to that of the mail order pharmacy. Provides that any policy or plan that provides coverage for prescription drugs shall not impose a co-payment fee or other condition on any insured who elects to purchase drugs from a network participating non-mail order retail pharmacy that is not also imposed on insureds electing to purchase drugs from a designated mail order pharmacy. Provides that the provisions concerning prescription drugs shall not supersede the terms of a collective bargaining agreement or apply to a policy that is the result of a collective bargaining agreement between an employer and a recognized or certified employee organization.

LRB097 19909 RPM 65199 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

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 State Employees Group Insurance Act of 1971
5 is amended by changing Section 6.11 as follows:

6 (5 ILCS 375/6.11)

7 Sec. 6.11. Required health benefits; Illinois Insurance
8 Code requirements. The program of health benefits shall provide
9 the post-mastectomy care benefits required to be covered by a
10 policy of accident and health insurance under Section 356t of
11 the Illinois Insurance Code. The program of health benefits
12 shall provide the coverage required under Sections 356g,
13 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
15 356z.14, 356z.15, and 356z.17 ~~and 356z.19,~~ and 356z.22 of the
16 Illinois Insurance Code. The program of health benefits must
17 comply with Sections 155.22a, ~~and 155.37,~~ and 356z.19 of the
18 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

1 whatever reason, is unauthorized.

2 (Source: P.A. 96-139, eff. 1-1-10; 96-328, eff. 8-11-09;
3 96-639, eff. 1-1-10; 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11;
4 97-343, eff. 1-1-12; revised 10-14-11.)

5 Section 10. The Counties Code is amended by changing
6 Section 5-1069.3 as follows:

7 (55 ILCS 5/5-1069.3)

8 Sec. 5-1069.3. Required health benefits. If a county,
9 including a home rule county, is a self-insurer for purposes of
10 providing health insurance coverage for its employees, the
11 coverage shall include coverage for the post-mastectomy care
12 benefits required to be covered by a policy of accident and
13 health insurance under Section 356t and the coverage required
14 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,
15 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
16 356z.14, ~~and 356z.15,~~ and 356z.22 of the Illinois Insurance
17 Code. The coverage shall comply with Sections ~~Section~~ 155.22a
18 and 356z.19 of the Illinois Insurance Code. The requirement
19 that health benefits be covered as provided in this Section is
20 an exclusive power and function of the State and is a denial
21 and limitation under Article VII, Section 6, subsection (h) of
22 the Illinois Constitution. A home rule county to which this
23 Section applies must comply with every provision of this
24 Section.

1 Rulemaking authority to implement Public Act 95-1045, if
2 any, is conditioned on the rules being adopted in accordance
3 with all provisions of the Illinois Administrative Procedure
4 Act and all rules and procedures of the Joint Committee on
5 Administrative Rules; any purported rule not so adopted, for
6 whatever reason, is unauthorized.

7 (Source: P.A. 96-139, eff. 1-1-10; 96-328, eff. 8-11-09;
8 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11; 97-343, eff. 1-1-12;
9 revised 10-14-11.)

10 Section 15. The Illinois Municipal Code is amended by
11 changing Section 10-4-2.3 as follows:

12 (65 ILCS 5/10-4-2.3)

13 Sec. 10-4-2.3. Required health benefits. If a
14 municipality, including a home rule municipality, is a
15 self-insurer for purposes of providing health insurance
16 coverage for its employees, the coverage shall include coverage
17 for the post-mastectomy care benefits required to be covered by
18 a policy of accident and health insurance under Section 356t
19 and the coverage required under Sections 356g, 356g.5,
20 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,
21 356z.11, 356z.12, 356z.13, 356z.14, and 356z.15, and 356z.22 of
22 the Illinois Insurance Code. The coverage shall comply with
23 Sections ~~Section~~ 155.22a and 356z.19 of the Illinois Insurance
24 Code. The requirement that health benefits be covered as

1 provided in this is an exclusive power and function of the
2 State and is a denial and limitation under Article VII, Section
3 6, subsection (h) of the Illinois Constitution. A home rule
4 municipality to which this Section applies must comply with
5 every provision of this Section.

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

12 (Source: P.A. 96-139, eff. 1-1-10; 96-328, eff. 8-11-09;
13 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11; 97-343, eff. 1-1-12;
14 revised 10-14-11.)

15 Section 20. The School Code is amended by changing Section
16 10-22.3f as follows:

17 (105 ILCS 5/10-22.3f)

18 Sec. 10-22.3f. Required health benefits. Insurance
19 protection and benefits for employees shall provide the
20 post-mastectomy care benefits required to be covered by a
21 policy of accident and health insurance under Section 356t and
22 the coverage required under Sections 356g, 356g.5, 356g.5-1,
23 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12,
24 356z.13, 356z.14, ~~and~~ 356z.15, and 356z.22 of the Illinois

1 Insurance Code. Insurance policies shall comply with Section
2 356z.19 of the Illinois Insurance Code. The coverage shall
3 comply with Section 155.22a of the Illinois Insurance Code.

4 Rulemaking authority to implement Public Act 95-1045, if
5 any, is conditioned on the rules being adopted in accordance
6 with all provisions of the Illinois Administrative Procedure
7 Act and all rules and procedures of the Joint Committee on
8 Administrative Rules; any purported rule not so adopted, for
9 whatever reason, is unauthorized.

10 (Source: P.A. 96-139, eff. 1-1-10; 96-328, eff. 8-11-09;
11 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11; 97-343, eff. 1-1-12;
12 revised 9-28-11.)

13 Section 25. The Illinois Insurance Code is amended by
14 adding Section 356z.22 as follows:

15 (215 ILCS 5/356z.22 new)

16 Sec. 356z.22. Prescription drugs. A group or individual
17 policy of accident and health insurance or managed care plan
18 amended, delivered, issued, or renewed after the effective date
19 of this amendatory Act of the 97th General Assembly that
20 provides coverage for prescription drugs shall permit each
21 participant to fill any mail order covered prescription, at his
22 or her option, at any mail order pharmacy or network
23 participating non-mail order retail pharmacy if the network
24 participating non-mail order retail pharmacy offers to accept a

1 price that is comparable to that of the mail order pharmacy.
2 Any policy or plan that provides coverage for prescription
3 drugs shall not impose a co-payment fee or other condition on
4 any insured who elects to purchase drugs from a network
5 participating non-mail order retail pharmacy that is not also
6 imposed on insureds electing to purchase drugs from a
7 designated mail order pharmacy. The provisions of this Section
8 shall not supersede the terms of a collective bargaining
9 agreement or apply to a policy that is the result of a
10 collective bargaining agreement between an employer and a
11 recognized or certified employee organization.

12 Section 30. The Health Maintenance Organization Act is
13 amended by changing Section 5-3 as follows:

14 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

15 Sec. 5-3. Insurance Code provisions.

16 (a) Health Maintenance Organizations shall be subject to
17 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
18 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
19 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 356g.5-1,
20 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6,
21 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14,
22 356z.15, 356z.17, 356z.18, 356z.19, 356z.21 ~~356z.19~~, 356z.22,
23 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e,
24 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412,

1 444, and 444.1, paragraph (c) of subsection (2) of Section 367,
2 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV,
3 and XXVI of the Illinois Insurance Code.

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

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

10 (2) a corporation organized under the laws of this
11 State; or

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

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

21 (1) the Director shall give primary consideration to
22 the continuation of benefits to enrollees and the financial
23 conditions of the acquired Health Maintenance Organization
24 after the merger, consolidation, or other acquisition of
25 control takes effect;

26 (2) (i) the criteria specified in subsection (1) (b) of

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

7 (3) the Director shall have the power to require the
8 following information:

9 (A) certification by an independent actuary of the
10 adequacy of the reserves of the Health Maintenance
11 Organization sought to be acquired;

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

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

23 (D) such other information as the Director shall
24 require.

25 (d) The provisions of Article VIII 1/2 of the Illinois
26 Insurance Code and this Section 5-3 shall apply to the sale by

1 any health maintenance organization of greater than 10% of its
2 enrollee population (including without limitation the health
3 maintenance organization's right, title, and interest in and to
4 its health care certificates).

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

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

22 (i) the amount of, and other terms and conditions with
23 respect to, the refund or additional premium are set forth
24 in the group or enrollment unit contract agreed in advance
25 of the period for which a refund is to be paid or
26 additional premium is to be charged (which period shall not

1 be less than one year); and

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

17 The Health Maintenance Organization shall include a
18 statement in the evidence of coverage issued to each enrollee
19 describing the possibility of a refund or additional premium,
20 and upon request of any group or enrollment unit, provide to
21 the group or enrollment unit a description of the method used
22 to calculate (1) the Health Maintenance Organization's
23 profitable experience with respect to the group or enrollment
24 unit and the resulting refund to the group or enrollment unit
25 or (2) the Health Maintenance Organization's unprofitable
26 experience with respect to the group or enrollment unit and the

1 resulting additional premium to be paid by the group or
2 enrollment unit.

3 In no event shall the Illinois Health Maintenance
4 Organization Guaranty Association be liable to pay any
5 contractual obligation of an insolvent organization to pay any
6 refund authorized under this Section.

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

13 (Source: P.A. 96-328, eff. 8-11-09; 96-639, eff. 1-1-10;
14 96-833, eff. 6-1-10; 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11;
15 97-343, eff. 1-1-12; 97-437, eff. 8-18-11; 97-486, eff. 1-1-12;
16 97-592, eff. 1-1-12; revised 10-13-11.)

17 Section 35. The Limited Health Service Organization Act is
18 amended by changing Section 4003 as follows:

19 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

20 Sec. 4003. Illinois Insurance Code provisions. Limited
21 health service organizations shall be subject to the provisions
22 of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3,
23 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6,
24 154.7, 154.8, 155.04, 155.37, 355.2, 356v, 356z.10, 356z.21

1 ~~356z.19~~, 356z.22, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2,
2 409, 412, 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII
3 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance
4 Code. For purposes of the Illinois Insurance Code, except for
5 Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited
6 health service organizations in the following categories are
7 deemed to be domestic companies:

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

9 (2) a corporation organized under the laws of another
10 state, 30% of more of the enrollees of which are residents
11 of this State, except a corporation subject to
12 substantially the same requirements in its state of
13 organization as is a domestic company under Article VIII
14 1/2 of the Illinois Insurance Code.

15 (Source: P.A. 97-486, eff. 1-1-12; 97-592, 1-1-12; revised
16 10-13-11.)

17 Section 40. The Voluntary Health Services Plans Act is
18 amended by changing Section 10 as follows:

19 (215 ILCS 165/10) (from Ch. 32, par. 604)

20 Sec. 10. Application of Insurance Code provisions. Health
21 services plan corporations and all persons interested therein
22 or dealing therewith shall be subject to the provisions of
23 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
24 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 356g, 356g.5,

1 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y, 356z.1,
2 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,
3 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18, 356z.19,
4 356z.21 ~~356z.19~~, 356z.22, 364.01, 367.2, 368a, 401, 401.1, 402,
5 403, 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of
6 Section 367 of the Illinois Insurance Code.

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

13 (Source: P.A. 96-328, eff. 8-11-09; 96-833, eff. 6-1-10;
14 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11; 97-343, eff. 1-1-12;
15 97-486, eff. 1-1-12; 97-592, eff. 1-1-12; revised 10-13-11.)