



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

HB0020

Introduced 1/9/2013, by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code. Sets forth legislative findings concerning nutritional support and hydration. Provides that an individual or group policy of accident and health insurance or managed care plan must provide coverage for intravenous feeding and for enteral or tube feeding and that the benefits shall be at least as favorable as for other coverages under the policy and may be subject to the same dollar amount limits, deductibles, and co-insurance requirements applicable generally to other coverages under the policy. Provides that an individual or group policy of accident and health insurance or managed care plan that provides coverage for prescription drugs must provide coverage for reimbursement for medically appropriate prescription nutritional supplements, limited to those products that are issued only by a physician's written order, when ordered by a physician and the insured suffers from a condition that prevents him or her from taking sufficient oral nourishment to sustain life. Amends the State Employees Group Insurance Act of 1971, Counties Code, Illinois Municipal Code, School Code, Health Maintenance Organization Act, and Voluntary Health Services Plans Act to make conforming changes. Amends the State Mandates Act to require implementation without reimbursement by the State.

LRB098 00165 RPM 30166 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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~~, 356z.22, and 356z.23  
16 of the Illinois Insurance Code. The program of health benefits  
17 must comply with Sections 155.22a, 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; 97-813, eff. 7-13-12.)

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, 356z.22, and 356z.23 of the Illinois  
17 Insurance Code. The coverage shall comply with Sections 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 97-813, eff. 7-13-12.)

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, 356z.22, and  
22 356z.23 of the Illinois Insurance Code. The coverage shall  
23 comply with Sections 155.22a and 356z.19 of the Illinois  
24 Insurance Code. The requirement that health benefits be covered

1 as 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 97-813, eff. 7-13-12.)

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, 356z.22, and 356z.23 of the

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

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

11 (Source: P.A. 96-139, eff. 1-1-10; 96-328, eff. 8-11-09;  
12 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11; 97-343, eff. 1-1-12;  
13 97-813, eff. 7-13-12.)

14 Section 25. The Illinois Insurance Code is amended by  
15 adding Sections 356z.22 and 356z.23 as follows:

16 (215 ILCS 5/356z.22 new)

17 Sec. 356z.22. Nutritional support and hydration.

18 (a) The General Assembly finds that people who are  
19 physically unable to swallow, digest, or absorb food and fluids  
20 taken by mouth are at risk of malnutrition and dehydration.  
21 Without nutritional support and hydration, such individuals  
22 will become increasingly weakened. As their immune system  
23 functioning is reduced, they may die from infections before  
24 death can occur from malnutrition or dehydration.

1       (b) A group or individual policy of accident and health  
2       insurance or managed care plan amended, delivered, issued, or  
3       renewed after the effective date of this amendatory Act of the  
4       98th General Assembly must provide coverage for intravenous  
5       feeding and for enteral or tube feeding. The benefits under  
6       this Section shall be at least as favorable as for other  
7       coverages under the policy and may be subject to the same  
8       dollar amount limits, deductibles, and co-insurance  
9       requirements applicable generally to other coverages under the  
10       policy.

11       (c) For the purpose of this Section, "enteral or tube  
12       feeding" means the process by which nutritional formulas are  
13       delivered via a tube into the digestive tract.

14           (215 ILCS 5/356z.23 new)

15       Sec. 356z.23. Prescription nutritional supplements. A  
16       group or individual policy of accident and health insurance or  
17       managed care plan amended, delivered, issued, or renewed after  
18       the effective date of this amendatory Act of the 98th General  
19       Assembly that provides coverage for prescription drugs must  
20       provide coverage for reimbursement for medically appropriate  
21       prescription nutritional supplements, limited to those  
22       products that are issued only by a physician's written order,  
23       when ordered by a physician licensed to practice medicine in  
24       all its branches and the insured suffers from a condition that  
25       prevents him or her from taking sufficient oral nourishment to

1 sustain life.

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

4 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

5 Sec. 5-3. Insurance Code provisions.

6 (a) Health Maintenance Organizations shall be subject to  
7 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,  
8 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,  
9 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,  
10 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4, 356z.5,  
11 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,  
12 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21, 356z.22,  
13 356z.23, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d,  
14 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2,  
15 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of  
16 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,  
17 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

24 (2) a corporation organized under the laws of this



1 State; or

2 (3) a corporation organized under the laws of another  
3 state, 30% or more of the enrollees of which are residents  
4 of this State, except a corporation subject to  
5 substantially the same requirements in its state of  
6 organization as is a "domestic company" under Article VIII  
7 1/2 of the Illinois Insurance Code.

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

11 (1) the Director shall give primary consideration to  
12 the continuation of benefits to enrollees and the financial  
13 conditions of the acquired Health Maintenance Organization  
14 after the merger, consolidation, or other acquisition of  
15 control takes effect;

16 (2) (i) the criteria specified in subsection (1) (b) of  
17 Section 131.8 of the Illinois Insurance Code shall not  
18 apply and (ii) the Director, in making his determination  
19 with respect to the merger, consolidation, or other  
20 acquisition of control, need not take into account the  
21 effect on competition of the merger, consolidation, or  
22 other acquisition of control;

23 (3) the Director shall have the power to require the  
24 following information:

25 (A) certification by an independent actuary of the  
26 adequacy of the reserves of the Health Maintenance

1 Organization sought to be acquired;

2 (B) pro forma financial statements reflecting the  
3 combined balance sheets of the acquiring company and  
4 the Health Maintenance Organization sought to be  
5 acquired as of the end of the preceding year and as of  
6 a date 90 days prior to the acquisition, as well as pro  
7 forma financial statements reflecting projected  
8 combined operation for a period of 2 years;

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

13 (D) such other information as the Director shall  
14 require.

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

21 (e) In considering any management contract or service  
22 agreement subject to Section 141.1 of the Illinois Insurance  
23 Code, the Director (i) shall, in addition to the criteria  
24 specified in Section 141.2 of the Illinois Insurance Code, take  
25 into account the effect of the management contract or service  
26 agreement on the continuation of benefits to enrollees and the

1 financial condition of the health maintenance organization to  
2 be managed or serviced, and (ii) need not take into account the  
3 effect of the management contract or service agreement on  
4 competition.

5 (f) Except for small employer groups as defined in the  
6 Small Employer Rating, Renewability and Portability Health  
7 Insurance Act and except for medicare supplement policies as  
8 defined in Section 363 of the Illinois Insurance Code, a Health  
9 Maintenance Organization may by contract agree with a group or  
10 other enrollment unit to effect refunds or charge additional  
11 premiums under the following terms and conditions:

12 (i) the amount of, and other terms and conditions with  
13 respect to, the refund or additional premium are set forth  
14 in the group or enrollment unit contract agreed in advance  
15 of the period for which a refund is to be paid or  
16 additional premium is to be charged (which period shall not  
17 be less than one year); and

18 (ii) the amount of the refund or additional premium  
19 shall not exceed 20% of the Health Maintenance  
20 Organization's profitable or unprofitable experience with  
21 respect to the group or other enrollment unit for the  
22 period (and, for purposes of a refund or additional  
23 premium, the profitable or unprofitable experience shall  
24 be calculated taking into account a pro rata share of the  
25 Health Maintenance Organization's administrative and  
26 marketing expenses, but shall not include any refund to be

1           made or additional premium to be paid pursuant to this  
2           subsection (f)). The Health Maintenance Organization and  
3           the group or enrollment unit may agree that the profitable  
4           or unprofitable experience may be calculated taking into  
5           account the refund period and the immediately preceding 2  
6           plan years.

7           The Health Maintenance Organization shall include a  
8           statement in the evidence of coverage issued to each enrollee  
9           describing the possibility of a refund or additional premium,  
10          and upon request of any group or enrollment unit, provide to  
11          the group or enrollment unit a description of the method used  
12          to calculate (1) the Health Maintenance Organization's  
13          profitable experience with respect to the group or enrollment  
14          unit and the resulting refund to the group or enrollment unit  
15          or (2) the Health Maintenance Organization's unprofitable  
16          experience with respect to the group or enrollment unit and the  
17          resulting additional premium to be paid by the group or  
18          enrollment unit.

19          In no event shall the Illinois Health Maintenance  
20          Organization Guaranty Association be liable to pay any  
21          contractual obligation of an insolvent organization to pay any  
22          refund authorized under this Section.

23          (g) Rulemaking authority to implement Public Act 95-1045,  
24          if any, is conditioned on the rules being adopted in accordance  
25          with all provisions of the Illinois Administrative Procedure  
26          Act and all rules and procedures of the Joint Committee on

1 Administrative Rules; any purported rule not so adopted, for  
2 whatever reason, is unauthorized.

3 (Source: P.A. 96-328, eff. 8-11-09; 96-639, eff. 1-1-10;  
4 96-833, eff. 6-1-10; 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11;  
5 97-343, eff. 1-1-12; 97-437, eff. 8-18-11; 97-486, eff. 1-1-12;  
6 97-592, eff. 1-1-12; 97-805, eff. 1-1-13; 97-813, eff.  
7 7-13-12.)

8 Section 35. The Voluntary Health Services Plans Act is  
9 amended by changing Section 10 as follows:

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

11 Sec. 10. Application of Insurance Code provisions. Health  
12 services plan corporations and all persons interested therein  
13 or dealing therewith shall be subject to the provisions of  
14 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,  
15 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 356g,  
16 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y,  
17 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,  
18 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18,  
19 356z.19, 356z.21, 356z.22, 356z.23, 364.01, 367.2, 368a, 401,  
20 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
21 and (15) of Section 367 of the Illinois Insurance Code.

22 Rulemaking authority to implement Public Act 95-1045, if  
23 any, is conditioned on the rules being adopted in accordance  
24 with all provisions of the Illinois Administrative Procedure

1 Act and all rules and procedures of the Joint Committee on  
2 Administrative Rules; any purported rule not so adopted, for  
3 whatever reason, is unauthorized.

4 (Source: P.A. 96-328, eff. 8-11-09; 96-833, eff. 6-1-10;  
5 96-1000, eff. 7-2-10; 97-282, eff. 8-9-11; 97-343, eff. 1-1-12;  
6 97-486, eff. 1-1-12; 97-592, eff. 1-1-12; 97-805, eff. 1-1-13;  
7 97-813, eff. 7-13-12.)

8 Section 90. The State Mandates Act is amended by adding  
9 Section 8.37 as follows:

10 (30 ILCS 805/8.37 new)

11 Sec. 8.37. Exempt mandate. Notwithstanding Sections 6 and 8  
12 of this Act, no reimbursement by the State is required for the  
13 implementation of any mandate created by this amendatory Act of  
14 the 98th General Assembly.

1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 375/6.11

4 55 ILCS 5/5-1069.3

5 65 ILCS 5/10-4-2.3

6 105 ILCS 5/10-22.3f

7 215 ILCS 5/356z.22 new

8 215 ILCS 5/356z.23 new

9 215 ILCS 125/5-3 from Ch. 111 1/2, par. 1411.2

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

11 30 ILCS 805/8.37 new