



## 98TH GENERAL ASSEMBLY

### State of Illinois

#### 2013 and 2014

##### SB1547

Introduced 2/13/2013, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/355.4 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, 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 an optometrist or ophthalmologist to provide services or materials to the insurer's policyholders at a fee set by the insurer unless the services or materials are covered services or materials under the applicable policyholder agreement. Effective January 1, 2014.

LRB098 07852 RPM 37936 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 355.4 as follows:

6 (215 ILCS 5/355.4 new)

7 Sec. 355.4. Noncovered vision services.

8 (a) In this Section:

9 "Covered services" means vision 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 "Vision insurance" means any policy of insurance that  
17 is issued by a company that provides coverage for vision  
18 services not covered by a medical plan.

19 (b) No company that issues, delivers, amends, or renews an  
20 individual or group policy of accident and health insurance on  
21 or after the effective date of this amendatory Act of the 98th  
22 General Assembly that provides vision insurance shall issue a  
23 service provider contract that requires an optometrist or

1 ophthalmologist to provide services or materials to the  
2 insurer's policyholders at a fee set by the insurer unless the  
3 services or materials are covered services or materials under  
4 the applicable policyholder agreement.

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

7 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

8 Sec. 5-3. Insurance Code provisions.

9 (a) Health Maintenance Organizations shall be subject to  
10 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,  
11 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,  
12 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,  
13 355.4, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4,  
14 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,  
15 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,  
16 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e,  
17 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412,  
18 444, and 444.1, paragraph (c) of subsection (2) of Section 367,  
19 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV,  
20 and XXVI of the Illinois Insurance Code.

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

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

3           (2) a corporation organized under the laws of this  
4 State; or

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

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

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

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

26           (3) the Director shall have the power to require the

1 following information:

2 (A) certification by an independent actuary of the  
3 adequacy of the reserves of the Health Maintenance  
4 Organization sought to be acquired;

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

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

16 (D) such other information as the Director shall  
17 require.

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

24 (e) In considering any management contract or service  
25 agreement subject to Section 141.1 of the Illinois Insurance  
26 Code, the Director (i) shall, in addition to the criteria

1 specified in Section 141.2 of the Illinois Insurance Code, take  
2 into account the effect of the management contract or service  
3 agreement on the continuation of benefits to enrollees and the  
4 financial condition of the health maintenance organization to  
5 be managed or serviced, and (ii) need not take into account the  
6 effect of the management contract or service agreement on  
7 competition.

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

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

21 (ii) the amount of the refund or additional premium  
22 shall not exceed 20% of the Health Maintenance  
23 Organization's profitable or unprofitable experience with  
24 respect to the group or other enrollment unit for the  
25 period (and, for purposes of a refund or additional  
26 premium, the profitable or unprofitable experience shall

1 be calculated taking into account a pro rata share of the  
2 Health Maintenance Organization's administrative and  
3 marketing expenses, but shall not include any refund to be  
4 made or additional premium to be paid pursuant to this  
5 subsection (f)). The Health Maintenance Organization and  
6 the group or enrollment unit may agree that the profitable  
7 or unprofitable experience may be calculated taking into  
8 account the refund period and the immediately preceding 2  
9 plan years.

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

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

26 (g) Rulemaking authority to implement Public Act 95-1045,

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

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

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

13 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

14 Sec. 4003. Illinois Insurance Code provisions. Limited  
15 health service organizations shall be subject to the provisions  
16 of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3,  
17 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6,  
18 154.7, 154.8, 155.04, 155.37, 355.2, 355.3, 355.4, 356v,  
19 356z.10, 356z.21, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2,  
20 409, 412, 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII  
21 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance  
22 Code. For purposes of the Illinois Insurance Code, except for  
23 Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited  
24 health service organizations in the following categories are



1 deemed to be domestic companies:

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

3 (2) a corporation organized under the laws of another  
4 state, 30% of more of the enrollees of which are residents  
5 of this State, except a corporation subject to  
6 substantially the same requirements in its state of  
7 organization as is a domestic company under Article VIII  
8 1/2 of the Illinois Insurance Code.

9 (Source: P.A. 97-486, eff. 1-1-12; 97-592, 1-1-12; 97-805, eff.  
10 1-1-13; 97-813, eff. 7-13-12.)

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

13 (215 ILCS 165/10) (from Ch. 32, par. 604)

14 Sec. 10. Application of Insurance Code provisions. Health  
15 services plan corporations and all persons interested therein  
16 or dealing therewith shall be subject to the provisions of  
17 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,  
18 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355.4,  
19 356g, 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x,  
20 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,  
21 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18,  
22 356z.19, 356z.21, 364.01, 367.2, 368a, 401, 401.1, 402, 403,  
23 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of  
24 Section 367 of the Illinois Insurance Code.

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

11 Section 99. Effective date. This Act takes effect January  
12 1, 2014.