



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

HB4429

by Rep. Elaine Nekritz

#### SYNOPSIS AS INTRODUCED:

5 ILCS 375/6.12  
30 ILCS 540/3-2  
215 ILCS 5/368a

Amends the State Prompt Payment Act. Provides that after the effective date of the amendatory Act, any bill approved for payment under the Act and pursuant to a health benefit plan under the State Employees Group Insurance Act of 1971 or submitted under Article V of the Illinois Public Aid Code, except a bill for pharmacy or nursing facility services or goods, if payment is not issued to the payee in a timely manner under the Section, the following interest penalty shall apply to any amount approved and unpaid until final payment is made: the sum of the prime commercial rate plus 4.0% per year, applied pro rata for the amount of time the bill remains unpaid. Defines "prime commercial rate". Amends the Illinois Insurance Code. In provisions concerning timely payment for health care services, provides that the interest to be charged on late payments of periodic payments, payments by independent practice associations and physician-hospital organizations, and payments by health insurers, health maintenance organizations, managed care plans, health care plans, preferred provider organizations, and third party administrators shall be the sum of the prime commercial rate plus 4.0% per year. Defines "prime commercial rate". Amends the State Employees Group Insurance Act of 1971. Provides that the program of health benefits offered under the Act is subject to certain provisions of the Illinois Insurance Code concerning late payments and assignability except as otherwise provided.

LRB099 13077 MLM 36964 b

1 AN ACT concerning government.

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 6.12 as follows:

6 (5 ILCS 375/6.12)

7 Sec. 6.12. Payment for services. Except as otherwise  
8 provided, the ~~The~~ program of health benefits is subject to the  
9 provisions of Sections 368a and 370a of the Illinois Insurance  
10 Code, provided that, if a covered member or covered dependent  
11 assigns payments to a health care professional for covered  
12 services, then the health care professional shall only collect  
13 at point of service from that person the estimated amount not  
14 expected to be paid by the plan.

15 (Source: P.A. 97-1086, eff. 8-24-12.)

16 Section 10. The State Prompt Payment Act is amended by  
17 changing Section 3-2 as follows:

18 (30 ILCS 540/3-2)

19 Sec. 3-2. Beginning July 1, 1993, in any instance where a  
20 State official or agency is late in payment of a vendor's bill  
21 or invoice for goods or services furnished to the State, as

1 defined in Section 1, properly approved in accordance with  
2 rules promulgated under Section 3-3, the State official or  
3 agency shall pay interest to the vendor in accordance with the  
4 following:

5 (1) Any bill, except a bill submitted under Article V  
6 of the Illinois Public Aid Code and except as provided  
7 under paragraph (1.05) of this Section, approved for  
8 payment under this Section must be paid or the payment  
9 issued to the payee within 60 days of receipt of a proper  
10 bill or invoice. If payment is not issued to the payee  
11 within this 60-day period, an interest penalty of 1.0% of  
12 any amount approved and unpaid shall be added for each  
13 month or fraction thereof after the end of this 60-day  
14 period, until final payment is made. Any bill, except a  
15 bill for pharmacy or nursing facility services or goods,  
16 and except as provided under paragraph (1.05) of this  
17 Section, submitted under Article V of the Illinois Public  
18 Aid Code approved for payment under this Section must be  
19 paid or the payment issued to the payee within 60 days  
20 after receipt of a proper bill or invoice, and, if payment  
21 is not issued to the payee within this 60-day period, an  
22 interest penalty of 2.0% of any amount approved and unpaid  
23 shall be added for each month or fraction thereof after the  
24 end of this 60-day period, until final payment is made. Any  
25 bill for pharmacy or nursing facility services or goods  
26 submitted under Article V of the Illinois Public Aid Code,

1       except as provided under paragraph (1.05) of this Section,  
2       and approved for payment under this Section must be paid or  
3       the payment issued to the payee within 60 days of receipt  
4       of a proper bill or invoice. If payment is not issued to  
5       the payee within this 60-day period, an interest penalty of  
6       1.0% of any amount approved and unpaid shall be added for  
7       each month or fraction thereof after the end of this 60-day  
8       period, until final payment is made.

9       (1.05) For State fiscal year 2012 and future fiscal  
10       years, any bill approved for payment under this Section  
11       must be paid or the payment issued to the payee within 90  
12       days of receipt of a proper bill or invoice. If payment is  
13       not issued to the payee within this 90-day period, an  
14       interest penalty of 1.0% of any amount approved and unpaid  
15       shall be added for each month, or 0.033% (one-thirtieth of  
16       one percent) of any amount approved and unpaid for each  
17       day, after the end of this 90-day period, until final  
18       payment is made.

19       (1.06) After the effective date of this amendatory Act  
20       of the 99th General Assembly, for any bill approved for  
21       payment under this Section and pursuant to a health benefit  
22       plan under the State Employees Group Insurance Act of 1971  
23       or submitted under Article V of the Illinois Public Aid  
24       Code, except a bill for pharmacy or nursing facility  
25       services or goods, if payment is not issued to the payee in  
26       a timely manner under this Section, the following interest

1 penalty shall apply to any amount approved and unpaid until  
2 final payment is made: the sum of the prime commercial rate  
3 plus 4.0% per year, applied pro rata for the amount of time  
4 the bill remains unpaid. As used in this paragraph, "prime  
5 commercial rate" means the Wall Street Journal Prime Rate,  
6 as published from time to time.

7 (1.1) A State agency shall review in a timely manner  
8 each bill or invoice after its receipt. If the State agency  
9 determines that the bill or invoice contains a defect  
10 making it unable to process the payment request, the agency  
11 shall notify the vendor requesting payment as soon as  
12 possible after discovering the defect pursuant to rules  
13 promulgated under Section 3-3; provided, however, that the  
14 notice for construction related bills or invoices must be  
15 given not later than 30 days after the bill or invoice was  
16 first submitted. The notice shall identify the defect and  
17 any additional information necessary to correct the  
18 defect. If one or more items on a construction related bill  
19 or invoice are disapproved, but not the entire bill or  
20 invoice, then the portion that is not disapproved shall be  
21 paid.

22 (2) Where a State official or agency is late in payment  
23 of a vendor's bill or invoice properly approved in  
24 accordance with this Act, and different late payment terms  
25 are not reduced to writing as a contractual agreement, the  
26 State official or agency shall automatically pay interest

1 penalties required by this Section amounting to \$50 or more  
2 to the appropriate vendor. Each agency shall be responsible  
3 for determining whether an interest penalty is owed and for  
4 paying the interest to the vendor. Except as provided in  
5 paragraph (4), an individual interest payment amounting to  
6 \$5 or less shall not be paid by the State. Interest due to  
7 a vendor that amounts to greater than \$5 and less than \$50  
8 shall not be paid but shall be accrued until all interest  
9 due the vendor for all similar warrants exceeds \$50, at  
10 which time the accrued interest shall be payable and  
11 interest will begin accruing again, except that interest  
12 accrued as of the end of the fiscal year that does not  
13 exceed \$50 shall be payable at that time. In the event an  
14 individual has paid a vendor for services in advance, the  
15 provisions of this Section shall apply until payment is  
16 made to that individual.

17 (3) The provisions of Public Act 96-1501 reducing the  
18 interest rate on pharmacy claims under Article V of the  
19 Illinois Public Aid Code to 1.0% per month shall apply to  
20 any pharmacy bills for services and goods under Article V  
21 of the Illinois Public Aid Code received on or after the  
22 date 60 days before January 25, 2011 (the effective date of  
23 Public Act 96-1501) except as provided under paragraph  
24 (1.05) of this Section.

25 (4) Interest amounting to less than \$5 shall not be  
26 paid by the State, except for claims (i) to the Department

1 of Healthcare and Family Services or the Department of  
2 Human Services, (ii) pursuant to Article V of the Illinois  
3 Public Aid Code, the Covering ALL KIDS Health Insurance  
4 Act, or the Children's Health Insurance Program Act, and  
5 (iii) made (A) by pharmacies for prescriptive services or  
6 (B) by any federally qualified health center for  
7 prescriptive services or any other services.

8 (Source: P.A. 96-555, eff. 8-18-09; 96-802, eff. 1-1-10;  
9 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10; 96-1501, eff.  
10 1-25-11; 96-1530, eff. 2-16-11; 97-72, eff. 7-1-11; 97-74, eff.  
11 6-30-11; 97-348, eff. 8-12-11; 97-813, eff. 7-13-12; 97-932,  
12 eff. 8-10-12; 97-1142, eff. 12-28-12.)

13 Section 15. The Illinois Insurance Code is amended by  
14 changing Section 368a as follows:

15 (215 ILCS 5/368a)

16 Sec. 368a. Timely payment for health care services.

17 (a) This Section applies to insurers, health maintenance  
18 organizations, managed care plans, health care plans,  
19 preferred provider organizations, third party administrators,  
20 independent practice associations, and physician-hospital  
21 organizations (hereinafter referred to as "payors") that  
22 provide periodic payments, which are payments not requiring a  
23 claim, bill, capitation encounter data, or capitation  
24 reconciliation reports, such as prospective capitation

1 payments, to health care professionals and health care  
2 facilities to provide medical or health care services for  
3 insureds or enrollees.

4 (1) A payor shall make periodic payments in accordance  
5 with item (3). Failure to make periodic payments within the  
6 period of time specified in item (3) shall entitle the  
7 health care professional or health care facility to  
8 interest at the rate of 9% per year from the date payment  
9 was required to be made to the date of the late payment,  
10 provided that interest amounting to less than \$1 need not  
11 be paid. For periodic payments due on or after the  
12 effective date of this amendatory Act of the 99th General  
13 Assembly, failure to make periodic payments within the  
14 period of time specified in item (3) shall entitle the  
15 health care professional or health care facility to  
16 interest at the rate of the sum of the prime commercial  
17 rate plus 4.0% per year from the date payment was required  
18 to be made to the date of the late payment, provided that  
19 interest amounting to less than \$1 need not be paid. Any  
20 required interest payments shall be made within 30 days  
21 after the payment.

22 (2) When a payor requires selection of a health care  
23 professional or health care facility, the selection shall  
24 be completed by the insured or enrollee no later than 30  
25 days after enrollment. The payor shall provide written  
26 notice of this requirement to all insureds and enrollees.



1 Nothing in this Section shall be construed to require a  
2 payor to select a health care professional or health care  
3 facility for an insured or enrollee.

4 (3) A payor shall provide the health care professional  
5 or health care facility with notice of the selection as a  
6 health care professional or health care facility by an  
7 insured or enrollee and the effective date of the selection  
8 within 60 calendar days after the selection. No later than  
9 the 60th day following the date an insured or enrollee has  
10 selected a health care professional or health care facility  
11 or the date that selection becomes effective, whichever is  
12 later, or in cases of retrospective enrollment only, 30  
13 days after notice by an employer to the payor of the  
14 selection, a payor shall begin periodic payment of the  
15 required amounts to the insured's or enrollee's health care  
16 professional or health care facility, or the designee of  
17 either, calculated from the date of selection or the date  
18 the selection becomes effective, whichever is later. All  
19 subsequent payments shall be made in accordance with a  
20 monthly periodic cycle.

21 (b) Notwithstanding any other provision of this Section,  
22 independent practice associations and physician-hospital  
23 organizations shall make periodic payment of the required  
24 amounts in accordance with a monthly periodic schedule after an  
25 insured or enrollee has selected a health care professional or  
26 health care facility or after that selection becomes effective,

1       whichever is later.

2           Notwithstanding any other provision of this Section,  
3       independent practice associations and physician-hospital  
4       organizations shall make all other payments for health services  
5       within 30 days after receipt of due proof of loss. Independent  
6       practice associations and physician-hospital organizations  
7       shall notify the insured, insured's assignee, health care  
8       professional, or health care facility of any failure to provide  
9       sufficient documentation for a due proof of loss within 30 days  
10      after receipt of the claim for health services.

11          Failure to pay within the required time period shall  
12      entitle the payee to interest at the rate of 9% per year from  
13      the date the payment is due to the date of the late payment,  
14      provided that interest amounting to less than \$1 need not be  
15      paid. For any periodic payments or other payments due on or  
16      after the effective date of this amendatory Act of the 99th  
17      General Assembly, failure to pay within the required time  
18      period shall entitle the payee to interest at the rate of the  
19      sum of the prime commercial rate plus 4.0% per year from the  
20      date the payment is due to the date of the late payment,  
21      provided that interest amounting to less than \$1 need not be  
22      paid. Any required interest payments shall be made within 30  
23      days after the payment.

24          (c) All insurers, health maintenance organizations,  
25      managed care plans, health care plans, preferred provider  
26      organizations, and third party administrators shall ensure

1 that all claims and indemnities concerning health care services  
2 other than for any periodic payment shall be paid within 30  
3 days after receipt of due written proof of such loss. An  
4 insured, insured's assignee, health care professional, or  
5 health care facility shall be notified of any known failure to  
6 provide sufficient documentation for a due proof of loss within  
7 30 days after receipt of the claim for health care services.  
8 Failure to pay within such period shall entitle the payee to  
9 interest at the rate of 9% per year from the 30th day after  
10 receipt of such proof of loss to the date of late payment,  
11 provided that interest amounting to less than one dollar need  
12 not be paid. For any claims and indemnities due on or after the  
13 effective date of this amendatory Act of the 99th General  
14 Assembly, failure to pay within such period shall entitle the  
15 payee to interest at the rate of the sum of the prime  
16 commercial rate plus 4.0% per year from the 30th day after  
17 receipt of such proof of loss to the date of late payment,  
18 provided that interest amounting to less than one dollar need  
19 not be paid. Any required interest payments shall be made  
20 within 30 days after the payment.

21 (d) The Department shall enforce the provisions of this  
22 Section pursuant to the enforcement powers granted to it by  
23 law.

24 (e) The Department is hereby granted specific authority to  
25 issue a cease and desist order, fine, or otherwise penalize  
26 independent practice associations and physician-hospital

1 organizations that violate this Section. The Department shall  
2 adopt reasonable rules to enforce compliance with this Section  
3 by independent practice associations and physician-hospital  
4 organizations.

5 (f) As used in this Section, "prime commercial rate" means  
6 the Wall Street Journal Prime Rate, as published from time to  
7 time.

8 (Source: P.A. 97-813, eff. 7-13-12.)