



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB2379

Introduced 2/3/2016, by Sen. William R. Haine

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 5/368d.1 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 134/37 new	
215 ILCS 165/10	from Ch. 32, par. 604
305 ILCS 5/5-16.8	

Amends the Illinois Insurance Code. Provides that on and after the effective date of the amendatory Act, no insurer that amends, delivers, issues, or renews a group or individual policy of accident and health insurance or a qualified health plan offered through the health insurance marketplace in this State providing coverage for hospital or any other health care service shall use extrapolation or any other form of statistical sampling methodology to recoup payments for services rendered by any health care professional or provider. Provides that the use of extrapolation or any other form of statistical sampling methodology shall be an unfair and deceptive act under the Code. Requires any request for recoupment or offset be in writing and include every contested Current Procedural Terminology code and patient encounter data. Requires a minimum of 120 days after the information is provided to respond to requests for recoupment and offsets. Provides that no recoupment or offset may be made unless the provisions are complied with. Provides that the provisions may be enforced by a health care professional or provider through a court of competent jurisdiction or through mandatory arbitration with the right to recover attorney's fees. Makes similar changes in the Managed Care Reform and Patient Rights Act for health care plans. Amends the State Employees Group Insurance Act of 1971, Counties Code, Illinois Municipal Code, School Code, Health Maintenance Organization Act, Limited Health Service Organization Act, Voluntary Health Services Plans Act, and Illinois Public Aide Code to make conforming changes.

LRB099 15726 MLM 40025 b

1 AN ACT concerning regulation.

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, 356z.17, and 356z.22 of the Illinois
16 Insurance Code. The program of health benefits must comply with
17 Sections 155.22a, 155.37, 355b, 356z.19, 368d.1, 370c, and
18 370c.1 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

1 whatever reason, is unauthorized.

2 (Source: P.A. 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15;
3 99-480, eff. 9-9-15.)

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

6 (55 ILCS 5/5-1069.3)

7 Sec. 5-1069.3. Required health benefits. If a county,
8 including a home rule county, is a self-insurer for purposes of
9 providing health insurance coverage for its employees, the
10 coverage shall include coverage for the post-mastectomy care
11 benefits required to be covered by a policy of accident and
12 health insurance under Section 356t and the coverage required
13 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
15 356z.14, 356z.15, and 356z.22 of the Illinois Insurance Code.
16 The coverage shall comply with Sections 155.22a, 355b, 356z.19,
17 368d.1, and 370c of the Illinois Insurance Code. The
18 requirement that health benefits be covered as provided in this
19 Section is an exclusive power and function of the State and is
20 a denial and limitation under Article VII, Section 6,
21 subsection (h) of the Illinois Constitution. A home rule county
22 to which this Section applies must comply with every provision
23 of this Section.

24 Rulemaking authority to implement Public Act 95-1045, if

1 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. 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15;
7 99-480, eff. 9-9-15.)

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

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

11 Sec. 10-4-2.3. Required health benefits. If a
12 municipality, including a home rule municipality, is a
13 self-insurer for purposes of providing health insurance
14 coverage for its employees, the coverage shall include coverage
15 for the post-mastectomy care benefits required to be covered by
16 a policy of accident and health insurance under Section 356t
17 and the coverage required under Sections 356g, 356g.5,
18 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,
19 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, and 356z.22 of the
20 Illinois Insurance Code. The coverage shall comply with
21 Sections 155.22a, 355b, 356z.19, 368d.1, and 370c of the
22 Illinois Insurance Code. The requirement that health benefits
23 be covered as provided in this is an exclusive power and
24 function of the State and is a denial and limitation under

1 Article VII, Section 6, subsection (h) of the Illinois
2 Constitution. A home rule municipality to which this Section
3 applies must comply with every provision of this Section.

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. 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15;
11 99-480, eff. 9-9-15.)

12 Section 20. The School Code is amended by changing Section
13 10-22.3f as follows:

14 (105 ILCS 5/10-22.3f)

15 Sec. 10-22.3f. Required health benefits. Insurance
16 protection and benefits for employees shall provide the
17 post-mastectomy care benefits required to be covered by a
18 policy of accident and health insurance under Section 356t and
19 the coverage required under Sections 356g, 356g.5, 356g.5-1,
20 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12,
21 356z.13, 356z.14, 356z.15, and 356z.22 of the Illinois
22 Insurance Code. Insurance policies shall comply with Section
23 356z.19 of the Illinois Insurance Code. The coverage shall
24 comply with Sections 155.22a, ~~and~~ 355b, and 368d.1 of the

1 Illinois Insurance Code.

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

8 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-813,
9 eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15.)

10 Section 25. The Illinois Insurance Code is amended by
11 adding Section 368d.1 as follows:

12 (215 ILCS 5/368d.1 new)

13 Sec. 368d.1. Recoupment and offsets for medical benefit
14 payments. On and after the effective date of this amendatory
15 Act of the 99th General Assembly, no insurer that amends,
16 delivers, issues, or renews a group or individual policy of
17 accident and health insurance or a qualified health plan
18 offered through the health insurance marketplace in this State
19 providing coverage for hospital or any other health care
20 service shall use extrapolation or any other form of
21 statistical sampling methodology to recoup payments for
22 services rendered by any health care professional or provider.
23 The use of extrapolation or any other form of statistical
24 sampling methodology shall be an unfair and deceptive act under

1 Section 424 of this Code. Any request for recoupment or offset
2 must be in writing and include every contested Current
3 Procedural Terminology (CPT) code and patient encounter data,
4 complete with date of service and patient name. A minimum of
5 120 days shall be provided to respond to requests for
6 recoupment or offsets once the information required by this
7 Section is provided to the health care professional or
8 provider. No recoupment or offset may be made unless the
9 requirements of this Section are complied with. Any violation
10 of this provision may be enforced by a health care professional
11 or provider through a court of competent jurisdiction in
12 Illinois or through mandatory arbitration with the right to
13 recover attorney's fees.

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

16 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

17 Sec. 5-3. Insurance Code provisions.

18 (a) Health Maintenance Organizations shall be subject to
19 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
20 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
21 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,
22 355b, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4,
23 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
24 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,

1 356z.22, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d,
2 368d.1, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408,
3 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
4 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
5 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

12 (2) a corporation organized under the laws of this
13 State; or

14 (3) a corporation organized under the laws of another
15 state, 30% or more of the enrollees of which are residents
16 of this State, except a corporation subject to
17 substantially the same requirements in its state of
18 organization as is a "domestic company" under Article VIII
19 1/2 of the Illinois Insurance Code.

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

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

1 control takes effect;

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

9 (3) the Director shall have the power to require the
10 following information:

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

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

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

25 (D) such other information as the Director shall
26 require.

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

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

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

24 (i) the amount of, and other terms and conditions with
25 respect to, the refund or additional premium are set forth
26 in the group or enrollment unit contract agreed in advance

1 of the period for which a refund is to be paid or
2 additional premium is to be charged (which period shall not
3 be less than one year); and

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

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

1 or (2) the Health Maintenance Organization's unprofitable
2 experience with respect to the group or enrollment unit and the
3 resulting additional premium to be paid by the group or
4 enrollment unit.

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

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

15 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-437,
16 eff. 8-18-11; 97-486, eff. 1-1-12; 97-592, eff. 1-1-12; 97-805,
17 eff. 1-1-13; 97-813, eff. 7-13-12; 98-189, eff. 1-1-14;
18 98-1091, eff. 1-1-15.)

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

21 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

22 Sec. 4003. Illinois Insurance Code provisions. Limited
23 health service organizations shall be subject to the provisions
24 of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3,

1 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6,
2 154.7, 154.8, 155.04, 155.37, 355.2, 355.3, 355b, 356v,
3 356z.10, 356z.21, 356z.22, 368a, 368d.1, 401, 401.1, 402, 403,
4 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles IIA,
5 VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the
6 Illinois Insurance Code. For purposes of the Illinois Insurance
7 Code, except for Sections 444 and 444.1 and Articles XIII and
8 XIII 1/2, limited health service organizations in the following
9 categories are deemed to be domestic companies:

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

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

17 (Source: P.A. 97-486, eff. 1-1-12; 97-592, 1-1-12; 97-805, eff.
18 1-1-13; 97-813, eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091,
19 eff. 1-1-15.)

20 Section 40. The Managed Care Reform and Patient Rights Act
21 is amended by adding Section 37 as follows:

22 (215 ILCS 134/37 new)

23 Sec. 37. Recoupment and offsets for medical benefit
24 payments. On and after the effective date of this amendatory

1 Act of the 99th General Assembly, no health care plan providing
2 coverage for hospital or any other health care service shall
3 use extrapolation, offsets, or any other form of statistical
4 sampling methodology to recoup payments for services rendered
5 by any health care professional or provider. The use of
6 extrapolation or any other form of statistical sampling
7 methodology shall be an unfair and deceptive act under Section
8 424 of the Illinois Insurance Code. Any request for recoupment
9 or offset must be in writing and include every contested
10 Current Procedural Terminology (CPT) code and patient
11 encounter data, complete with date of service and patient name.
12 A minimum of 120 days shall be provided to respond to requests
13 for recoupment or offsets once the information required by this
14 Section is provided to the health care professional or
15 provider. No recoupment or offset may be made unless the
16 requirements of this Section are complied with. Any violation
17 of this provision may be enforced by a health care professional
18 or provider through a court of competent jurisdiction in
19 Illinois or through mandatory arbitration with the right to
20 recover attorney's fees.

21 Section 45. The Voluntary Health Services Plans Act is
22 amended by changing Section 10 as follows:

23 (215 ILCS 165/10) (from Ch. 32, par. 604)

24 Sec. 10. Application of Insurance Code provisions. Health

1 services plan corporations and all persons interested therein
2 or dealing therewith shall be subject to the provisions of
3 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
4 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b, 356g,
5 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y,
6 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
7 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18,
8 356z.19, 356z.21, 356z.22, 364.01, 367.2, 368a, 368d.1, 401,
9 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
10 and (15) of Section 367 of the Illinois Insurance Code.

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

17 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-486,
18 eff. 1-1-12; 97-592, eff. 1-1-12; 97-805, eff. 1-1-13; 97-813,
19 eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15.)

20 Section 50. The Illinois Public Aid Code is amended by
21 changing Section 5-16.8 as follows:

22 (305 ILCS 5/5-16.8)

23 Sec. 5-16.8. Required health benefits. The medical
24 assistance program shall (i) provide the post-mastectomy care

1 benefits required to be covered by a policy of accident and
2 health insurance under Section 356t and the coverage required
3 under Sections 356g.5, 356u, 356w, 356x, and 356z.6 of the
4 Illinois Insurance Code and (ii) be subject to the provisions
5 of Sections 356z.19, 364.01, 368d.1, 370c, and 370c.1 of the
6 Illinois Insurance Code.

7 On and after July 1, 2012, the Department shall reduce any
8 rate of reimbursement for services or other payments or alter
9 any methodologies authorized by this Code to reduce any rate of
10 reimbursement for services or other payments in accordance with
11 Section 5-5e.

12 To ensure full access to the benefits set forth in this
13 Section, on and after January 1, 2016, the Department shall
14 ensure that provider and hospital reimbursement for
15 post-mastectomy care benefits required under this Section are
16 no lower than the Medicare reimbursement rate.

17 (Source: P.A. 99-433, eff. 8-21-15; 99-480, eff. 9-9-15;
18 revised 10-21-15.)