

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,  
represented in the General Assembly:**

Section 5. The Illinois Insurance Code is amended by changing Section 356z.17 as follows:

(215 ILCS 5/356z.17)

Sec. 356z.17. Wellness coverage.

(a) A group or individual policy of accident and health insurance or managed care plan amended, delivered, issued, or renewed after January 1, 2010 (the effective date of Public Act 96-639) that provides coverage for hospital or medical treatment on an expense incurred basis may offer a reasonably designed program for wellness coverage that allows for a reward, a contribution, a reduction in premiums or reduced medical, prescription drug, or equipment copayments, coinsurance, or deductibles, or a combination of these incentives, for participation in any health behavior wellness, maintenance, or improvement program approved or offered by the insurer or managed care plan. The insured or enrollee may be required to provide evidence of participation in a program. Individuals unable to participate in these incentives due to an adverse health factor shall not be penalized based upon an adverse health status.

(b) For purposes of this Section, "wellness coverage" means health care coverage with the primary purpose to engage and motivate the insured or enrollee through: incentives; provision of health education, counseling, and self-management skills; identification of modifiable health risks; and other activities to influence health behavior changes.

For the purposes of this Section, "reasonably designed program" means a program of wellness coverage that has a reasonable chance of improving health or preventing disease; is not overly burdensome; does not discriminate based upon factors of health; and is not otherwise contrary to law.

(c) Incentives as outlined in this Section are specific and unique to the offering of wellness coverage and have no application to any other required or optional health care benefit.

(d) Such wellness coverage must satisfy the requirements for an exception from the general prohibition against discrimination based on a health factor under the federal Health Insurance Portability and Accountability Act of 1996 (P.L. 104-191; 110 Stat. 1936), including any federal regulations that are adopted pursuant to that Act.

(e) A plan offering wellness coverage must do the following:

(i) give participants the opportunity to qualify for offered incentives at least once a year;

(ii) allow a reasonable alternative to any individual

for whom it is unreasonably difficult, due to a medical condition, to satisfy otherwise applicable wellness program standards. Plans may seek physician verification that health factors make it unreasonably difficult or medically inadvisable for the participant to satisfy the standards; and

(iii) not provide a total incentive that exceeds 30% ~~20%~~ of the cost of self-only or employee-only coverage, except that the incentive may be increased by up to an additional 20%, for a total incentive of 50%, to the extent that the additional percentage is in connection with a program designed to prevent or reduce tobacco use. The cost of employee-only or family coverage provided through group health insurance coverage includes both employer and employee contributions. For group or individual plans offering family coverage, the ~~20%~~ limitation applies to cost of family coverage and applies to the entire family.

(f) A reward, contribution, or reduction established under this Section and included in the policy or certificate does not violate Section 151 of this Code.

(Source: P.A. 96-639, eff. 1-1-10; 96-833, eff. 6-1-10.)

Section 10. The Navigator Certification Act is amended by changing Sections 5, 10, 15, 30, 35, and 45 as follows:

(215 ILCS 121/5)

Sec. 5. Definitions. As used in this Act:

"Certified application counselor" has the same meaning as in federal regulations and guidelines, including 45 CFR 155.225.

"Director" means the Director of Insurance.

"Exchange" means any health benefit exchange established or operating in this State, including any exchange established or operated by the United States Department of Health and Human Services.

"Navigator" means a person or entity selected to perform the activities and duties identified in 42 U.S.C. 18031(i) in this State. ~~"Navigator" includes any person or entity who receives grant funds from the United States Department of Health and Human Services, the State of Illinois, or an exchange or private funds to perform any of the activities and duties identified in 42 U.S.C. 18031(i), including, but not limited to, in person assisters as defined by federal regulations or guidelines.~~

(Source: P.A. 98-524, eff. 8-23-13.)

(215 ILCS 121/10)

Sec. 10. Certificate required.

(a) No individual or entity shall perform, offer to perform, or advertise any service as a navigator or certified application counselor in this State or receive navigator grant

funding from the United States Department of Health and Human Services, the State of Illinois, or an exchange or private funds unless certified as a navigator or certified application counselor by the Director under this Act.

(b) The Director may establish exemptions from certification by rule. ~~A navigator who complies with the requirements of this Act shall do the following:~~

~~(1) conduct public education activities to raise awareness of the availability of qualified health plans;~~

~~(2) distribute fair and impartial information concerning enrollment in qualified health plans offered within the exchange and the availability of the premium tax credits under Section 36B of the Internal Revenue Code of 1986, 26 U.S.C. 36B, and cost-sharing reductions under Section 1402 of the federal Patient Protection and Affordable Care Act;~~

~~(3) facilitate enrollment in qualified health plans;~~

~~(4) provide referrals to appropriate federal and State agencies for any enrollee with a grievance, complaint, or question regarding their health plan or coverage or a determination under such plan or coverage;~~

~~(5) provide information in a manner that is culturally and linguistically appropriate to the needs of the population being served by the exchange.~~

(c) A navigator or certified application counselor may not:

(1) sell, solicit, or negotiate, as these terms are defined in Section 500-10 of the Illinois Insurance Code, any of the classes of insurance enumerated in Section 4 of the Illinois Insurance Code;

(2) offer advice about which health plan is better or worse for a particular individual or employer;

(3) recommend or endorse a particular health plan or advise consumers about which health plan to choose;

(4) provide any information or services related to health benefit plans or other insurance products not offered in the exchange, except for health care providers when furnishing information or services related to a patient's existing health benefit plan or other existing health insurance coverage; ~~or~~

(5) accept any compensation or consideration, directly or indirectly, from any issuer of accident and health insurance or stop-loss insurance that is dependent, in whole or in part, on whether a person enrolls in or purchases a particular private health benefit plan; ~~or~~

(6) engage in an unfair method of competition or a fraudulent, deceptive, or dishonest act or practice with respect to the health insurance marketplace or with respect to that individual's or entity's absence of a conflict of interest in connection with the enrollment of an individual or employee in a particular private health benefit plan.

(d) Items (1), (2), (3), (4), and (5) of subsection (c) of this Section do not apply to navigators or certified application counselors when assisting individuals with the enrollment process in the State Medicaid program or other public programs.

(Source: P.A. 98-524, eff. 8-23-13.)

(215 ILCS 121/15)

Sec. 15. Application for certificate.

(a) An entity or individual applying for an initial or renewal ~~a~~ navigator or certified application counselor certificate shall make application to the Director on a form developed by the Director and declare under penalty of refusal, suspension, or revocation of the certificate that the statements made in the application are true, correct, and complete to the best of the individual's or entity's knowledge and belief. ~~Before approving the application, the Director shall find that the individual:~~

~~(1) is at least 18 years of age;~~

~~(2) resides in this State or maintains his or her principal place of business in this State;~~

~~(3) is not disqualified due to having committed any act that would be grounds for denial, suspension, or revocation of a navigator certification in accordance with Section 30 of this Act;~~

~~(4) has successfully completed the federal and State~~

~~training provided by the exchange or equivalent State requirements as determined by the Department; and~~

~~(5) when applicable, has the written consent of the Director pursuant to 18 U.S.C. 1033, or any successor statute regulating crimes by or affecting persons engaged in the business of insurance whose activities affect interstate commerce.~~

(b) The Director shall establish certification terms and requirements for completed applications, including educational requirements, by rule. ~~An entity that acts as a navigator, supervises the activities of individual navigators, or receives funding to perform such activities shall obtain a navigator entity certificate. An entity applying for a navigator entity certificate shall make application on a form containing the information prescribed by the Director and shall list the individuals acting as navigators under the entity certificate.~~

~~(1) The entity shall designate a certified navigator responsible for the navigator entity's compliance with the laws of this State and the exchange.~~

~~(2) The entity, under penalty of revocation, suspension, or other discipline prescribed by the Director, shall certify that each individual completes the mandatory training required by item (4) of subsection (a) of Section 15 of this Act.~~

(c) The Director may require any documents deemed



necessary to verify the information contained in an application submitted in accordance with subsections (a) and (b) of this Section.

(d) Any navigator or certified application counselor who fails to timely file for certificate renewal shall be charged a late fee in an amount prescribed by the Director ~~Entities certified as navigators shall provide the Director with a list of all individual navigators that it employs, supervises, or is affiliated with at renewal.~~

(e) The Director may require, in a manner determined by the Director, that each entity that acts as a navigator or certified application counselor demonstrate a level of financial responsibility capable of protecting all persons against the wrongful acts, misrepresentations, or negligence of the navigator or certified application counselor.

(f) Prior to any exchange becoming operational in this State, the Director, in coordination with the exchange, shall prescribe the initial training and continuing education requirements for navigators and certified application counselors.

(g) Certificate holders must inform the Director, in writing, of a change of address within 30 days after the change.

(h) In order to assist in the performance of the Director's duties, the Director may contract with the National Association of Insurance Commissioners (NAIC), or any

affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to certification that the Director and the nongovernmental entity may deem appropriate.

(Source: P.A. 98-524, eff. 8-23-13.)

(215 ILCS 121/30)

Sec. 30. Certificate denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew a navigator or certified application counselor ~~navigator's~~ certificate or may levy a civil penalty as established by rule.

(b) If an action by the Director is to nonrenew, suspend, or revoke a certificate or to deny an application for a certificate, then the Director shall notify the applicant or certificate holder and advise, in writing, the applicant or certificate holder of the reason for the suspension, revocation, or denial or nonrenewal of the applicant's or certificate holder's certificate. The applicant or certificate holder may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing ~~and shall be held pursuant to Part 2402 of Title 50 of the Illinois Administrative Code.~~

(c) A navigator or certified application counselor entity certificate may be suspended, revoked, or refused or information turned over to the U.S. Department of Health and Human Services and applicable state agencies if the Director finds, after hearing, that a certified individual's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the navigator entity.

(d) In addition to or instead of any applicable denial, suspension, or revocation of a certificate, a person may, after hearing, be subject to a civil penalty in accordance with emergency rules issued by the Director.

(e) The Director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this Act against any person who is under investigation of or charged with a violation of this Act or rules, even if the person's certificate has been surrendered or has lapsed by operation of law.

(f) Upon the suspension, denial, or revocation of a certificate, the certificate holder or other person having possession or custody of the certificate shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions, denials, or revocations after the suspensions, denials, or revocations become final in a manner designed to notify the public.

(g) A person whose certificate is revoked or whose

application is denied pursuant to this Section is ineligible to apply for any certificate for 3 years after the revocation or denial. A person whose certificate as a navigator or certified application counselor has been revoked, suspended, or denied may not be employed, contracted, or engaged in an exchange-related capacity during the time the revocation, suspension, or denial is in effect.

(Source: P.A. 98-524, eff. 8-23-13.)

(215 ILCS 121/35)

Sec. 35. Reporting to the Director.

(a) Each navigator or certified application counselor shall report to the Director within 30 calendar days after the final disposition of a matter ~~that violates the provisions set forth in this Act~~ that results in any administrative action taken against the navigator or certified application counselor ~~him~~ in another jurisdiction or by another governmental agency in this State. The report shall include a copy of the order, consent to order, or other relevant legal documents.

(b) Within 30 days after the initial pretrial hearing date, a navigator or certified application counselor shall report to the Director any criminal prosecution of the navigator or certified application counselor ~~of a matter that violates the provisions set forth in this Act~~ taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any

other relevant legal documents.

(c) An entity that is certified ~~acts~~ as a navigator or certified application counselor that terminates the employment, engagement, affiliation, or other relationship with an individual navigator or certified application counselor shall notify the Director within 30 days following the effective date of the termination, using a format prescribed by the Director, if the reason for termination is related to the requirements or standards ~~one of the reasons~~ set forth in this Act or the rules adopted by the Director pursuant to this Act, or the entity has knowledge the navigator or certified application counselor was found by a court or government body to have engaged in any of the activities prohibited by this Act or the rules adopted by the Director pursuant to this Act. Upon the written request of the Director, the entity shall provide additional information, documents, records, or other data pertaining to the termination or activity of the individual.

(Source: P.A. 98-524, eff. 8-23-13.)

(215 ILCS 121/45)

Sec. 45. Other laws; rulemaking authority.

(a) The requirements of this Act shall not apply to any individual or entity licensed as an insurance producer in this State.

(b) Pursuant to the authority granted by this Act, the

Director may adopt rules as may be necessary or appropriate for the administration and enforcement of this Act. Such rules may not conflict with or prevent the application of the provisions of Title I of the Patient Protection and Affordable Care Act or the federal regulations promulgated under such provisions.

(Source: P.A. 98-524, eff. 8-23-13.)

(215 ILCS 121/20 rep.)

(215 ILCS 121/25 rep.)

(215 ILCS 121/40 rep.)

Section 15. The Navigator Certification Act is amended by repealing Sections 20, 25, and 40.

Section 99. Effective date. This Act takes effect upon becoming law.

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