



Rep. Frank J. Mautino

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LRB095 17333 RPM 48668 a

1 AMENDMENT TO HOUSE BILL 4940

2 AMENDMENT NO. _____. Amend House Bill 4940, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The State Employees Group Insurance Act of 1971
6 is amended by changing Section 6.11 as follows:

7 (5 ILCS 375/6.11)

8 Sec. 6.11. Required health benefits; Illinois Insurance
9 Code requirements. The program of health benefits shall provide
10 the post-mastectomy care benefits required to be covered by a
11 policy of accident and health insurance under Section 356t of
12 the Illinois Insurance Code. The program of health benefits
13 shall provide the coverage required under Sections 356g.5,
14 356u, 356w, 356x, 356z.2, 356z.4, 356z.6, ~~and 356z.9~~, 356z.10,
15 and 356z.11 ~~and 356z.9~~ of the Illinois Insurance Code. The
16 program of health benefits must comply with Section 155.37 of

1 the Illinois Insurance Code.

2 (Source: P.A. 95-189, eff. 8-16-07; 95-422, eff. 8-24-07;
3 95-520, eff. 8-28-07; revised 12-4-07.)

4 Section 10. The Illinois Insurance Code is amended by
5 adding Section 356z.11 as follows:

6 (215 ILCS 5/356z.11 new)

7 Sec. 356z.11. Wellness coverage.

8 (a) A group or individual policy of accident and health
9 insurance or managed care plan amended, delivered, issued, or
10 renewed after the effective date of this amendatory Act of the
11 95th General Assembly that provides coverage for hospital or
12 medical treatment on an expense incurred basis may offer a
13 reasonably designed program for wellness coverage that allows
14 for a reward, a health spending account contribution, a
15 reduction in premiums or reduced medical, prescription drug, or
16 equipment copayments, coinsurance, or deductibles, or a
17 combination of these incentives, for participation in any
18 health behavior wellness, maintenance, or improvement program
19 approved or offered by the insurer or managed care plan. The
20 insured or enrollee may be required to provide evidence of
21 participation in a program, demonstrative compliance with
22 treatment recommendations, or improvement of the individual's
23 or dependent's health behaviors as determined by the health
24 insurer or managed care plan.

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

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

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

17 (e) A reward, health spending account contribution, or
18 reduction established under this Section does not violate
19 Section 151 of this Code.

20 (f) Notwithstanding any other rulemaking authority that
21 may exist, neither the Governor nor any agency or agency head
22 under the jurisdiction of the Governor has any authority to
23 make or promulgate rules to implement or enforce the provisions
24 of this amendatory Act of the 95th General Assembly. If,
25 however, the Governor believes that rules are necessary to
26 implement or enforce the provisions of this amendatory Act of

1 the 95th General Assembly, the Governor may suggest rules to
2 the General Assembly by filing them with the Clerk of the House
3 and the Secretary of the Senate and by requesting that the
4 General Assembly authorize such rulemaking by law, enact those
5 suggested rules into law, or take any other appropriate action
6 in the General Assembly's discretion. Nothing contained in this
7 amendatory Act of the 95th General Assembly shall be
8 interpreted to grant rulemaking authority under any other
9 Illinois statute where such authority is not otherwise
10 explicitly given. For the purposes of this amendatory Act of
11 the 95th General Assembly, "rules" is given the meaning
12 contained in Section 1-70 of the Illinois Administrative
13 Procedure Act, and "agency" and "agency head" are given the
14 meanings contained in Sections 1-20 and 1-25 of the Illinois
15 Administrative Procedure Act to the extent that such
16 definitions apply to agencies or agency heads under the
17 jurisdiction of the Governor.

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

20 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

21 Sec. 5-3. Insurance Code provisions.

22 (a) Health Maintenance Organizations shall be subject to
23 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
24 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,

1 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
2 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,
3 356z.11, ~~356z.9,~~ 364.01, 367.2, 367.2-5, 367i, 368a, 368b,
4 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,
5 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of
6 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
7 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

14 (2) a corporation organized under the laws of this
15 State; or

16 (3) a corporation organized under the laws of another
17 state, 30% or more of the enrollees of which are residents
18 of this State, except a corporation subject to
19 substantially the same requirements in its state of
20 organization as is a "domestic company" under Article VIII
21 1/2 of the Illinois Insurance Code.

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

25 (1) the Director shall give primary consideration to
26 the continuation of benefits to enrollees and the financial

1 conditions of the acquired Health Maintenance Organization
2 after the merger, consolidation, or other acquisition of
3 control takes effect;

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

11 (3) the Director shall have the power to require the
12 following information:

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

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

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

1 (D) such other information as the Director shall
2 require.

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

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

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

26 (i) the amount of, and other terms and conditions with

1 respect to, the refund or additional premium are set forth
2 in the group or enrollment unit contract agreed in advance
3 of the period for which a refund is to be paid or
4 additional premium is to be charged (which period shall not
5 be less than one year); and

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

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

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

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

11 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;
12 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

13 Section 99. Effective date. This Act takes effect January
14 1, 2009."