



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB2419

Introduced 2/19/2009, by Rep. Naomi D. Jakobsson

SYNOPSIS AS INTRODUCED:

215 ILCS 5/351B-5	from Ch. 73, par. 963B-5
215 ILCS 5/367.4 new	
215 ILCS 123/5	
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, the Health Care Purchasing Group Act, the Health Maintenance Organization Act, the Limited Health Services Organization Act, and the Voluntary Health Services Plans Act by adding a definition of "summary health information" and requiring that a group health plan disclose summary health information to the plan sponsor with 50 or more employees if the sponsor requests the information for the purpose of (i) obtaining premium bids from health plans for providing health insurance coverage under the plan or (ii) modifying, amending, or terminating the plan. Provides that the group health plan documents must be amended to incorporate certain provisions, including provisions that establish the permitted and required uses of disclosed information by the plan sponsor. Contains a nonacceleration clause. Makes other changes.

LRB096 09708 RPM 19871 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
5 changing Section 351B-5 and adding Section 367.4 as follows:

6 (215 ILCS 5/351B-5) (from Ch. 73, par. 963B-5)

7 Sec. 351B-5. Applicability of other Code provisions. All
8 policies of accident and health insurance issued under this
9 Article shall be subject to the provisions of Sections 356c,
10 subsection (a) of Section 356g, 356h, 356n, 367.4, 367c, 367d,
11 370, 370a, and 370e of this Code.

12 (Source: P.A. 86-1407; 87-792; 87-1066.)

13 (215 ILCS 5/367.4 new)

14 Sec. 367.4. Reporting of claims information to group health
15 plan sponsor.

16 (a) In this Section, "group health plan", "health insurance
17 coverage", "health insurance issuer", and "plan sponsor" have
18 the meanings ascribed to those terms in the Illinois Health
19 Insurance Portability and Accountability Act.

20 "Summary health information" means information that may be
21 individually identifiable health information and (i) that
22 summarizes the claims history, claims expenses, or type of

1 claims experienced by individuals for whom a plan sponsor has
2 provided health benefits under a group health plan and (ii)
3 from which the information identifying an individual, a
4 relative or employer of the individual, or a member of the
5 individual's household has been deleted, except that
6 information describing geographic subdivisions of a State need
7 only be aggregated to the level of a 5-digit zip code.

8 (b) A group health plan, or a health insurance issuer or
9 health maintenance organization with respect to a group health
10 plan, shall disclose summary health information to a plan
11 sponsor with 50 or more employees if the plan sponsor requests
12 the summary health information for the purpose of (i) obtaining
13 premium bids from health plans for providing health insurance
14 coverage under the group health plan or (ii) modifying,
15 amending, or terminating the group health plan.

16 The plan documents of the group health plan must be amended
17 to incorporate provisions to do the following:

18 (1) Establish the permitted and required uses and
19 disclosures of such information by the plan sponsor.

20 (2) Provide that the plan sponsor agrees to not use or
21 further disclose the information other than as permitted or
22 required by the plan documents or as required by law.

23 (3) Provide that the plan sponsor agrees to not use or
24 disclose the information for employment-related actions
25 and decisions or in connection with any other benefit or
26 employee benefit plan of the plan sponsor.

1 (4) Provide that the plan sponsor agrees to report to
2 the group health plan any use or disclosure of the
3 information that is inconsistent with the uses or
4 disclosures provided for of which it becomes aware.

5 (5) Provide that the plan sponsor agrees to make
6 available the information required to provide an
7 accounting of disclosures.

8 (6) Provide that the plan sponsor agrees to make its
9 internal practices, books, and records relating to the use
10 and disclosure of the summary health information received
11 from the group health plan available to the Director for
12 purposes of determining compliance by the group health plan
13 with this Section.

14 (7) Provide that the plan sponsor agrees to, if
15 feasible, return or destroy all protected health
16 information received from the group health plan that the
17 sponsor still maintains in any form and retain no copies of
18 such information when no longer needed for the purpose for
19 which disclosure was made, except that, if such return or
20 destruction is not feasible, limit further uses and
21 disclosures to those purposes that make the return or
22 destruction of the information infeasible.

23 (c) A health insurance issuer may not report any
24 information required under this Section the release of which is
25 prohibited by State or federal law or regulation.

26 (d) A health insurance issuer must provide information

1 under this Section in the aggregate, without any information
2 through which a specific individual covered under the plan may
3 be identified.

4 (e) Information obtained by a plan sponsor under this
5 Section is confidential. The sponsor may use the information
6 only for purposes relating to obtaining and maintaining health
7 insurance coverage for the sponsor's employees (if the sponsor
8 is an employer) or members (if the sponsor is an employee
9 organization).

10 Section 10. The Health Care Purchasing Group Act is amended
11 by changing Section 5 as follows:

12 (215 ILCS 123/5)

13 Sec. 5. Purpose; applicability of Illinois Health
14 Insurance Portability and Accountability Act.

15 (a) The purpose and intent of this Act is to authorize the
16 formation, operation, and regulation of health care purchasing
17 groups (referred to in this Act as "HPGs") as described by this
18 Act, to authorize the sale and regulation of health insurance
19 products for employers that are sold to HPGs, and to encourage
20 the development of financially secure and cost effective
21 markets for the basic health care needs of employers,
22 employees, and their dependents in this State. Nothing in this
23 Act authorizes an employer to join with other employers to
24 self-insure through risk pooling.

1 (b) All health insurance contracts issued under this Act
2 are subject to the Illinois Health Insurance Portability and
3 Accountability Act.

4 (c) All health insurance contracts issued under this Act
5 are subject to Section 367.4 of the Illinois Insurance Code.

6 (Source: P.A. 90-337, eff. 1-1-98; 90-567, eff. 1-23-98.)

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

9 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

10 (Text of Section before amendment by P.A. 95-958)

11 Sec. 5-3. Insurance Code provisions.

12 (a) Health Maintenance Organizations shall be subject to
13 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
14 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
15 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
16 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,
17 356z.13 ~~356z.11~~, 356z.14, 364.01, 367.2, 367.2-5, 367.4, 367i,
18 368a, 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A,
19 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of
20 subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII,
21 XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois
22 Insurance Code.

23 (b) For purposes of the Illinois Insurance Code, except for
24 Sections 444 and 444.1 and Articles XIII and XIII 1/2, Health

1 Maintenance Organizations in the following categories are
2 deemed to be "domestic companies":

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

5 (2) a corporation organized under the laws of this
6 State; or

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

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

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

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

1 other acquisition of control;

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

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

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

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

18 (D) such other information as the Director shall
19 require.

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

26 (e) In considering any management contract or service

1 agreement subject to Section 141.1 of the Illinois Insurance
2 Code, the Director (i) shall, in addition to the criteria
3 specified in Section 141.2 of the Illinois Insurance Code, take
4 into account the effect of the management contract or service
5 agreement on the continuation of benefits to enrollees and the
6 financial condition of the health maintenance organization to
7 be managed or serviced, and (ii) need not take into account the
8 effect of the management contract or service agreement on
9 competition.

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

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

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

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

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

24 In no event shall the Illinois Health Maintenance
25 Organization Guaranty Association be liable to pay any
26 contractual obligation of an insolvent organization to pay any

1 refund authorized under this Section.

2 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;
3 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
4 8-21-08; 95-978, eff. 1-1-09; 95-1005, eff. 12-12-08; revised
5 12-15-08.)

6 (Text of Section after amendment by P.A. 95-958)

7 Sec. 5-3. Insurance Code provisions.

8 (a) Health Maintenance Organizations shall be subject to
9 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
10 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
11 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
12 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,
13 356z.11, 356z.12, 356z.13 ~~356z.11~~, 356z.14, 364.01, 367.2,
14 367.2-5, 367.4, 367i, 368a, 368b, 368c, 368d, 368e, 370c, 401,
15 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1,
16 paragraph (c) of subsection (2) of Section 367, and Articles
17 IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of
18 the Illinois Insurance Code.

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

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

25 (2) a corporation organized under the laws of this

1 State; or

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

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

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

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

23 (3) the Director shall have the power to require the
24 following information:

25 (A) certification by an independent actuary of the
26 adequacy of the reserves of the Health Maintenance

1 Organization sought to be acquired;

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

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

13 (D) such other information as the Director shall
14 require.

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

21 (e) In considering any management contract or service
22 agreement subject to Section 141.1 of the Illinois Insurance
23 Code, the Director (i) shall, in addition to the criteria
24 specified in Section 141.2 of the Illinois Insurance Code, take
25 into account the effect of the management contract or service
26 agreement on the continuation of benefits to enrollees and the

1 financial condition of the health maintenance organization to
2 be managed or serviced, and (ii) need not take into account the
3 effect of the management contract or service agreement on
4 competition.

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

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

18 (ii) the amount of the refund or additional premium
19 shall not exceed 20% of the Health Maintenance
20 Organization's profitable or unprofitable experience with
21 respect to the group or other enrollment unit for the
22 period (and, for purposes of a refund or additional
23 premium, the profitable or unprofitable experience shall
24 be calculated taking into account a pro rata share of the
25 Health Maintenance Organization's administrative and
26 marketing expenses, but shall not include any refund to be

1 made or additional premium to be paid pursuant to this
2 subsection (f)). The Health Maintenance Organization and
3 the group or enrollment unit may agree that the profitable
4 or unprofitable experience may be calculated taking into
5 account the refund period and the immediately preceding 2
6 plan years.

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

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

23 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;
24 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
25 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
26 eff. 12-12-08; revised 12-15-08.)

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

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

4 Sec. 4003. Illinois Insurance Code provisions. Limited
5 health service organizations shall be subject to the provisions
6 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,
7 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,
8 155.04, 155.37, 355.2, 356v, 356z.10, 367.4, 368a, 401, 401.1,
9 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and
10 Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and
11 XXVI of the Illinois Insurance Code. For purposes of the
12 Illinois Insurance Code, except for Sections 444 and 444.1 and
13 Articles XIII and XIII 1/2, limited health service
14 organizations in the following categories are deemed to be
15 domestic companies:

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

17 (2) a corporation organized under the laws of another
18 state, 30% of more of the enrollees of which are residents
19 of this State, except a corporation subject to
20 substantially the same requirements in its state of
21 organization as is a domestic company under Article VIII
22 1/2 of the Illinois Insurance Code.

23 (Source: P.A. 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

1 Section 25. The Voluntary Health Services Plans Act is
2 amended by changing Section 10 as follows:

3 (215 ILCS 165/10) (from Ch. 32, par. 604)

4 (Text of Section before amendment by P.A. 95-958)

5 Sec. 10. Application of Insurance Code provisions. Health
6 services plan corporations and all persons interested therein
7 or dealing therewith shall be subject to the provisions of
8 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
9 149, 155.37, 354, 355.2, 356g.5, 356r, 356t, 356u, 356v, 356w,
10 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8,
11 356z.9, 356z.10, 356z.13 ~~356z.11~~, 356z.14, 364.01, 367.2,
12 367.4, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, and 412,
13 and paragraphs (7) and (15) of Section 367 of the Illinois
14 Insurance Code.

15 (Source: P.A. 94-1076, eff. 12-29-06; 95-189, eff. 8-16-07;
16 95-331, eff. 8-21-07; 95-422, eff. 8-24-07; 95-520, eff.
17 8-28-07; 95-876, eff. 8-21-08; 95-978, eff. 1-1-09; 95-1005,
18 eff. 12-12-08; revised 12-15-08.)

19 (Text of Section after amendment by P.A. 95-958)

20 Sec. 10. Application of Insurance Code provisions. Health
21 services plan corporations and all persons interested therein
22 or dealing therewith shall be subject to the provisions of
23 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
24 149, 155.37, 354, 355.2, 356g.5, 356r, 356t, 356u, 356v, 356w,

1 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8,
2 356z.9, 356z.10, 356z.11, 356z.12, 356z.13 ~~356z.11~~, 356z.14,
3 364.01, 367.2, 367.4, 368a, 401, 401.1, 402, 403, 403A, 408,
4 408.2, and 412, and paragraphs (7) and (15) of Section 367 of
5 the Illinois Insurance Code.

6 (Source: P.A. 94-1076, eff. 12-29-06; 95-189, eff. 8-16-07;
7 95-331, eff. 8-21-07; 95-422, eff. 8-24-07; 95-520, eff.
8 8-28-07; 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978,
9 eff. 1-1-09; 95-1005, eff. 12-12-08; revised 12-15-08.)

10 Section 95. No acceleration or delay. Where this Act makes
11 changes in a statute that is represented in this Act by text
12 that is not yet or no longer in effect (for example, a Section
13 represented by multiple versions), the use of that text does
14 not accelerate or delay the taking effect of (i) the changes
15 made by this Act or (ii) provisions derived from any other
16 Public Act.