



Sen. Heather Steans

Filed: 4/26/2010

09600HB5766sam002

LRB096 19907 AMC 40637 a

1 AMENDMENT TO HOUSE BILL 5766

2 AMENDMENT NO. _____. Amend House Bill 5766, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Insurance Code is amended by
6 renumbering and changing Section 356z.15, as added by Public
7 Act 96-180, and adding Section 356z.19 as follows:

8 (215 ILCS 5/356z.16)

9 Sec. 356z.16 ~~356z.15~~. Applicability of mandated benefits
10 to supplemental policies. Unless specified otherwise, the
11 following Sections of the Illinois Insurance Code do not apply
12 to short-term travel, disability income, long-term care,
13 accident only, or limited or specified disease policies: 356b,
14 356c, 356d, 356g, 356k, 356m, 356n, 356p, 356q, 356r, 356t,
15 356u, 356w, 356x, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6,
16 356z.8, 356z.19, 367.2-5, and 367e.

1 (Source: P.A. 96-180, eff. 1-1-10; revised 10-21-09.)".

2 (215 ILCS 5/356z.19 new)

3 Sec. 356z.19. Tobacco use cessation programs.

4 (a) This Section may be referred to as the Tobacco
5 Dependence Coverage Law.

6 (b) Tobacco use is the number one cause of preventable
7 disease and death in Illinois, costing \$4.1 billion annually in
8 direct health care costs and an additional \$4.35 billion in
9 lost productivity. In Illinois, the smoking rates are highest
10 among African Americans (25.8%). Smoking rates among lesbian,
11 gay, and bisexual adults range from 25% to 44%. The U.S. Public
12 Health Service Clinical Practice Guideline 2008 Update found
13 that tobacco dependence treatments are both clinically
14 effective and highly cost effective. A study in the Journal of
15 Preventive Medicine concluded that comprehensive smoking
16 cessation treatment is one of the 3 most important and cost
17 effective preventive services that can be provided in medical
18 practice. Greater efforts are needed to achieve more of this
19 potential value by increasing current low levels of
20 performance.

21 (c) In this Section, "tobacco use cessation program" means
22 a program recommended by a physician that follows
23 evidence-based treatment, such as is outlined in the United
24 States Public Health Service guidelines for tobacco use
25 cessation. "Tobacco use cessation program" includes education

1 and medical treatment components designed to assist a person in
2 ceasing the use of tobacco products. "Tobacco use cessation
3 program" includes education and counseling by physicians or
4 associated medical personnel and all FDA approved medications
5 for the treatment of tobacco dependence irrespective of whether
6 they are available only over the counter, only by prescription,
7 or both over the counter and by prescription.

8 (d) 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 96th General Assembly to a resident of this State must provide
12 coverage or reimbursement of up to \$500 annually for a tobacco
13 use cessation program for a person enrolled in the plan who is
14 18 years of age or older.

15 (e) Written notice of the availability of coverage under
16 this Section shall be delivered to the insured upon enrollment
17 and annually thereafter. An insurer may not deny to an insured
18 eligibility or continued eligibility to enroll or to renew
19 coverage under the terms of the plan solely for the purpose of
20 avoiding the requirements of this Section. An insurer may not
21 penalize or reduce or limit the reimbursement of an attending
22 provider or provide incentives, monetary or otherwise, to an
23 attending provider to induce the provider to provide care to an
24 insured in a manner inconsistent with this Section.

25 Section 10. The Health Maintenance Organization Act is

1 amended by changing Section 5-3 as follows:

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

3 (Text of Section before amendment by P.A. 96-833)

4 Sec. 5-3. Insurance Code provisions.

5 (a) Health Maintenance Organizations shall be subject to
6 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
7 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
8 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,
9 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
10 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15 ~~356z.14,~~
11 356z.17 ~~356z.15,~~ 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a,
12 368b, 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408,
13 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
14 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
15 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

22 (2) a corporation organized under the laws of this
23 State; or

24 (3) a corporation organized under the laws of another
25 state, 30% or more of the enrollees of which are residents

1 of this State, except a corporation subject to
2 substantially the same requirements in its state of
3 organization as is a "domestic company" under Article VIII
4 1/2 of the Illinois Insurance Code.

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

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

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

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

22 (A) certification by an independent actuary of the
23 adequacy of the reserves of the Health Maintenance
24 Organization sought to be acquired;

25 (B) pro forma financial statements reflecting the
26 combined balance sheets of the acquiring company and

1 the Health Maintenance Organization sought to be
2 acquired as of the end of the preceding year and as of
3 a date 90 days prior to the acquisition, as well as pro
4 forma financial statements reflecting projected
5 combined operation for a period of 2 years;

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

10 (D) such other information as the Director shall
11 require.

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

18 (e) In considering any management contract or service
19 agreement subject to Section 141.1 of the Illinois Insurance
20 Code, the Director (i) shall, in addition to the criteria
21 specified in Section 141.2 of the Illinois Insurance Code, take
22 into account the effect of the management contract or service
23 agreement on the continuation of benefits to enrollees and the
24 financial condition of the health maintenance organization to
25 be managed or serviced, and (ii) need not take into account the
26 effect of the management contract or service agreement on

1 competition.

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

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

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

1 or unprofitable experience may be calculated taking into
2 account the refund period and the immediately preceding 2
3 plan years.

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

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

20 (g) Rulemaking authority to implement Public Act 95-1045
21 ~~this amendatory Act of the 95th General Assembly~~, if any, is
22 conditioned on the rules being adopted in accordance with all
23 provisions of the Illinois Administrative Procedure Act and all
24 rules and procedures of the Joint Committee on Administrative
25 Rules; any purported rule not so adopted, for whatever reason,
26 is unauthorized.

1 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
2 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
3 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
4 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; revised
5 10-23-09.)

6 (Text of Section after amendment by P.A. 96-833)

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, 356g.5-1, 356m, 356v, 356w,
12 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
13 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,
14 356z.18, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,
15 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,
16 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of
17 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
18 XIII 1/2, XXV, and XXVI of 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 (g) Rulemaking authority to implement Public Act 95-1045,
24 if any, is conditioned on the rules being adopted in accordance
25 with all provisions of the Illinois Administrative Procedure
26 Act and all rules and procedures of the Joint Committee on

1 Administrative Rules; any purported rule not so adopted, for
2 whatever reason, is unauthorized.

3 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
4 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
5 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
6 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.
7 6-1-10.)

8 Section 15. The Limited Health Service Organization Act is
9 amended by changing Section 4003 as follows:

10 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

11 Sec. 4003. Illinois Insurance Code provisions. Limited
12 health service organizations shall be subject to the provisions
13 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,
14 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,
15 155.04, 155.37, 355.2, 356v, 356z.10, 356z.19, 368a, 401,
16 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and
17 Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and
18 XXVI of the Illinois Insurance Code. For purposes of the
19 Illinois Insurance Code, except for Sections 444 and 444.1 and
20 Articles XIII and XIII 1/2, limited health service
21 organizations in the following categories are deemed to be
22 domestic companies:

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

24 (2) a corporation organized under the laws of another

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

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

7 Section 20. The Voluntary Health Services Plans Act is
8 amended by changing Section 10 as follows:

9 (215 ILCS 165/10) (from Ch. 32, par. 604)

10 (Text of Section before amendment by P.A. 96-833)

11 Sec. 10. Application of Insurance Code provisions. Health
12 services plan corporations and all persons interested therein
13 or dealing therewith shall be subject to the provisions of
14 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
15 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,
16 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,
17 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
18 356z.14, 356z.15 ~~356z.14~~, 356z.19, 364.01, 367.2, 368a, 401,
19 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
20 and (15) of Section 367 of the Illinois Insurance Code.

21 Rulemaking authority to implement Public Act 95-1045 ~~this~~
22 ~~amendatory Act of the 95th General Assembly~~, if any, is
23 conditioned on the rules being adopted in accordance with all
24 provisions of the Illinois Administrative Procedure Act and all

1 rules and procedures of the Joint Committee on Administrative
2 Rules; any purported rule not so adopted, for whatever reason,
3 is unauthorized.

4 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
5 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
6 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
7 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
8 96-328, eff. 8-11-09; revised 9-25-09.)

9 (Text of Section after amendment by P.A. 96-833)

10 Sec. 10. Application of Insurance Code provisions. Health
11 services plan corporations and all persons interested therein
12 or dealing therewith shall be subject to the provisions of
13 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
14 149, 155.37, 354, 355.2, 356g, 356g.5, 356g.5-1, 356r, 356t,
15 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5,
16 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
17 356z.14, 356z.15, 356z.18, 356z.19, 364.01, 367.2, 368a, 401,
18 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
19 and (15) of Section 367 of the Illinois Insurance Code.

20 Rulemaking authority to implement Public Act 95-1045, if
21 any, is conditioned on the rules being adopted in accordance
22 with all provisions of the Illinois Administrative Procedure
23 Act and all rules and procedures of the Joint Committee on
24 Administrative Rules; any purported rule not so adopted, for
25 whatever reason, is unauthorized.

1 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
2 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
3 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
4 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
5 96-328, eff. 8-11-09; 96-833, eff. 6-1-10.)

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