

**SB2968**



**96TH GENERAL ASSEMBLY**

**State of Illinois**

**2009 and 2010**

**SB2968**

Introduced 2/3/2010, by Sen. Carole Pankau

**SYNOPSIS AS INTRODUCED:**

215 ILCS 5/367

from Ch. 73, par. 979

Amends the Illinois Insurance Code in the provision concerning group accident and health insurance to provide that no group policy may be issued or delivered without a provision that any employee may decline coverage by opting out of the group coverage and that the amount, if any, that would be charged to the employee if the employee were to participate in the group coverage shall be deducted from the premium for group coverage. Effective immediately.

LRB096 19750 RPM 35178 b

**A BILL FOR**

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 367 as follows:

6 (215 ILCS 5/367) (from Ch. 73, par. 979)

7 Sec. 367. Group accident and health insurance.

8 (1) Group accident and health insurance is hereby declared  
9 to be that form of accident and health insurance covering not  
10 less than 2 employees, members, or employees of members,  
11 written under a master policy issued to any governmental  
12 corporation, unit, agency or department thereof, or to any  
13 corporation, copartnership, individual employer, or to any  
14 association upon application of an executive officer or trustee  
15 of such association having a constitution or bylaws and formed  
16 in good faith for purposes other than that of obtaining  
17 insurance, where officers, members, employees, employees of  
18 members or classes or department thereof, may be insured for  
19 their individual benefit. In addition a group accident and  
20 health policy may be written to insure any group which may be  
21 insured under a group life insurance policy. The term  
22 "employees" shall include the officers, managers and employees  
23 of subsidiary or affiliated corporations, and the individual

1 proprietors, partners and employees of affiliated individuals  
2 and firms, when the business of such subsidiary or affiliated  
3 corporations, firms or individuals, is controlled by a common  
4 employer through stock ownership, contract or otherwise.

5 (2) Any insurance company authorized to write accident and  
6 health insurance in this State shall have power to issue group  
7 accident and health policies. No policy of group accident and  
8 health insurance may be issued or delivered in this State  
9 unless a copy of the form thereof shall have been filed with  
10 the department and approved by it in accordance with Section  
11 355, and it contains in substance those provisions contained in  
12 Sections 357.1 through 357.30 as may be applicable to group  
13 accident and health insurance and the following provisions:

14 (a) A provision that the policy, the application of the  
15 employer, or executive officer or trustee of any  
16 association, and the individual applications, if any, of  
17 the employees, members or employees of members insured  
18 shall constitute the entire contract between the parties,  
19 and that all statements made by the employer, or the  
20 executive officer or trustee, or by the individual  
21 employees, members or employees of members shall (in the  
22 absence of fraud) be deemed representations and not  
23 warranties, and that no such statement shall be used in  
24 defense to a claim under the policy, unless it is contained  
25 in a written application.

26 (b) A provision that the insurer will issue to the

1 employer, or to the executive officer or trustee of the  
2 association, for delivery to the employee, member or  
3 employee of a member, who is insured under such policy, an  
4 individual certificate setting forth a statement as to the  
5 insurance protection to which he is entitled and to whom  
6 payable.

7 (c) A provision that to the group or class thereof  
8 originally insured shall be added from time to time all new  
9 employees of the employer, members of the association or  
10 employees of members eligible to and applying for insurance  
11 in such group or class.

12 (d) A provision that any employee may decline coverage  
13 by opting out of the group coverage and that the amount, if  
14 any, that would be charged to the employee if the employee  
15 were to participate in the group coverage shall be deducted  
16 from the premium for group coverage.

17 (3) Anything in this code to the contrary notwithstanding,  
18 any group accident and health policy may provide that all or  
19 any portion of any indemnities provided by any such policy on  
20 account of hospital, nursing, medical or surgical services,  
21 may, at the insurer's option, be paid directly to the hospital  
22 or person rendering such services; but the policy may not  
23 require that the service be rendered by a particular hospital  
24 or person. Payment so made shall discharge the insurer's  
25 obligation with respect to the amount of insurance so paid.  
26 Nothing in this subsection (3) shall prohibit an insurer from

1 providing incentives for insureds to utilize the services of a  
2 particular hospital or person.

3 (4) Special group policies may be issued to school  
4 districts providing medical or hospital service, or both, for  
5 pupils of the district injured while participating in any  
6 athletic activity under the jurisdiction of or sponsored or  
7 controlled by the district or the authorities of any school  
8 thereof. The provisions of this Section governing the issuance  
9 of group accident and health insurance shall, insofar as  
10 applicable, control the issuance of such policies issued to  
11 schools.

12 (5) No policy of group accident and health insurance may be  
13 issued or delivered in this State unless it provides that upon  
14 the death of the insured employee or group member the  
15 dependents' coverage, if any, continues for a period of at  
16 least 90 days subject to any other policy provisions relating  
17 to termination of dependents' coverage.

18 (6) No group hospital policy covering miscellaneous  
19 hospital expenses issued or delivered in this State shall  
20 contain any exception or exclusion from coverage which would  
21 preclude the payment of expenses incurred for the processing  
22 and administration of blood and its components.

23 (7) No policy of group accident and health insurance,  
24 delivered in this State more than 120 days after the effective  
25 day of the Section, which provides inpatient hospital coverage  
26 for sicknesses shall exclude from such coverage the treatment

1 of alcoholism. This subsection shall not apply to a policy  
2 which covers only specified sicknesses.

3 (8) No policy of group accident and health insurance, which  
4 provides benefits for hospital or medical expenses based upon  
5 the actual expenses incurred, issued or delivered in this State  
6 shall contain any specific exception to coverage which would  
7 preclude the payment of actual expenses incurred in the  
8 examination and testing of a victim of an offense defined in  
9 Sections 12-13 through 12-16 of the Criminal Code of 1961, or  
10 an attempt to commit such offense, to establish that sexual  
11 contact did occur or did not occur, and to establish the  
12 presence or absence of sexually transmitted disease or  
13 infection, and examination and treatment of injuries and trauma  
14 sustained by the victim of such offense, arising out of the  
15 offense. Every group policy of accident and health insurance  
16 which specifically provides benefits for routine physical  
17 examinations shall provide full coverage for expenses incurred  
18 in the examination and testing of a victim of an offense  
19 defined in Sections 12-13 through 12-16 of the Criminal Code of  
20 1961, or an attempt to commit such offense, as set forth in  
21 this Section. This subsection shall not apply to a policy which  
22 covers hospital and medical expenses for specified illnesses  
23 and injuries only.

24 (9) For purposes of enabling the recovery of State funds,  
25 any insurance carrier subject to this Section shall upon  
26 reasonable demand by the Department of Public Health disclose

1 the names and identities of its insureds entitled to benefits  
2 under this provision to the Department of Public Health  
3 whenever the Department of Public Health has determined that it  
4 has paid, or is about to pay, hospital or medical expenses for  
5 which an insurance carrier is liable under this Section. All  
6 information received by the Department of Public Health under  
7 this provision shall be held on a confidential basis and shall  
8 not be subject to subpoena and shall not be made public by the  
9 Department of Public Health or used for any purpose other than  
10 that authorized by this Section.

11 (10) Whenever the Department of Public Health finds that it  
12 has paid all or part of any hospital or medical expenses which  
13 an insurance carrier is obligated to pay under this Section,  
14 the Department of Public Health shall be entitled to receive  
15 reimbursement for its payments from such insurance carrier  
16 provided that the Department of Public Health has notified the  
17 insurance carrier of its claim before the carrier has paid the  
18 benefits to its insureds or the insureds' assignees.

19 (11) (a) No group hospital, medical or surgical expense  
20 policy shall contain any provision whereby benefits  
21 otherwise payable thereunder are subject to reduction  
22 solely on account of the existence of similar benefits  
23 provided under other group or group-type accident and  
24 sickness insurance policies where such reduction would  
25 operate to reduce total benefits payable under these  
26 policies below an amount equal to 100% of total allowable

1 expenses provided under these policies.

2 (b) When dependents of insureds are covered under 2  
3 policies, both of which contain coordination of benefits  
4 provisions, benefits of the policy of the insured whose  
5 birthday falls earlier in the year are determined before  
6 those of the policy of the insured whose birthday falls  
7 later in the year. Birthday, as used herein, refers only to  
8 the month and day in a calendar year, not the year in which  
9 the person was born. The Department of Insurance shall  
10 promulgate rules defining the order of benefit  
11 determination pursuant to this paragraph (b).

12 (12) Every group policy under this Section shall be subject  
13 to the provisions of Sections 356g and 356n of this Code.

14 (13) No accident and health insurer providing coverage for  
15 hospital or medical expenses on an expense incurred basis shall  
16 deny reimbursement for an otherwise covered expense incurred  
17 for any organ transplantation procedure solely on the basis  
18 that such procedure is deemed experimental or investigational  
19 unless supported by the determination of the Office of Health  
20 Care Technology Assessment within the Agency for Health Care  
21 Policy and Research within the federal Department of Health and  
22 Human Services that such procedure is either experimental or  
23 investigational or that there is insufficient data or  
24 experience to determine whether an organ transplantation  
25 procedure is clinically acceptable. If an accident and health  
26 insurer has made written request, or had one made on its behalf



1 by a national organization, for determination by the Office of  
2 Health Care Technology Assessment within the Agency for Health  
3 Care Policy and Research within the federal Department of  
4 Health and Human Services as to whether a specific organ  
5 transplantation procedure is clinically acceptable and said  
6 organization fails to respond to such a request within a period  
7 of 90 days, the failure to act may be deemed a determination  
8 that the procedure is deemed to be experimental or  
9 investigational.

10 (14) Whenever a claim for benefits by an insured under a  
11 dental prepayment program is denied or reduced, based on the  
12 review of x-ray films, such review must be performed by a  
13 dentist.

14 (Source: P.A. 91-549, eff. 8-14-99.)

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