

1 AN ACT concerning regulation.

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 356z.16 and adding Section 356z.19 as follows:

6 (215 ILCS 5/356z.16)

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

15 (Source: P.A. 96-180, eff. 1-1-10; 96-1000, eff. 7-2-10;
16 96-1034, eff. 1-1-11.)

17 (215 ILCS 5/356z.19 new)

18 Sec. 356z.19. Tobacco use cessation programs; coverage
19 offer.

20 (a) Tobacco use is the number one cause of preventable
21 disease and death in Illinois, costing \$4.1 billion annually in
22 direct health care costs and an additional \$4.35 billion in

1 lost productivity. In Illinois, the smoking rates are highest
2 among African Americans (25.8%). Smoking rates among lesbian,
3 gay, and bisexual adults range from 25% to 44%. The U.S. Public
4 Health Service Clinical Practice Guideline 2008 Update found
5 that tobacco dependence treatments are both clinically
6 effective and highly cost effective. A study in the Journal of
7 Preventive Medicine concluded that comprehensive smoking
8 cessation treatment is one of the 3 most important and cost
9 effective preventive services that can be provided in medical
10 practice. Greater efforts are needed to achieve more of this
11 potential value by increasing current low levels of
12 performance.

13 (b) In this Section, "tobacco use cessation program" means
14 a program recommended by a physician that follows
15 evidence-based treatment, such as is outlined in the United
16 States Public Health Service guidelines for tobacco use
17 cessation. "Tobacco use cessation program" includes education
18 and medical treatment components designed to assist a person in
19 ceasing the use of tobacco products. "Tobacco use cessation
20 program" includes education and counseling by physicians or
21 associated medical personnel and all FDA approved medications
22 for the treatment of tobacco dependence irrespective of whether
23 they are available only over the counter, only by prescription,
24 or both over the counter and by prescription.

25 (c) On or after the effective date of this amendatory Act
26 of the 97th General Assembly, every insurer that amends,

1 delivers, issues, or renews group accident and health policies
2 providing coverage for hospital or medical treatment or
3 services on an expense-incurred basis shall offer, for an
4 additional premium and subject to the insurer's standard of
5 insurability, optional coverage or optional reimbursement of
6 up to \$500 annually for a tobacco use cessation program for a
7 person enrolled in the plan who is 18 years of age or older.

8 (d) The coverage required by this Section shall be subject
9 to other general exclusions and limitations of the policy,
10 including coordination of benefits, participating provider
11 requirements, restrictions on services provided by family or
12 household members, utilization review of health care services,
13 including review of medical necessity, case management,
14 experimental and investigational treatments, and other managed
15 care provisions.

16 (e) For the coverage provided under this Section, an
17 insurer may not penalize or reduce or limit the reimbursement
18 of an attending provider or provide incentives, monetary or
19 otherwise, to an attending provider to induce the provider to
20 provide care to an insured in a manner inconsistent with the
21 coverage under this Section.

22 Section 10. The Health Maintenance Organization Act is
23 amended by changing Section 5-3 as follows:

24 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

1 Sec. 5-3. Insurance Code provisions.

2 (a) Health Maintenance Organizations shall be subject to
3 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
4 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
5 154.6, 154.7, 154.8, 155.04, 355.2, 356g.5-1, 356m, 356v, 356w,
6 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
7 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,
8 356z.18, 356z.19, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,
9 368c, 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2,
10 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of
11 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
12 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

19 (2) a corporation organized under the laws of this
20 State; or

21 (3) a corporation organized under the laws of another
22 state, 30% or more of the enrollees of which are residents
23 of this State, except a corporation subject to
24 substantially the same requirements in its state of
25 organization as is a "domestic company" under Article VIII
26 1/2 of the Illinois Insurance Code.

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

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

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

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

18 (A) certification by an independent actuary of the
19 adequacy of the reserves of the Health Maintenance
20 Organization sought to be acquired;

21 (B) pro forma financial statements reflecting the
22 combined balance sheets of the acquiring company and
23 the Health Maintenance Organization sought to be
24 acquired as of the end of the preceding year and as of
25 a date 90 days prior to the acquisition, as well as pro
26 forma financial statements reflecting projected

1 combined operation for a period of 2 years;

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

6 (D) such other information as the Director shall
7 require.

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

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

24 (f) Except for small employer groups as defined in the
25 Small Employer Rating, Renewability and Portability Health
26 Insurance Act and except for medicare supplement policies as

1 defined in Section 363 of the Illinois Insurance Code, a Health
2 Maintenance Organization may by contract agree with a group or
3 other enrollment unit to effect refunds or charge additional
4 premiums under the following terms and conditions:

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

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

26 The Health Maintenance Organization shall include a

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

12 In no event shall the Illinois Health Maintenance
13 Organization Guaranty Association be liable to pay any
14 contractual obligation of an insolvent organization to pay any
15 refund authorized under this Section.

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

22 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
23 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
24 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
25 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.
26 6-1-10; 96-1000, eff. 7-2-10.)

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

14 Rulemaking authority to implement Public Act 95-1045, if
15 any, is conditioned on the rules being adopted in accordance
16 with all provisions of the Illinois Administrative Procedure
17 Act and all rules and procedures of the Joint Committee on
18 Administrative Rules; any purported rule not so adopted, for
19 whatever reason, is unauthorized.

20 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
21 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
22 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
23 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
24 96-328, eff. 8-11-09; 96-833, eff. 6-1-10; 96-1000, eff.
25 7-2-10.)