



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1802

Introduced 2/20/2015, by Sen. Dan Kotowski

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code, the State Employees Group Insurance Act of 1971, the Counties Code, the Illinois Municipal Code, the School Code, the Health Maintenance Organization Act, the Limited Health Service Organization Act, the Voluntary Health Services Plans Act, and the Illinois Public Aid Code. Provides that government programs and accident and health insurance policies providing coverage for prescription drugs shall provide coverage for abuse-deterrent opioid analgesic drugs as preferred drugs on their formulary, preferred drug list, or other lists of similar construct. Prohibits cost sharing for abuse-deterrent opioid analgesic drugs that exceeds the lowest cost sharing level applied to prescription drugs. Prohibits insurers from requiring require that a covered individual first use an opioid analgesic drug product without abuse-deterrence labeling claims before providing coverage for an abuse-deterrent opioid analgesic product. Provides that any prior authorization requirements or other utilization review measures for opioid analgesic drug products, and any service denials made under those, shall not require first use of non-abuse-deterrent opioid analgesic drug products in order to access opioid analgesic drug products with abuse-deterrent properties.

LRB099 09955 MLM 30174 b

FISCAL NOTE ACT  
MAY APPLY

STATE MANDATES  
ACT MAY REQUIRE  
REIMBURSEMENT

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

6 (5 ILCS 375/6.11)

7 Sec. 6.11. Required health benefits; Illinois Insurance  
8 Code requirements. The program of health benefits shall provide  
9 the post-mastectomy care benefits required to be covered by a  
10 policy of accident and health insurance under Section 356t of  
11 the Illinois Insurance Code. The program of health benefits  
12 shall provide the coverage required under Sections 356g,  
13 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,  
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,  
15 356z.14, 356z.15, 356z.17, ~~and 356z.22,~~ and 356z.23 of the  
16 Illinois Insurance Code. The program of health benefits must  
17 comply with Sections 155.22a, 155.37, 355b, and 356z.19 of the  
18 Illinois Insurance Code.

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

1 whatever reason, is unauthorized.

2 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-813,  
3 eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15.)

4 Section 10. The Counties Code is amended by changing  
5 Section 5-1069.3 as follows:

6 (55 ILCS 5/5-1069.3)

7 Sec. 5-1069.3. Required health benefits. If a county,  
8 including a home rule county, is a self-insurer for purposes of  
9 providing health insurance coverage for its employees, the  
10 coverage shall include coverage for the post-mastectomy care  
11 benefits required to be covered by a policy of accident and  
12 health insurance under Section 356t and the coverage required  
13 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,  
14 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,  
15 356z.14, 356z.15, ~~and~~ 356z.22, and 356z.23 of the Illinois  
16 Insurance Code. The coverage shall comply with Sections  
17 155.22a, 355b, and 356z.19 of the Illinois Insurance Code. The  
18 requirement that health benefits be covered as provided in this  
19 Section is an exclusive power and function of the State and is  
20 a denial and limitation under Article VII, Section 6,  
21 subsection (h) of the Illinois Constitution. A home rule county  
22 to which this Section applies must comply with every provision  
23 of this Section.

24 Rulemaking authority to implement Public Act 95-1045, if

1 any, is conditioned on the rules being adopted in accordance  
2 with all provisions of the Illinois Administrative Procedure  
3 Act and all rules and procedures of the Joint Committee on  
4 Administrative Rules; any purported rule not so adopted, for  
5 whatever reason, is unauthorized.

6 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-813,  
7 eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15.)

8 Section 15. The Illinois Municipal Code is amended by  
9 changing Section 10-4-2.3 as follows:

10 (65 ILCS 5/10-4-2.3)

11 Sec. 10-4-2.3. Required health benefits. If a  
12 municipality, including a home rule municipality, is a  
13 self-insurer for purposes of providing health insurance  
14 coverage for its employees, the coverage shall include coverage  
15 for the post-mastectomy care benefits required to be covered by  
16 a policy of accident and health insurance under Section 356t  
17 and the coverage required under Sections 356g, 356g.5,  
18 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,  
19 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, ~~and~~ 356z.22, and  
20 356z.23 of the Illinois Insurance Code. The coverage shall  
21 comply with Sections 155.22a, 355b, and 356z.19 of the Illinois  
22 Insurance Code. The requirement that health benefits be covered  
23 as provided in this is an exclusive power and function of the  
24 State and is a denial and limitation under Article VII, Section

1 6, subsection (h) of the Illinois Constitution. A home rule  
2 municipality to which this Section applies must comply with  
3 every provision of this Section.

4 Rulemaking authority to implement Public Act 95-1045, if  
5 any, is conditioned on the rules being adopted in accordance  
6 with all provisions of the Illinois Administrative Procedure  
7 Act and all rules and procedures of the Joint Committee on  
8 Administrative Rules; any purported rule not so adopted, for  
9 whatever reason, is unauthorized.

10 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-813,  
11 eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15.)

12 Section 20. The School Code is amended by changing Section  
13 10-22.3f as follows:

14 (105 ILCS 5/10-22.3f)

15 Sec. 10-22.3f. Required health benefits. Insurance  
16 protection and benefits for employees shall provide the  
17 post-mastectomy care benefits required to be covered by a  
18 policy of accident and health insurance under Section 356t and  
19 the coverage required under Sections 356g, 356g.5, 356g.5-1,  
20 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12,  
21 356z.13, 356z.14, 356z.15, ~~and~~ 356z.22, and 356z.23 of the  
22 Illinois Insurance Code. Insurance policies shall comply with  
23 Section 356z.19 of the Illinois Insurance Code. The coverage  
24 shall comply with Sections 155.22a and 355b of the Illinois

1 Insurance Code.

2 Rulemaking authority to implement Public Act 95-1045, if  
3 any, is conditioned on the rules being adopted in accordance  
4 with all provisions of the Illinois Administrative Procedure  
5 Act and all rules and procedures of the Joint Committee on  
6 Administrative Rules; any purported rule not so adopted, for  
7 whatever reason, is unauthorized.

8 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-813,  
9 eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15.)

10 Section 25. The Illinois Insurance Code is amended by  
11 adding Section 356z.23 as follows:

12 (215 ILCS 5/356z.23 new)

13 Sec. 356z.23. Access to opioid analgesics with  
14 abuse-deterrent properties.

15 (a) For purposes of this Section:

16 "Abuse-deterrent opioid analgesic drug product" means a  
17 brand or generic opioid analgesic drug product approved by the  
18 U.S. Food and Drug Administration with abuse-deterrence  
19 labeling claims that indicate the drug product is expected to  
20 result in a meaningful reduction in abuse.

21 "Covered individual" means an individual covered by an  
22 individual or group policy of accident and health insurance, as  
23 well as a beneficiary of any government health programs who is  
24 intended to be covered by the law.

1 "Cost sharing" means any coverage limit, copayment,  
2 coinsurance, deductible, or other out-of-pocket expense  
3 requirements.

4 "Government health program" means all relevant government  
5 health care programs providing coverage for prescription drugs  
6 to beneficiaries.

7 "Health insurer" means all entities or companies licensed  
8 or authorized by the State to sell health insurance policies or  
9 that provide health care coverage, including any pharmacy  
10 benefit managers that administer the pharmacy benefit for an  
11 entity or company.

12 "Opioid analgesic drug product" means a drug product in the  
13 opioid analgesic drug class prescribed to treat moderate to  
14 severe pain or other conditions, whether in immediate-release  
15 or extended-release and long-acting form and whether or not  
16 combined with other drug substances to form a single drug  
17 product or dosage form.

18 (b) On or after the effective date of this amendatory Act  
19 of the 99th General Assembly, any government program and any  
20 health insurer that amends, delivers, issues, or renews group  
21 accident and health policies providing coverage for  
22 prescription drugs shall:

23 (1) provide coverage for abuse-deterrent opioid  
24 analgesic drug product as preferred drugs on their  
25 formulary, preferred drug list, or other lists of similar  
26 construct;

1           (2) not require cost sharing for abuse-deterrent  
2           opioid analgesic drug product that exceeds the lowest cost  
3           sharing level applied to prescription drugs;

4           (3) not increase patient cost sharing or impose other  
5           disincentives for prescribers or dispensers in order to  
6           comply with this Section; and

7           (4) not require that a covered individual first use an  
8           opioid analgesic drug product without abuse-deterrence  
9           labeling claims before providing coverage for an  
10           abuse-deterrent opioid analgesic product.

11           (c) Any prior authorization requirements or other  
12           utilization review measures for opioid analgesic drug  
13           products, and any service denials, shall not require first use  
14           of non-abuse-deterrent opioid analgesic drug products in order  
15           to access opioid analgesic drug products with abuse-deterrent  
16           properties.

17           (d) This Section shall not be construed to prevent an  
18           insurer or health plan from applying prior authorization  
19           requirements to abuse-deterrent opioid analgesic drug  
20           products, provided those requirements are applied to  
21           non-abuse-deterrent versions of that opioid.

22           Section 30. 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, 136, 137, 139, 140, 141.1,  
4 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,  
5 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,  
6 355b, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4,  
7 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,  
8 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,  
9 356z.22, 356z.23, 364.01, 367.2, 367.2-5, 367i, 368a, 368b,  
10 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A,  
11 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of  
12 subsection (2) of Section 367, and Articles IIA, VIII 1/2, XII,  
13 XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois  
14 Insurance Code.

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

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

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

23           (3) a corporation organized under the laws of another  
24 state, 30% or more of the enrollees of which are residents  
25 of this State, except a corporation subject to  
26 substantially the same requirements in its state of

1 organization as is a "domestic company" under Article VIII  
2 1/2 of the Illinois Insurance Code.

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

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

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

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

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

23 (B) pro forma financial statements reflecting the  
24 combined balance sheets of the acquiring company and  
25 the Health Maintenance Organization sought to be  
26 acquired as of the end of the preceding year and as of

1 a date 90 days prior to the acquisition, as well as pro  
2 forma financial statements reflecting projected  
3 combined operation for a period of 2 years;

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

8 (D) such other information as the Director shall  
9 require.

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

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

26 (f) Except for small employer groups as defined in the

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

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

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

1 plan years.

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

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

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

24 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-437,  
25 eff. 8-18-11; 97-486, eff. 1-1-12; 97-592, eff. 1-1-12; 97-805,  
26 eff. 1-1-13; 97-813, eff. 7-13-12; 98-189, eff. 1-1-14;

1 98-1091, eff. 1-1-15.)

2 Section 35. The Limited Health Service Organization Act is  
3 amended by changing Section 4003 as follows:

4 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

5 Sec. 4003. Illinois Insurance Code provisions. Limited  
6 health service organizations shall be subject to the provisions  
7 of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3,  
8 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6,  
9 154.7, 154.8, 155.04, 155.37, 355.2, 355.3, 355b, 356v,  
10 356z.10, 356z.21, 356z.22, 356z.23, 368a, 401, 401.1, 402, 403,  
11 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles IIA,  
12 VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the  
13 Illinois Insurance Code. For purposes of the Illinois Insurance  
14 Code, except for Sections 444 and 444.1 and Articles XIII and  
15 XIII 1/2, limited health service organizations in the following  
16 categories are deemed to be domestic companies:

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

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

24 (Source: P.A. 97-486, eff. 1-1-12; 97-592, 1-1-12; 97-805, eff.

1 1-1-13; 97-813, eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091,  
2 eff. 1-1-15.)

3 Section 40. The Voluntary Health Services Plans Act is  
4 amended by changing Section 10 as follows:

5 (215 ILCS 165/10) (from Ch. 32, par. 604)

6 Sec. 10. Application of Insurance Code provisions. Health  
7 services plan corporations and all persons interested therein  
8 or dealing therewith shall be subject to the provisions of  
9 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,  
10 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b, 356g,  
11 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y,  
12 356z.1, 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.18,  
14 356z.19, 356z.21, 356z.22, 356z.23, 364.01, 367.2, 368a, 401,  
15 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
16 and (15) of Section 367 of the Illinois Insurance Code.

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

23 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-486,  
24 eff. 1-1-12; 97-592, eff. 1-1-12; 97-805, eff. 1-1-13; 97-813,

1 eff. 7-13-12; 98-189, eff. 1-1-14; 98-1091, eff. 1-1-15.)

2 Section 45. The Illinois Public Aid Code is amended by  
3 changing Section 5-16.8 as follows:

4 (305 ILCS 5/5-16.8)

5 Sec. 5-16.8. Required health benefits. The medical  
6 assistance program shall (i) provide the post-mastectomy care  
7 benefits required to be covered by a policy of accident and  
8 health insurance under Section 356t and the coverage required  
9 under Sections 356g.5, 356u, 356w, 356x, ~~and~~ 356z.6, and  
10 356z.23 of the Illinois Insurance Code and (ii) be subject to  
11 the provisions of Sections 356z.19 and 364.01 of the Illinois  
12 Insurance Code.

13 On and after July 1, 2012, the Department shall reduce any  
14 rate of reimbursement for services or other payments or alter  
15 any methodologies authorized by this Code to reduce any rate of  
16 reimbursement for services or other payments in accordance with  
17 Section 5-5e.

18 (Source: P.A. 97-282, eff. 8-9-11; 97-689, eff. 6-14-12.)



1 INDEX

2 Statutes amended in order of appearance

3 5 ILCS 375/6.11

4 55 ILCS 5/5-1069.3

5 65 ILCS 5/10-4-2.3

6 105 ILCS 5/10-22.3f

7 215 ILCS 5/356z.23 new

8 215 ILCS 125/5-3 from Ch. 111 1/2, par. 1411.2

9 215 ILCS 130/4003 from Ch. 73, par. 1504-3

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

11 305 ILCS 5/5-16.8