



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB0035

Introduced 1/10/2019, by Sen. Melinda Bush - Michael E. Hastings

SYNOPSIS AS INTRODUCED:

See Index

Amends the Illinois Insurance Code. Provides that, for purposes of treatment in the early stages of a mental health condition, a group or individual policy of accident and health insurance or managed care plan shall provide coverage for the treatment of serious mental illnesses and serious emotional disturbances. Provides that coverage shall include, but not be limited to, certain evidence-based and evidence-informed bundled treatment approaches. Provides that payment for the services performed under the treatment models shall be based on all the components of the treatment model combined, rather than for each separate service. Provides that disability or functional impairment shall not be a precondition to receive treatment under the provisions. Provides that if federal regulations require the State to defray the cost of coverage for serious mental illnesses or serious emotional disturbances, then the provisions are inoperative and the State shall not assume any obligation for the cost of the coverage. Makes conforming changes in 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, and the Voluntary Health Services Plans Act. Provides that the amendatory Act may be referred to as the Fair Insurance Coverage for Early Treatment of Serious Mental Health Conditions Act. Effective immediately.

LRB101 02881 SMS 47889 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

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 1. Short title. This Act may be referred to as the
5 Fair Insurance Coverage for Early Treatment of Serious Mental
6 Health Conditions Act.

7 Section 5. Legislative findings. The General Assembly
8 finds the following:

9 (1) An estimated 60% of Illinoisans have private
10 insurance coverage.

11 (2) Most mental health conditions begin to manifest
12 before the age of 24.

13 (3) On average, it takes 10 years for individuals with
14 a serious mental health condition to receive the right
15 diagnosis and treatment.

16 (4) During the lag time between initial symptom
17 manifestation and when the right treatment is received, an
18 individual often experiences debilitating symptoms that
19 can lead to permanent disability.

20 (5) Early treatment can mean wellness, symptom
21 management, and full recovery.

22 (6) Private insurance does not cover the
23 evidence-based or evidence-informed community-based

1 treatment approaches that the public sector covers that are
2 proven, effective treatments for serious mental illnesses
3 and serious emotional disturbances.

4 (7) Community-based treatment has demonstrated
5 positive mental health outcomes over many decades and
6 enables wellness and supports recovery by providing
7 intensive services through team-based models in a person's
8 natural environment.

9 (8) The 60% of Illinoisans with private insurance
10 coverage do not have access to these evidence-based
11 treatment approaches.

12 (9) If private insurance covered these community-based
13 treatment approaches when an individual is in the early
14 stages of a serious mental health condition, permanent
15 disability and a life of public coverage could be avoided
16 for thousands across Illinois.

17 Section 10. The State Employees Group Insurance Act of 1971
18 is amended by changing Section 6.11 as follows:

19 (5 ILCS 375/6.11)

20 Sec. 6.11. Required health benefits; Illinois Insurance
21 Code requirements. The program of health benefits shall provide
22 the post-mastectomy care benefits required to be covered by a
23 policy of accident and health insurance under Section 356t of
24 the Illinois Insurance Code. The program of health benefits

1 shall provide the coverage required under Sections 356g,
2 356g.5, 356g.5-1, 356m, 356u, 356w, 356x, 356z.2, 356z.4,
3 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
4 356z.14, 356z.15, 356z.17, 356z.22, 356z.25, ~~and~~ 356z.26, ~~and~~
5 356z.29, 356z.32, and 356z.33 of the Illinois Insurance Code.
6 The program of health benefits must comply with Sections
7 155.22a, 155.37, 355b, 356z.19, 370c, and 370c.1 of the
8 Illinois Insurance Code. The Department of Insurance shall
9 enforce the requirements of this Section.

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

16 (Source: P.A. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
17 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.
18 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
19 10-3-18.)

20 Section 15. The Counties Code is amended by changing
21 Section 5-1069.3 as follows:

22 (55 ILCS 5/5-1069.3)

23 Sec. 5-1069.3. Required health benefits. If a county,
24 including a home rule county, is a self-insurer for purposes of

1 providing health insurance coverage for its employees, the
2 coverage shall include coverage for the post-mastectomy care
3 benefits required to be covered by a policy of accident and
4 health insurance under Section 356t and the coverage required
5 under Sections 356g, 356g.5, 356g.5-1, 356u, 356w, 356x,
6 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
7 356z.14, 356z.15, 356z.22, 356z.25, ~~and 356z.26, and 356z.29,~~
8 356z.32, and 356z.33 of the Illinois Insurance Code. The
9 coverage shall comply with Sections 155.22a, 355b, 356z.19, and
10 370c of the Illinois Insurance Code. The Department of
11 Insurance shall enforce the requirements of this Section. The
12 requirement that health benefits be covered as provided in this
13 Section is an exclusive power and function of the State and is
14 a denial and limitation under Article VII, Section 6,
15 subsection (h) of the Illinois Constitution. A home rule county
16 to which this Section applies must comply with every provision
17 of this Section.

18 Rulemaking authority to implement Public Act 95-1045, if
19 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. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
25 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.
26 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised

1 10-3-18.)

2 Section 20. The Illinois Municipal Code is amended by
3 changing Section 10-4-2.3 as follows:

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

5 Sec. 10-4-2.3. Required health benefits. If a
6 municipality, including a home rule municipality, is a
7 self-insurer for purposes of providing health insurance
8 coverage for its employees, the coverage shall include coverage
9 for the post-mastectomy care benefits required to be covered by
10 a policy of accident and health insurance under Section 356t
11 and the coverage required under Sections 356g, 356g.5,
12 356g.5-1, 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.10,
13 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.22, 356z.25,
14 ~~and 356z.26, and 356z.29,~~ 356z.32, and 356z.33 of the Illinois
15 Insurance Code. The coverage shall comply with Sections
16 155.22a, 355b, 356z.19, and 370c of the Illinois Insurance
17 Code. The Department of Insurance shall enforce the
18 requirements of this Section. The requirement that health
19 benefits be covered as provided in this is an exclusive power
20 and function of the State and is a denial and limitation under
21 Article VII, Section 6, subsection (h) of the Illinois
22 Constitution. A home rule municipality to which this Section
23 applies must comply with every provision 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. 99-480, eff. 9-9-15; 100-24, eff. 7-18-17;
7 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1024, eff.
8 1-1-19; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
9 10-4-18.)

10 Section 25. The School Code is amended by changing Section
11 10-22.3f as follows:

12 (105 ILCS 5/10-22.3f)

13 Sec. 10-22.3f. Required health benefits. Insurance
14 protection and benefits for employees shall provide the
15 post-mastectomy care benefits required to be covered by a
16 policy of accident and health insurance under Section 356t and
17 the coverage required under Sections 356g, 356g.5, 356g.5-1,
18 356u, 356w, 356x, 356z.6, 356z.8, 356z.9, 356z.11, 356z.12,
19 356z.13, 356z.14, 356z.15, 356z.22, 356z.25, ~~and~~ 356z.26, ~~and~~
20 356z.29, 356z.32, and 356z.33 of the Illinois Insurance Code.
21 Insurance policies shall comply with Section 356z.19 of the
22 Illinois Insurance Code. The coverage shall comply with
23 Sections 155.22a, 355b, and 370c of the Illinois Insurance
24 Code. The Department of Insurance shall enforce the

1 requirements of this Section.

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. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;
9 100-863, eff. 8-14-18; 100-1024, eff. 1-1-19; 100-1057, eff.
10 1-1-19; 100-1102, eff. 1-1-19; revised 10-4-18.)

11 Section 30. The Illinois Insurance Code is amended by
12 adding Section 356z.33 as follows:

13 (215 ILCS 5/356z.33 new)

14 Sec. 356z.33. Coverage for the early treatment of serious
15 mental illnesses and serious emotional disturbances.

16 (a) For purposes of this Section:

17 "Serious emotional disturbance" has the meaning as
18 interpreted by the federal Substance Abuse and Mental
19 Health Services Administration.

20 "Serious mental illness" has the same meaning as in the
21 most recent edition of the Diagnostic and Statistical
22 Manual of Mental Disorders.

23 (b) For purposes of treatment in the early stages of a
24 mental health condition, a group or individual policy of

1 accident and health insurance or managed care plan that is
2 amended, delivered, issued, or renewed after the effective date
3 of this amendatory Act of the 101st General Assembly shall
4 provide coverage for the treatment of serious mental illnesses
5 and serious emotional disturbances, including, but not limited
6 to, the following evidence-based and evidence-informed bundled
7 treatment approaches:

8 (1) assertive community treatment and community
9 support team treatment, which are both community-based
10 treatment models that are covered for individuals under the
11 Medical Assistance Program under Article V of the Public
12 Aid Code; the covered bundled services for assertive
13 community treatment and community support team treatment
14 shall be comparable in scope to those covered under the
15 treatment models through the Medical Assistance Program;
16 and

17 (2) first episode psychosis treatment, covering at a
18 minimum the elements of the coordinated specialty care
19 model applied in the research trials conducted by the
20 National Institute of Mental Health in the Recovery of an
21 Initial Schizophrenia Episode studies.

22 Payment for the services performed under the treatment
23 models in paragraphs (1) and (2) shall be based on all the
24 components of the treatment model combined, rather than for
25 each separate service.

26 (c) For purposes of determining medical necessity for the

1 treatment approaches covered by this Section, neither
2 disability nor functional impairment shall be a precondition to
3 receive the treatment approaches since the goal of coverage
4 under this Section is early treatment of a serious mental
5 illness or serious emotional disturbance and preventing
6 progression of the illness or condition. Medical necessity
7 shall be presumed following a psychiatric inpatient
8 hospitalization if the treatment approaches are recommended by
9 a licensed physician, licensed clinical psychologist, licensed
10 professional clinical counselor, or licensed clinical social
11 worker. If, at any time, the Secretary of the United States
12 Department of Health and Human Services, or its successor
13 agency, promulgates rules or regulations to be published in the
14 Federal Register or publishes a comment in the Federal Register
15 or issues an opinion, guidance, or other action that would
16 require the State, pursuant to any provision of the Patient
17 Protection and Affordable Care Act, including, but not limited
18 to, 42 U.S.C. 18031(d)(3)(b), or any successor provision, to
19 defray the cost of any coverage for serious mental illnesses or
20 serious emotional disturbances outlined in this Section, then
21 the requirement that a group or individual policy of accident
22 and health insurance or managed care plan cover the bundled
23 treatment approaches outlined in this Section is inoperative
24 other than any such coverage authorized under Section 1902 of
25 the Social Security Act, 42 U.S.C. 1396a, and the State shall
26 not assume any obligation for the cost of the coverage.

1 Section 35. The Health Maintenance Organization Act is
2 amended by changing Section 5-3 as follows:

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

4 Sec. 5-3. Insurance Code provisions.

5 (a) Health Maintenance Organizations shall be subject to
6 the provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
7 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
8 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,
9 355b, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2, 356z.4,
10 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
11 356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,
12 356z.22, 356z.25, 356z.26, 356z.29, 356z.30, 356z.32, 356z.33,
13 364, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d,
14 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2,
15 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of
16 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
17 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

24 (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. 99-761, eff. 1-1-18; 100-24, eff. 7-18-17;
4 100-138, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1026, eff.
5 8-22-18; 100-1057, eff. 1-1-19; 100-1102, eff. 1-1-19; revised
6 10-4-18.)

7 Section 40. The Limited Health Service Organization Act is
8 amended by changing Section 4003 as follows:

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

10 Sec. 4003. Illinois Insurance Code provisions. Limited
11 health service organizations shall be subject to the provisions
12 of Sections 133, 134, 136, 137, 139, 140, 141.1, 141.2, 141.3,
13 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6,
14 154.7, 154.8, 155.04, 155.37, 355.2, 355.3, 355b, 356v,
15 356z.10, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.32,
16 356z.33, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, 409,
17 412, 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII 1/2,
18 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.
19 For purposes of the Illinois Insurance Code, except for
20 Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited
21 health service organizations in the following categories are
22 deemed to be 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% or 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. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;
7 100-201, eff. 8-18-17; 100-863, eff. 8-14-18; 100-1057, eff.
8 1-1-19; 100-1102, eff. 1-1-19; revised 10-4-18.)

9 Section 45. The Voluntary Health Services Plans Act is
10 amended by changing Section 10 as follows:

11 (215 ILCS 165/10) (from Ch. 32, par. 604)

12 Sec. 10. Application of Insurance Code provisions. Health
13 services plan corporations and all persons interested therein
14 or dealing therewith shall be subject to the provisions of
15 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
16 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b, 356g,
17 356g.5, 356g.5-1, 356r, 356t, 356u, 356v, 356w, 356x, 356y,
18 356z.1, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,
19 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.18,
20 356z.19, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30,
21 356z.32, 356z.33, 364.01, 367.2, 368a, 401, 401.1, 402, 403,
22 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of
23 Section 367 of the Illinois Insurance Code.

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. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;
7 100-863, eff. 8-14-18; 100-1026, eff. 8-22-18; 100-1057, eff.
8 1-1-19; 100-1102, eff. 1-1-19; revised 10-4-18.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.

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.33 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