



## 95TH GENERAL ASSEMBLY

### State of Illinois

### 2007 and 2008

### HB6338

by Rep. Mary E. Flowers

#### SYNOPSIS AS INTRODUCED:

215 ILCS 5/354.1 new	
215 ILCS 125/5-3	from Ch. 111 1/2, par. 1411.2
215 ILCS 130/4003	from Ch. 73, par. 1504-3
215 ILCS 165/10	from Ch. 32, par. 604

Amends the Illinois Insurance Code, the Health Maintenance Organization Act, the Limited Health Service Organization Act, and the Voluntary Health Services Plan Act to require policies of health insurance and health plans issued by insurers that have been licensed for 5 years or more to expend no less than 85% of the aggregate dues, fees, and other periodic payments received by the policy or plan for providing health care services to its subscribers or enrollees. Provides that policies or plans issued by insurers that have been licensed for less than 5 years may spend no less than 75% for providing health care services to its subscribers or enrollees. Extends the statutory authority of the Director to disapprove group health insurance policies that fail to comply with the provisions concerning health insurance administrative costs. Effective January 1, 2009.

LRB095 20919 RPM 49849 b

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 adding  
5 Section 354.1 as follows:

6 (215 ILCS 5/354.1 new)

7 Sec. 354.1. Health insurance administrative costs.

8 (a) Notwithstanding any other provision of law, a policy of  
9 health insurance or a managed care plan amended, delivered,  
10 issued, or renewed on or after the effective date of this  
11 amendatory Act of the 95th General Assembly by an insurer  
12 licensed for 5 years or more in this State shall expend no less  
13 than 85% of the aggregate dues, fees, premiums, and other  
14 periodic payments received by the policy or plan on health care  
15 benefits. A policy of health insurance or a managed care plan  
16 amended, delivered, issued, or renewed on or after the  
17 effective date of this amendatory Act of the 95th General  
18 Assembly by an insurer licensed less than 5 years in this State  
19 shall expend no less than 75% of the aggregate dues, fees,  
20 premiums, and other periodic payments received by the policy on  
21 health care benefits.

22 (b) For purposes of this Section, "health care benefits"  
23 shall include, but shall not be limited to, all of the

1 following:

2 (1) health care services that are either provided or  
3 reimbursed by the plan or its contracted providers as  
4 covered benefits;

5 (2) disease management expenses using cost-effective  
6 evidence-based guidelines;

7 (3) payments to providers;

8 (4) plan medical advice by telephone; and

9 (5) prescription drug management programs.

10 For purposes of this Section, "health care benefits" shall  
11 not include administrative costs, agent and broker commission  
12 and solicitation costs associated with the issuance of  
13 individual and group health care service plan contracts,  
14 dividends, profits, stock options, income tax or any other tax  
15 the policy or plan expenses, assessments or fines levied by the  
16 Division of Insurance, or administrative costs associated with  
17 existing or new regulatory requirements.

18 (c) An insurer or health care service plan provider  
19 licensed to operate in this State shall provide written  
20 affirmation to the Division of Insurance that it meets the  
21 requirements of this Section.

22 (d) The Director may disapprove an insurer or health care  
23 service plan provider's use of a plan contract, issue a fine or  
24 assessment against an insurer or health care service plan  
25 provider, suspend or revoke the license issued to an insurer or  
26 health care service plan provider, or take any other action the

1 Director deems appropriate if the Director determines that the  
2 policy or plan has failed to comply with this Section.

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

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

6 Sec. 5-3. Insurance Code provisions.

7 (a) Health Maintenance Organizations shall be subject to  
8 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
9 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
10 154.6, 154.7, 154.8, 155.04, 354.1, 355.2, 356m, 356v, 356w,  
11 356x, 356y, 356z.2, 356z.4, 356z.5, 356z.6, 356z.8, 356z.9,  
12 356z.10 ~~356z.9~~, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c,  
13 368d, 368e, 370c, 401, 401.1, 402, 403, 403A, 408, 408.2, 409,  
14 412, 444, and 444.1, paragraph (c) of subsection (2) of Section  
15 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2,  
16 XXV, and XXVI of the Illinois Insurance Code.

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

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

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

1           (3) a corporation organized under the laws of another  
2           state, 30% or more of the enrollees of which are residents  
3           of this State, except a corporation subject to  
4           substantially the same requirements in its state of  
5           organization as is a "domestic company" under Article VIII  
6           1/2 of the Illinois Insurance Code.

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

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

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

22           (3) the Director shall have the power to require the  
23           following information:

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

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

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

12 (D) such other information as the Director shall  
13 require.

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

20 (e) In considering any management contract or service  
21 agreement subject to Section 141.1 of the Illinois Insurance  
22 Code, the Director (i) shall, in addition to the criteria  
23 specified in Section 141.2 of the Illinois Insurance Code, take  
24 into account the effect of the management contract or service  
25 agreement on the continuation of benefits to enrollees and the  
26 financial condition of the health maintenance organization to

1 be managed or serviced, and (ii) need not take into account the  
2 effect of the management contract or service agreement on  
3 competition.

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

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

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

1 subsection (f)). The Health Maintenance Organization and  
2 the group or enrollment unit may agree that the profitable  
3 or unprofitable experience may be calculated taking into  
4 account the refund period and the immediately preceding 2  
5 plan years.

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

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

22 (Source: P.A. 94-906, eff. 1-1-07; 94-1076, eff. 12-29-06;  
23 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; revised 12-4-07.)

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



1 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

2 Sec. 4003. Illinois Insurance Code provisions. Limited  
3 health service organizations shall be subject to the provisions  
4 of Sections 133, 134, 137, 140, 141.1, 141.2, 141.3, 143, 143c,  
5 147, 148, 149, 151, 152, 153, 154, 154.5, 154.6, 154.7, 154.8,  
6 155.04, 155.37, 354.1, 355.2, 356v, 356z.10 ~~356z.9~~, 368a, 401,  
7 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and  
8 Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, and  
9 XXVI of the Illinois Insurance Code. For purposes of the  
10 Illinois Insurance Code, except for Sections 444 and 444.1 and  
11 Articles XIII and XIII 1/2, limited health service  
12 organizations in the following categories are deemed to be  
13 domestic companies:

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

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

21 (Source: P.A. 95-520, eff. 8-28-07; revised 12-5-07.)

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

1 (215 ILCS 165/10) (from Ch. 32, par. 604)

2 Sec. 10. Application of Insurance Code provisions. Health  
3 services plan corporations and all persons interested therein  
4 or dealing therewith shall be subject to the provisions of  
5 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,  
6 149, 155.37, 354, 354.1, 355.2, 356g.5, 356r, 356t, 356u, 356v,  
7 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 356z.5, 356z.6,  
8 356z.8, 356z.9, 356z.10 ~~356z.9~~, 364.01, 367.2, 368a, 401,  
9 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)  
10 and (15) of Section 367 of the Illinois Insurance Code.

11 (Source: P.A. 94-1076, eff. 12-29-06; 95-189, eff. 8-16-07;  
12 95-331, eff. 8-21-07; 95-422, eff. 8-24-07; 95-520, eff.  
13 8-28-07; revised 12-5-07.)

14 Section 99. Effective date. This Act takes effect January  
15 1, 2009.