



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3034

Introduced 2/4/2010, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

215 ILCS 5/355.3 new	
215 ILCS 110/25	from Ch. 32, par. 690.25
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, Dental Service Plan Act, Health Maintenance Organization Act, Limited Health Service Organization Act, and Voluntary Health Services Plans Act. Provides that no insurer may issue a service provider contract that requires a dentist to provide services to the insurer's policyholders at a fee set by the insurer unless the services are covered under the applicable policyholder agreement. Provides that the Director of Insurance is granted authority to enforce compliance with the provisions concerning noncovered dental services. Contains a nonacceleration clause. Effective immediately.

LRB096 16575 RPM 31848 b

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 adding
5 Section 355.3 as follows:

6 (215 ILCS 5/355.3 new)

7 Sec. 355.3. Noncovered dental services.

8 (a) In this Section:

9 "Covered services" means services that are reimbursed
10 in accordance with the usual and customary fees under the
11 applicable policyholder agreement.

12 "Dental insurance" means any policy of insurance that
13 is issued by a company that provides coverage for dental
14 services.

15 "Usual and customary fee" means the fee for dental care
16 that is consistent with the average rate or charge for
17 similar services furnished by similar providers in the
18 geographic area in which the services were provided.

19 (b) No company that issues, delivers, amends, or renews an
20 individual or group policy of accident and health insurance on
21 or after the effective date of this amendatory Act of the 96th
22 General Assembly that provides dental insurance shall issue a
23 service provider contract that requires a dentist to provide

1 services to the insurer's policyholders at a fee set by the
2 insurer unless the services are covered under the applicable
3 policyholder agreement.

4 (c) The Director of Insurance shall adopt reasonable rules
5 to enforce compliance with this Section and is hereby granted
6 specific authority to issue a cease and desist order against,
7 fine, or otherwise penalize any insurer for violations of the
8 provisions set forth in this Section.

9 Section 10. The Dental Service Plan Act is amended by
10 changing Section 25 as follows:

11 (215 ILCS 110/25) (from Ch. 32, par. 690.25)

12 Sec. 25. Application of Insurance Code provisions. Dental
13 service plan corporations and all persons interested therein or
14 dealing therewith shall be subject to the provisions of
15 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
16 149, 355.2, 355.3, 367.2, 401, 401.1, 402, 403, 403A, 408,
17 408.2, and 412, and subsection (15) of Section 367 of the
18 Illinois Insurance Code.

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

20 Section 15. The Health Maintenance Organization Act is
21 amended by changing Section 5-3 as follows:

22 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

1 (Text of Section before amendment by P.A. 96-833)

2 Sec. 5-3. Insurance Code provisions.

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

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

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

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

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

1 1/2 of the Illinois Insurance Code.

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

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

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

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

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

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

1 forma financial statements reflecting projected
2 combined operation for a period of 2 years;

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

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

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

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

25 (f) Except for small employer groups as defined in the
26 Small Employer Rating, Renewability and Portability Health

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

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

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

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

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

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

24 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;
25 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
26 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.

1 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; revised
2 10-23-09.)

3 (Text of Section after amendment by P.A. 96-833)

4 Sec. 5-3. Insurance Code provisions.

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

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

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

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

24 (3) a corporation organized under the laws of another
25 state, 30% or more of the enrollees of which are residents

1 of this State, except a corporation subject to
2 substantially the same requirements in its state of
3 organization as is a "domestic company" under Article VIII
4 1/2 of the Illinois Insurance Code.

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

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

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

20 (3) the Director shall have the power to require the
21 following information:

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

25 (B) pro forma financial statements reflecting the
26 combined balance sheets of the acquiring company and

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

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

10 (D) such other information as the Director shall
11 require.

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

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

1 competition.

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

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

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

1 or unprofitable experience may be calculated taking into
2 account the refund period and the immediately preceding 2
3 plan years.

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

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

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

26 (Source: P.A. 95-422, eff. 8-24-07; 95-520, eff. 8-28-07;

1 95-876, eff. 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09;
2 95-1005, eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff.
3 1-1-10; 96-328, eff. 8-11-09; 96-639, eff. 1-1-10; 96-833, eff.
4 6-1-10.)

5 Section 20. The Limited Health Service Organization Act is
6 amended by changing Section 4003 as follows:

7 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

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

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

21 (2) a corporation organized under the laws of another
22 state, 30% of 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

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

3 (Source: P.A. 95-520, eff. 8-28-07; 95-876, eff. 8-21-08.)

4 Section 25. The Voluntary Health Services Plans Act is
5 amended by changing Section 10 as follows:

6 (215 ILCS 165/10) (from Ch. 32, par. 604)

7 (Text of Section before amendment by P.A. 96-833)

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

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

1 (Source: P.A. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
2 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
3 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,
4 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
5 96-328, eff. 8-11-09; revised 9-25-09.)

6 (Text of Section after amendment by P.A. 96-833)

7 Sec. 10. Application of Insurance Code provisions. Health
8 services plan corporations and all persons interested therein
9 or dealing therewith shall be subject to the provisions of
10 Articles IIA and XII 1/2 and Sections 3.1, 133, 140, 143, 143c,
11 149, 155.37, 354, 355.2, 355.3, 356g, 356g.5, 356g.5-1, 356r,
12 356t, 356u, 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4,
13 356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,
14 356z.13, 356z.14, 356z.15, 356z.18, 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. 95-189, eff. 8-16-07; 95-331, eff. 8-21-07;
24 95-422, eff. 8-24-07; 95-520, eff. 8-28-07; 95-876, eff.
25 8-21-08; 95-958, eff. 6-1-09; 95-978, eff. 1-1-09; 95-1005,

1 eff. 12-12-08; 95-1045, eff. 3-27-09; 95-1049, eff. 1-1-10;
2 96-328, eff. 8-11-09; 96-833, eff. 6-1-10.)

3 Section 95. No acceleration or delay. Where this Act makes
4 changes in a statute that is represented in this Act by text
5 that is not yet or no longer in effect (for example, a Section
6 represented by multiple versions), the use of that text does
7 not accelerate or delay the taking effect of (i) the changes
8 made by this Act or (ii) provisions derived from any other
9 Public Act.

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