



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB1646

Introduced 2/9/2011, by Sen. Carole Pankau

SYNOPSIS AS INTRODUCED:

215 ILCS 5/367

from Ch. 73, par. 979

Amends the Illinois Insurance Code in the provision concerning group accident and health insurance to provide that no group policy may be issued or delivered without a provision that if an employee presents to an employer proof that the employee is covered under another accident and health insurance policy, then the employee may decline coverage by opting out of the group coverage and that the amount, if any, that would be charged to the employee if the employee were to participate in the group coverage shall be deducted from the premium for group coverage. Effective immediately.

LRB097 09906 RPM 50069 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
5 changing Section 367 as follows:

6 (215 ILCS 5/367) (from Ch. 73, par. 979)

7 Sec. 367. Group accident and health insurance.

8 (1) Group accident and health insurance is hereby declared
9 to be that form of accident and health insurance covering not
10 less than 2 employees, members, or employees of members,
11 written under a master policy issued to any governmental
12 corporation, unit, agency or department thereof, or to any
13 corporation, copartnership, individual employer, or to any
14 association upon application of an executive officer or trustee
15 of such association having a constitution or bylaws and formed
16 in good faith for purposes other than that of obtaining
17 insurance, where officers, members, employees, employees of
18 members or classes or department thereof, may be insured for
19 their individual benefit. In addition a group accident and
20 health policy may be written to insure any group which may be
21 insured under a group life insurance policy. The term
22 "employees" shall include the officers, managers and employees
23 of subsidiary or affiliated corporations, and the individual

1 proprietors, partners and employees of affiliated individuals
2 and firms, when the business of such subsidiary or affiliated
3 corporations, firms or individuals, is controlled by a common
4 employer through stock ownership, contract or otherwise.

5 (2) Any insurance company authorized to write accident and
6 health insurance in this State shall have power to issue group
7 accident and health policies. No policy of group accident and
8 health insurance may be issued or delivered in this State
9 unless a copy of the form thereof shall have been filed with
10 the department and approved by it in accordance with Section
11 355, and it contains in substance those provisions contained in
12 Sections 357.1 through 357.30 as may be applicable to group
13 accident and health insurance and the following provisions:

14 (a) A provision that the policy, the application of the
15 employer, or executive officer or trustee of any
16 association, and the individual applications, if any, of
17 the employees, members or employees of members insured
18 shall constitute the entire contract between the parties,
19 and that all statements made by the employer, or the
20 executive officer or trustee, or by the individual
21 employees, members or employees of members shall (in the
22 absence of fraud) be deemed representations and not
23 warranties, and that no such statement shall be used in
24 defense to a claim under the policy, unless it is contained
25 in a written application.

26 (b) A provision that the insurer will issue to the

1 employer, or to the executive officer or trustee of the
2 association, for delivery to the employee, member or
3 employee of a member, who is insured under such policy, an
4 individual certificate setting forth a statement as to the
5 insurance protection to which he is entitled and to whom
6 payable.

7 (c) A provision that to the group or class thereof
8 originally insured shall be added from time to time all new
9 employees of the employer, members of the association or
10 employees of members eligible to and applying for insurance
11 in such group or class.

12 (d) A provision that if an employee presents to an
13 employer proof that the employee is covered under another
14 accident and health insurance policy, then the employee may
15 decline coverage by opting out of the group coverage and
16 that the amount, if any, that would be charged to the
17 employee if the employee were to participate in the group
18 coverage shall be deducted from the premium for group
19 coverage.

20 (3) Anything in this code to the contrary notwithstanding,
21 any group accident and health policy may provide that all or
22 any portion of any indemnities provided by any such policy on
23 account of hospital, nursing, medical or surgical services,
24 may, at the insurer's option, be paid directly to the hospital
25 or person rendering such services; but the policy may not
26 require that the service be rendered by a particular hospital

1 or person. Payment so made shall discharge the insurer's
2 obligation with respect to the amount of insurance so paid.
3 Nothing in this subsection (3) shall prohibit an insurer from
4 providing incentives for insureds to utilize the services of a
5 particular hospital or person.

6 (4) Special group policies may be issued to school
7 districts providing medical or hospital service, or both, for
8 pupils of the district injured while participating in any
9 athletic activity under the jurisdiction of or sponsored or
10 controlled by the district or the authorities of any school
11 thereof. The provisions of this Section governing the issuance
12 of group accident and health insurance shall, insofar as
13 applicable, control the issuance of such policies issued to
14 schools.

15 (5) No policy of group accident and health insurance may be
16 issued or delivered in this State unless it provides that upon
17 the death of the insured employee or group member the
18 dependents' coverage, if any, continues for a period of at
19 least 90 days subject to any other policy provisions relating
20 to termination of dependents' coverage.

21 (6) No group hospital policy covering miscellaneous
22 hospital expenses issued or delivered in this State shall
23 contain any exception or exclusion from coverage which would
24 preclude the payment of expenses incurred for the processing
25 and administration of blood and its components.

26 (7) No policy of group accident and health insurance,

1 delivered in this State more than 120 days after the effective
2 day of the Section, which provides inpatient hospital coverage
3 for sicknesses shall exclude from such coverage the treatment
4 of alcoholism. This subsection shall not apply to a policy
5 which covers only specified sicknesses.

6 (8) No policy of group accident and health insurance, which
7 provides benefits for hospital or medical expenses based upon
8 the actual expenses incurred, issued or delivered in this State
9 shall contain any specific exception to coverage which would
10 preclude the payment of actual expenses incurred in the
11 examination and testing of a victim of an offense defined in
12 Sections 12-13 through 12-16 of the Criminal Code of 1961, or
13 an attempt to commit such offense, to establish that sexual
14 contact did occur or did not occur, and to establish the
15 presence or absence of sexually transmitted disease or
16 infection, and examination and treatment of injuries and trauma
17 sustained by the victim of such offense, arising out of the
18 offense. Every group policy of accident and health insurance
19 which specifically provides benefits for routine physical
20 examinations shall provide full coverage for expenses incurred
21 in the examination and testing of a victim of an offense
22 defined in Sections 12-13 through 12-16 of the Criminal Code of
23 1961, or an attempt to commit such offense, as set forth in
24 this Section. This subsection shall not apply to a policy which
25 covers hospital and medical expenses for specified illnesses
26 and injuries only.

1 (9) For purposes of enabling the recovery of State funds,
2 any insurance carrier subject to this Section shall upon
3 reasonable demand by the Department of Public Health disclose
4 the names and identities of its insureds entitled to benefits
5 under this provision to the Department of Public Health
6 whenever the Department of Public Health has determined that it
7 has paid, or is about to pay, hospital or medical expenses for
8 which an insurance carrier is liable under this Section. All
9 information received by the Department of Public Health under
10 this provision shall be held on a confidential basis and shall
11 not be subject to subpoena and shall not be made public by the
12 Department of Public Health or used for any purpose other than
13 that authorized by this Section.

14 (10) Whenever the Department of Public Health finds that it
15 has paid all or part of any hospital or medical expenses which
16 an insurance carrier is obligated to pay under this Section,
17 the Department of Public Health shall be entitled to receive
18 reimbursement for its payments from such insurance carrier
19 provided that the Department of Public Health has notified the
20 insurance carrier of its claim before the carrier has paid the
21 benefits to its insureds or the insureds' assignees.

22 (11) (a) No group hospital, medical or surgical expense
23 policy shall contain any provision whereby benefits
24 otherwise payable thereunder are subject to reduction
25 solely on account of the existence of similar benefits
26 provided under other group or group-type accident and

1 sickness insurance policies where such reduction would
2 operate to reduce total benefits payable under these
3 policies below an amount equal to 100% of total allowable
4 expenses provided under these policies.

5 (b) When dependents of insureds are covered under 2
6 policies, both of which contain coordination of benefits
7 provisions, benefits of the policy of the insured whose
8 birthday falls earlier in the year are determined before
9 those of the policy of the insured whose birthday falls
10 later in the year. Birthday, as used herein, refers only to
11 the month and day in a calendar year, not the year in which
12 the person was born. The Department of Insurance shall
13 promulgate rules defining the order of benefit
14 determination pursuant to this paragraph (b).

15 (12) Every group policy under this Section shall be subject
16 to the provisions of Sections 356g and 356n of this Code.

17 (13) No accident and health insurer providing coverage for
18 hospital or medical expenses on an expense incurred basis shall
19 deny reimbursement for an otherwise covered expense incurred
20 for any organ transplantation procedure solely on the basis
21 that such procedure is deemed experimental or investigational
22 unless supported by the determination of the Office of Health
23 Care Technology Assessment within the Agency for Health Care
24 Policy and Research within the federal Department of Health and
25 Human Services that such procedure is either experimental or
26 investigational or that there is insufficient data or

1 experience to determine whether an organ transplantation
2 procedure is clinically acceptable. If an accident and health
3 insurer has made written request, or had one made on its behalf
4 by a national organization, for determination by the Office of
5 Health Care Technology Assessment within the Agency for Health
6 Care Policy and Research within the federal Department of
7 Health and Human Services as to whether a specific organ
8 transplantation procedure is clinically acceptable and said
9 organization fails to respond to such a request within a period
10 of 90 days, the failure to act may be deemed a determination
11 that the procedure is deemed to be experimental or
12 investigational.

13 (14) Whenever a claim for benefits by an insured under a
14 dental prepayment program is denied or reduced, based on the
15 review of x-ray films, such review must be performed by a
16 dentist.

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

18 Section 99. Effective date. This Act takes effect upon
19 becoming law.