



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB2672

Introduced 1/10/2024, by Sen. Laura M. Murphy

SYNOPSIS AS INTRODUCED:

215 ILCS 5/356z.71 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
305 ILCS 5/5-16.8	

Amends the Accident and Health Article of the Illinois Insurance Code. Provides that if a generic drug is unavailable due to a supply issue and dosage cannot be adjusted, a group or individual policy of accident and health insurance or a managed care plan that is amended, delivered, issued, or renewed after January 1, 2025 shall provide coverage for a brand name eligible prescription drug until supply of the generic drug is available. Defines "eligible prescription drug" and "generic drug". Makes conforming changes in the Health Maintenance Organization Act, the Limited Health Service Organization Act, the Voluntary Health Services Plans Act, and the Medical Assistance Article of the Illinois Public Aid Code.

LRB103 35845 RPS 65930 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
5 adding Section 356z.71 as follows:

6 (215 ILCS 5/356z.71 new)

7 Sec. 356z.71. Coverage during a generic drug shortage.

8 (a) As used in this Section:

9 "Eligible prescription drug" means a prescription drug
10 approved under 21 U.S.C. 355(c) that is not under patent.

11 "Generic drug" means a drug that is approved pursuant to
12 an application referencing an eligible prescription drug that
13 is submitted under subsection (j) of Section 505 of the
14 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(j).

15 (b) If a generic drug is unavailable due to a supply issue
16 and dosage cannot be adjusted, a group or individual policy of
17 accident and health insurance or a managed care plan that is
18 amended, delivered, issued, or renewed after January 1, 2025
19 shall provide coverage for a brand name eligible prescription
20 drug until supply of the generic drug is available.

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

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

2 Sec. 5-3. Insurance Code provisions.

3 (a) Health Maintenance Organizations shall be subject to
4 the provisions of Sections 133, 134, 136, 137, 139, 140,
5 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153,
6 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 155.49,
7 355.2, 355.3, 355b, 355c, 356f, 356g.5-1, 356m, 356q, 356v,
8 356w, 356x, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5, 356z.6,
9 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14,
10 356z.15, 356z.17, 356z.18, 356z.19, 356z.20, 356z.21, 356z.22,
11 356z.23, 356z.24, 356z.25, 356z.26, 356z.28, 356z.29, 356z.30,
12 356z.30a, 356z.31, 356z.32, 356z.33, 356z.34, 356z.35,
13 356z.36, 356z.37, 356z.38, 356z.39, 356z.40, 356z.41, 356z.44,
14 356z.45, 356z.46, 356z.47, 356z.48, 356z.49, 356z.50, 356z.51,
15 356z.53, 356z.54, 356z.55, 356z.56, 356z.57, 356z.58, 356z.59,
16 356z.60, 356z.61, 356z.62, 356z.64, 356z.65, 356z.67, 356z.68,
17 356z.71, 364, 364.01, 364.3, 367.2, 367.2-5, 367i, 368a, 368b,
18 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A,
19 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of
20 subsection (2) of Section 367, and Articles IIA, VIII 1/2,
21 XII, XII 1/2, XIII, XIII 1/2, XXV, XXVI, and XXXIIB of the
22 Illinois Insurance Code.

23 (b) For purposes of the Illinois Insurance Code, except
24 for Sections 444 and 444.1 and Articles XIII and XIII 1/2,
25 Health Maintenance Organizations in the following categories

1 are deemed to be "domestic companies":

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

4 (2) a corporation organized under the laws of this
5 State; or

6 (3) a corporation organized under the laws of another
7 state, 30% or more of the enrollees of which are residents
8 of this State, except a corporation subject to
9 substantially the same requirements in its state of
10 organization as is a "domestic company" under Article VIII
11 1/2 of the Illinois Insurance Code.

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

15 (1) the Director shall give primary consideration to
16 the continuation of benefits to enrollees and the
17 financial conditions of the acquired Health Maintenance
18 Organization after the merger, consolidation, or other
19 acquisition of control takes effect;

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

1 (3) the Director shall have the power to require the
2 following information:

3 (A) certification by an independent actuary of the
4 adequacy of the reserves of the Health Maintenance
5 Organization sought to be acquired;

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

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

17 (D) such other information as the Director shall
18 require.

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

25 (e) In considering any management contract or service
26 agreement subject to Section 141.1 of the Illinois Insurance

1 Code, the Director (i) shall, in addition to the criteria
2 specified in Section 141.2 of the Illinois Insurance Code,
3 take into account the effect of the management contract or
4 service agreement on the continuation of benefits to enrollees
5 and the financial condition of the health maintenance
6 organization to be managed or serviced, and (ii) need not take
7 into account the effect of the management contract or service
8 agreement on competition.

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

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

22 (ii) the amount of the refund or additional premium
23 shall not exceed 20% of the Health Maintenance
24 Organization's profitable or unprofitable experience with
25 respect to the group or other enrollment unit for the
26 period (and, for purposes of a refund or additional

1 premium, the profitable or unprofitable experience shall
2 be calculated taking into account a pro rata share of the
3 Health Maintenance Organization's administrative and
4 marketing expenses, but shall not include any refund to be
5 made or additional premium to be paid pursuant to this
6 subsection (f)). The Health Maintenance Organization and
7 the group or enrollment unit may agree that the profitable
8 or unprofitable experience may be calculated taking into
9 account the refund period and the immediately preceding 2
10 plan years.

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

23 In no event shall the Illinois Health Maintenance
24 Organization Guaranty Association be liable to pay any
25 contractual obligation of an insolvent organization to pay any
26 refund authorized under this Section.

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

7 (Source: P.A. 102-30, eff. 1-1-22; 102-34, eff. 6-25-21;
8 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff.
9 1-1-22; 102-589, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665,
10 eff. 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22;
11 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff.
12 1-1-23; 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093,
13 eff. 1-1-23; 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24;
14 103-91, eff. 1-1-24; 103-123, eff. 1-1-24; 103-154, eff.
15 6-30-23; 103-420, eff. 1-1-24; 103-426, eff. 8-4-23; 103-445,
16 eff. 1-1-24; 103-551, eff. 8-11-23; revised 8-29-23.)

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

19 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

20 Sec. 4003. Illinois Insurance Code provisions. Limited
21 health service organizations shall be subject to the
22 provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
23 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
24 154.5, 154.6, 154.7, 154.8, 155.04, 155.37, 155.49, 355.2,

1 355.3, 355b, 356q, 356v, 356z.4, 356z.4a, 356z.10, 356z.21,
2 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32,
3 356z.33, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 356z.54,
4 356z.57, 356z.59, 356z.61, 356z.64, 356z.67, 356z.68, 356z.71,
5 364.3, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412,
6 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
7 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.
8 Nothing in this Section shall require a limited health care
9 plan to cover any service that is not a limited health service.
10 For purposes of the Illinois Insurance Code, except for
11 Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited
12 health service organizations in the following categories are
13 deemed to be 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% or 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. 102-30, eff. 1-1-22; 102-203, eff. 1-1-22;
22 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-731, eff.
23 1-1-23; 102-775, eff. 5-13-22; 102-813, eff. 5-13-22; 102-816,
24 eff. 1-1-23; 102-860, eff. 1-1-23; 102-1093, eff. 1-1-23;
25 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91, eff.
26 1-1-24; 103-420, eff. 1-1-24; 103-426, eff. 8-4-23; 103-445,

1 eff. 1-1-24; revised 8-29-23.)

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

4 (215 ILCS 165/10) (from Ch. 32, par. 604)

5 Sec. 10. Application of Insurance Code provisions. Health
6 services plan corporations and all persons interested therein
7 or dealing therewith shall be subject to the provisions of
8 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
9 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b,
10 356g, 356g.5, 356g.5-1, 356q, 356r, 356t, 356u, 356v, 356w,
11 356x, 356y, 356z.1, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5,
12 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
13 356z.14, 356z.15, 356z.18, 356z.19, 356z.21, 356z.22, 356z.25,
14 356z.26, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33,
15 356z.40, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 356z.54,
16 356z.56, 356z.57, 356z.59, 356z.60, 356z.61, 356z.62, 356z.64,
17 356z.67, 356z.68, 356z.71, 364.01, 364.3, 367.2, 368a, 401,
18 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
19 and (15) of Section 367 of the Illinois Insurance Code.

20 Rulemaking authority to implement Public Act 95-1045, if
21 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

1 whatever reason, is unauthorized.

2 (Source: P.A. 102-30, eff. 1-1-22; 102-203, eff. 1-1-22;
3 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff.
4 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22; 102-804,
5 eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23;
6 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093, eff.
7 1-1-23; 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91,
8 eff. 1-1-24; 103-420, eff. 1-1-24; 103-445, eff. 1-1-24;
9 103-551, eff. 8-11-23; revised 8-29-23.)

10 Section 25. The Illinois Public Aid Code is amended by
11 changing Section 5-16.8 as follows:

12 (305 ILCS 5/5-16.8)

13 (Text of Section before amendment by P.A. 103-84, 103-91,
14 and 103-420)

15 Sec. 5-16.8. Required health benefits. The medical
16 assistance program shall (i) provide the post-mastectomy care
17 benefits required to be covered by a policy of accident and
18 health insurance under Section 356t and the coverage required
19 under Sections 356g.5, 356q, 356u, 356w, 356x, 356z.6,
20 356z.26, 356z.29, 356z.32, 356z.33, 356z.34, 356z.35, 356z.46,
21 356z.47, 356z.51, 356z.53, 356z.56, 356z.59, and 356z.60 of
22 the Illinois Insurance Code, (ii) be subject to the provisions
23 of Sections 356z.19, 356z.44, 356z.49, 364.01, 370c, and
24 370c.1 of the Illinois Insurance Code, and (iii) be subject to

1 the provisions of subsection (d-5) of Section 10 of the
2 Network Adequacy and Transparency Act.

3 The Department, by rule, shall adopt a model similar to
4 the requirements of Section 356z.39 of the Illinois Insurance
5 Code.

6 On and after July 1, 2012, the Department shall reduce any
7 rate of reimbursement for services or other payments or alter
8 any methodologies authorized by this Code to reduce any rate
9 of reimbursement for services or other payments in accordance
10 with Section 5-5e.

11 To ensure full access to the benefits set forth in this
12 Section, on and after January 1, 2016, the Department shall
13 ensure that provider and hospital reimbursement for
14 post-mastectomy care benefits required under this Section are
15 no lower than the Medicare reimbursement rate.

16 (Source: P.A. 101-81, eff. 7-12-19; 101-218, eff. 1-1-20;
17 101-281, eff. 1-1-20; 101-371, eff. 1-1-20; 101-574, eff.
18 1-1-20; 101-649, eff. 7-7-20; 102-30, eff. 1-1-22; 102-144,
19 eff. 1-1-22; 102-203, eff. 1-1-22; 102-306, eff. 1-1-22;
20 102-530, eff. 1-1-22; 102-642, eff. 1-1-22; 102-804, eff.
21 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23; 102-1093,
22 eff. 1-1-23; 102-1117, eff. 1-13-23.)

23 (Text of Section after amendment by P.A. 103-84, 103-91,
24 and 103-420)

25 Sec. 5-16.8. Required health benefits. The medical

1 assistance program shall (i) provide the post-mastectomy care
2 benefits required to be covered by a policy of accident and
3 health insurance under Section 356t and the coverage required
4 under Sections 356g.5, 356q, 356u, 356w, 356x, 356z.6,
5 356z.26, 356z.29, 356z.32, 356z.33, 356z.34, 356z.35, 356z.46,
6 356z.47, 356z.51, 356z.53, 356z.56, 356z.59, 356z.60, ~~and~~
7 356z.61, 356z.64, 356z.67, and 356z.71 of the Illinois
8 Insurance Code, (ii) be subject to the provisions of Sections
9 356z.19, 356z.44, 356z.49, 364.01, 370c, and 370c.1 of the
10 Illinois Insurance Code, and (iii) be subject to the
11 provisions of subsection (d-5) of Section 10 of the Network
12 Adequacy and Transparency Act.

13 The Department, by rule, shall adopt a model similar to
14 the requirements of Section 356z.39 of the Illinois Insurance
15 Code.

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

21 To ensure full access to the benefits set forth in this
22 Section, on and after January 1, 2016, the Department shall
23 ensure that provider and hospital reimbursement for
24 post-mastectomy care benefits required under this Section are
25 no lower than the Medicare reimbursement rate.

26 (Source: P.A. 102-30, eff. 1-1-22; 102-144, eff. 1-1-22;

1 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-530, eff.
2 1-1-22; 102-642, eff. 1-1-22; 102-804, eff. 1-1-23; 102-813,
3 eff. 5-13-22; 102-816, eff. 1-1-23; 102-1093, eff. 1-1-23;
4 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91, eff.
5 1-1-24; 103-420, eff. 1-1-24; revised 8-29-23.)

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