

1 AN ACT concerning insurance coverage for pregnancy
2 prevention, amending named Acts.

3 Be it enacted by the People of the State of Illinois,
4 represented in the General Assembly:

5 Section 5. The State Employees Group Insurance Act of
6 1971 is amended by changing Section 6.11 as follows:

7 (5 ILCS 375/6.11)

8 Sec. 6.11. Required health benefits. The program of
9 health benefits shall provide the post-mastectomy care
10 benefits required to be covered by a policy of accident and
11 health insurance under Section 356t of the Illinois Insurance
12 Code. The program of health benefits shall provide the
13 coverage required under Sections 356u, 356w, and 356x, and
14 356z.1 of the Illinois Insurance Code.

15 (Source: P.A. 90-7, eff. 6-10-97; 90-655, eff. 7-30-98;
16 90-741, eff. 1-1-99.)

17 Section 10. The Counties Code is amended by changing
18 Section 5-1069.3 as follows:

19 (55 ILCS 5/5-1069.3)

20 Sec. 5-1069.3. Required health benefits. If a county,
21 including a home rule county, is a self-insurer for purposes
22 of providing health insurance coverage for its employees, the
23 coverage shall include coverage for the post-mastectomy care
24 benefits required to be covered by a policy of accident and
25 health insurance under Section 356t and the coverage required
26 under Sections 356u, 356w, and 356x, and 356z.1 of the
27 Illinois Insurance Code. The requirement that health
28 benefits be covered as provided in this Section is an
29 exclusive power and function of the State and is a denial and

1 limitation under Article VII, Section 6, subsection (h) of
2 the Illinois Constitution. A home rule county to which this
3 Section applies must comply with every provision of this
4 Section.

5 (Source: P.A. 90-7, eff. 6-10-97; 90-741, eff. 1-1-99.)

6 Section 15. The Illinois Municipal Code is amended by
7 changing Section 10-4-2.3 as follows:

8 (65 ILCS 5/10-4-2.3)

9 Sec. 10-4-2.3. Required health benefits. If a
10 municipality, including a home rule municipality, is a
11 self-insurer for purposes of providing health insurance
12 coverage for its employees, the coverage shall include
13 coverage for the post-mastectomy care benefits required to be
14 covered by a policy of accident and health insurance under
15 Section 356t and the coverage required under Sections 356u,
16 356w, and 356x, and 356z.1 of the Illinois Insurance Code.
17 The requirement that health benefits be covered as provided
18 in this is an exclusive power and function of the State and
19 is a denial and limitation under Article VII, Section 6,
20 subsection (h) of the Illinois Constitution. A home rule
21 municipality to which this Section applies must comply with
22 every provision of this Section.

23 (Source: P.A. 90-7, eff. 6-10-97; 90-741, eff. 1-1-99.)

24 Section 20. The School Code is amended by changing
25 Section 10-22.3f as follows:

26 (105 ILCS 5/10-22.3f)

27 Sec. 10-22.3f. Required health benefits. Insurance
28 protection and benefits for employees shall provide the
29 post-mastectomy care benefits required to be covered by a
30 policy of accident and health insurance under Section 356t

1 and the coverage required under Sections 356u, 356w, and
2 356x, and 356z.1 of the Illinois Insurance Code.

3 (Source: P.A. 90-7, eff. 6-10-97; 90-741, eff. 1-1-99.)

4 Section 25. The Illinois Insurance Code is amended by
5 adding Section 356z.1 as follows:

6 (215 ILCS 5/356z.1 new)

7 Sec. 356z.1. Clinical cancer trials; routine patient
8 care costs.

9 (a) For the purposes of this Section, the following
10 terms have the following meanings:

11 (1) "Clinical or principal investigator" means the
12 person managing the clinical trial.

13 (2) "Life threatening disease or condition" means a
14 disease or condition, which includes, but is not limited
15 to, breast cancer, prostate cancer, and leukemia, in
16 which either or both of the following is applicable:

17 (A) The likelihood of death is high unless the
18 course of the disease or condition is interrupted.

19 (B) The outcome is potentially fatal and the
20 purpose of clinical intervention is survival.

21 (3) "Routine patient care costs" means the costs
22 associated with the provision of items and services that
23 would otherwise be covered under the policy if those
24 items and services were not provided in connection with
25 an approved clinical trial program. For purposes of this
26 Section, "routine patient care costs" does not include
27 the costs associated with the provision of any of the
28 following:

29 (A) The cost of an investigational drug or
30 device.

31 (B) The cost of services other than health
32 care services that an insured may require as a

1 result of the treatment being provided for purposes
2 of the clinical trial.

3 (C) The costs associated with managing the
4 research associated with the clinical trial.

5 (D) The costs that would not be covered under
6 the insured's coverage with respect to a medical
7 procedure not involving a clinical trial.

8 (b) A group or individual policy of accident and health
9 insurance that is amended, delivered, issued, or renewed in
10 this State on and after the effective date of this amendatory
11 Act of the 92nd General Assembly must provide coverage for
12 routine patient care costs for an insured for treatment in a
13 Phase II through Phase III clinical trial that meets the
14 requirements of this Section, if all of the following
15 conditions are met:

16 (1) the treatment is being provided for a
17 life-threatening disease or condition;

18 (2) the insured's physician recommends
19 participation in the clinical trial; and

20 (3) the insured's physician certifies that the
21 clinical trial is likely to be more beneficial for the
22 insured than any available standard therapy.

23 (c) The treatment shall be provided in a clinical trial
24 approved by one of the following:

25 (1) One of the National Institutes of Health.

26 (2) The federal Food and Drug Administration, in
27 the form of an investigational new drug application.

28 (3) The Department of Defense.

29 (d) In the case of routine patient care costs provided
30 by a participating provider, the payment rate shall be at the
31 agreed upon rate. In the case of a nonparticipating provider,
32 the payment rate shall be at the rate the insurer would pay
33 to a participating provider for comparable services. Nothing
34 in this Section shall be construed to prohibit an insurer

1 from restricting coverage for clinical trials to
2 participating hospitals and physicians in Illinois unless the
3 protocol for the clinical trial is not provided for at an
4 Illinois hospital or by an Illinois physician.

5 (e) The clinical or principal investigator seeking
6 coverage on behalf of an insured for treatment in a clinical
7 trial approved pursuant to subsection (c) shall post
8 electronically on the National Cancer Institute's national
9 physician data query data base a current list of the clinical
10 trials for which he or she is seeking coverage and that meet
11 the requirements of subsection (b).

12 This information shall also be provided to the insured's
13 insurer.

14 The list shall include, for each clinical trial, all of
15 the following:

- 16 (1) The name of the trial.
- 17 (2) The phase of the trial.
- 18 (3) The disease being treated by the trial.
- 19 (4) The method by which further information about
20 the trial may be obtained.

21 (f) On or before June 1 of each year, an insurer shall
22 submit a report to the Director, in a form required by the
23 Director, that describes the clinical trials that the insurer
24 covered with respect to an insured. The Director shall
25 compile an annual summary report. A copy of the annual
26 summary report shall be provided to the Governor and to the
27 General Assembly.

28 Section 30. The Health Maintenance Organization Act is
29 amended by changing Section 5-3 as follows:

30 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

31 Sec. 5-3. Insurance Code provisions.

32 (a) Health Maintenance Organizations shall be subject to

1 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,
2 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,
3 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,
4 356y, 356z.1, 367i, 368a, 401, 401.1, 402, 403, 403A, 408,
5 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection
6 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,
7 XIII, XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

12 (1) a corporation authorized under the Dental
13 Service Plan Act or the Voluntary Health Services Plans
14 Act;

15 (2) a corporation organized under the laws of this
16 State; or

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

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

26 (1) the Director shall give primary consideration
27 to the continuation of benefits to enrollees and the
28 financial conditions of the acquired Health Maintenance
29 Organization after the merger, consolidation, or other
30 acquisition of control takes effect;

31 (2)(i) the criteria specified in subsection (1)(b)
32 of Section 131.8 of the Illinois Insurance Code shall not
33 apply and (ii) the Director, in making his determination
34 with respect to the merger, consolidation, or other

1 acquisition of control, need not take into account the
2 effect on competition of the merger, consolidation, or
3 other acquisition of control;

4 (3) the Director shall have the power to require
5 the following information:

6 (A) certification by an independent actuary of
7 the adequacy of the reserves of the Health
8 Maintenance Organization sought to be acquired;

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

17 (C) a pro forma business plan detailing an
18 acquiring party's plans with respect to the
19 operation of the Health Maintenance Organization
20 sought to be acquired for a period of not less than
21 3 years; and

22 (D) such other information as the Director
23 shall require.

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

30 (e) In considering any management contract or service
31 agreement subject to Section 141.1 of the Illinois Insurance
32 Code, the Director (i) shall, in addition to the criteria
33 specified in Section 141.2 of the Illinois Insurance Code,
34 take into account the effect of the management contract or

1 service agreement on the continuation of benefits to
2 enrollees and the financial condition of the health
3 maintenance organization to be managed or serviced, and (ii)
4 need not take into account the effect of the management
5 contract or service agreement on competition.

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

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

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

34 The Health Maintenance Organization shall include a

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

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

16 (Source: P.A. 90-25, eff. 1-1-98; 90-177, eff. 7-23-97;
17 90-372, eff. 7-1-98; 90-583, eff. 5-29-98; 90-655, eff.
18 7-30-98; 90-741, eff. 1-1-99; 91-357, eff. 7-29-99; 91-406,
19 eff. 1-1-00; 91-549, eff. 8-14-99; 91-605, eff. 12-14-99;
20 91-788, eff. 6-9-00.)

21 Section 35. The Voluntary Health Services Plans Act is
22 amended by changing Section 10 as follows:

23 (215 ILCS 165/10) (from Ch. 32, par. 604)

24 Sec. 10. Application of Insurance Code provisions.
25 Health services plan corporations and all persons interested
26 therein or dealing therewith shall be subject to the
27 provisions of Articles IIA and XII 1/2 and Sections 3.1, 133,
28 140, 143, 143c, 149, 354, 355.2, 356r, 356t, 356u, 356v,
29 356w, 356x, 356y, 356z.1, 367.2, 368a, 401, 401.1, 402, 403,
30 403A, 408, 408.2, and 412, and paragraphs (7) and (15) of
31 Section 367 of the Illinois Insurance Code.

32 (Source: P.A. 90-7, eff. 6-10-97; 90-25, eff. 1-1-98; 90-655,

1 eff. 7-30-98; 90-741, eff. 1-1-99; 91-406, eff. 1-1-00;
2 91-549, eff. 8-14-99; 91-605, eff. 12-14-99; 91-788, eff.
3 6-9-00.)