

SB0092



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB0092

Introduced 1/31/2007, by Sen. William R. Haine

SYNOPSIS AS INTRODUCED:

New Act

35 ILCS 5/218 new

215 ILCS 5/352

from Ch. 73, par. 964

Creates the Health Insurance Choice Act. Requires certain small employer carriers to offer health insurance choice policies to employees of eligible employers, and requires eligible employers to facilitate insurers offering the coverage. Requires eligible employers to offer their employees a group health plan. For a health insurance choice policy, establishes the maximum aggregate benefits for each enrollee and the standard required benefits. Sets forth the policy requirements. Requires employers to perform means testing to determine eligibility requirements. Designates conditions for the guaranteed renewability and availability of a health insurance choice policy. Sets forth language to be included in enrollment applications and policies. Requires insurers to provide written disclosure statements. Applies the Small Employer Health Insurance Rating Act to health insurance choice policies under certain conditions. Amends the Illinois Income Tax Act. Creates an income tax credit for taxpayers that are eligible employers under the Health Insurance Choice Act in an amount equal to 33% of the amount of any contribution made by the taxpayer towards the premium of a health insurance choice policy. Amends the Illinois Insurance Code to exempt the Health Insurance Choice Act from the Accident and Health Insurance Article of the Code. Effective immediately.

LRB095 03900 KBJ 23933 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

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 1. Short title. This Act may be cited as the Health
5 Insurance Choice Act.

6 Section 5. Purpose. The General Assembly recognizes the
7 need for individuals and small employers in this State to have
8 access to health insurance policies that are more affordable
9 and flexible than those currently available in the small group
10 market. The General Assembly, therefore, seeks to increase the
11 availability of health insurance coverage by requiring small
12 employer carriers in this State to issue policies that are more
13 affordable for employees of eligible employers. To accomplish
14 its objective, the General Assembly also requires eligible
15 employers to facilitate the offering of these policies to their
16 employees.

17 Section 10. Definitions. For purposes of this Act:

18 "Department" means the Department of Financial and
19 Professional Regulation.

20 "Eligible employer" means a small employer (1) that has not
21 offered group health plans to its employees for at least 12
22 months before the employee applies for such coverage under a

1 health insurance choice policy; and (2) whose average annual
2 compensation paid to employees is less than 250% of the Federal
3 poverty level.

4 "Employee" means an employee who is scheduled to work not
5 less than 20 hours per week on a regular basis.

6 "Enrollee" means an individual covered under a health
7 insurance choice policy, including both an employee and his or
8 her dependents.

9 "Facilitate" means, with respect to an eligible employer,
10 permitting one or more insurers to, without endorsement,
11 publicize their health insurance choice policy or policies and
12 alternative accident and health insurance policy or policies
13 with all mandated benefits to the eligible employer's employees
14 and collecting premiums through payroll deduction and
15 remitting such premiums to the insurer.

16 "Federal poverty level" means the federal poverty level
17 guidelines published annually by the United States Department
18 of Health and Human Services.

19 "Group health plan" has the meaning given to such term in
20 the Illinois Health Insurance Portability and Accountability
21 Act.

22 "Health insurance choice policy" or "policy" means a policy
23 of accident and health insurance that provides standard
24 required benefits as described in Section 20 of this Act and
25 satisfies the additional requirements set forth in Section 25
26 of this Act.

1 "Insurer" means a small employer carrier as such term is
2 defined in the Small Employer Health Insurer Rating Act.

3 "Secretary" means the Secretary of the Financial and
4 Professional Regulation.

5 "Small employer" has the meaning given that term in the
6 Illinois Health Insurance Portability and Accountability Act.

7 "State-mandated health benefits" means coverage required
8 under the laws of this State to be provided in a group major
9 medical policy for accident and health insurance or a contract
10 for a health-related condition that: (1) includes coverage for
11 specific health care services or benefits; (2) places
12 limitations or restrictions on deductibles, coinsurance,
13 co-payments, or any annual or lifetime maximum benefit amounts;
14 or (3) includes coverage for a specific category of licensed
15 health practitioner from whom an insured is entitled to receive
16 care.

17 Section 15. Authorization of health insurance choice
18 policies.

19 (a) All insurers, as defined in Section 10 of this Act,
20 shall offer one or more health insurance choice policies to
21 employees of eligible employers in this State.

22 (b) An insurer that offers one or more health insurance
23 choice policies under this Act to the employees of an eligible
24 employer must also offer to all employees of such eligible
25 employer at least one accident and health insurance policy that

1 has been filed with and approved by the Department and includes
2 coverage for all state-mandated health benefits.

3 (c) All eligible employers in this State shall facilitate
4 insurers offering coverage under one or more health insurance
5 choice policies for employees of such eligible employers and
6 their dependents. Each employee may elect whether he or she
7 wants to apply for coverage.

8 (d) All eligible employers in the State shall also offer to
9 their employees at least one insured group health plan under a
10 policy that has been filed with and approved by the Department
11 and includes coverage for all state-mandated health benefits.

12 (e) An eligible employer whose employees elect coverage
13 under a health insurance choice policy or group health plan
14 under subsections (c) or (d) of this Section for themselves or
15 their dependents is not required to make contributions to the
16 cost of any policy or group health plan on behalf of its
17 employees or their dependents.

18 (f) An insurer is not required to issue or renew coverage
19 to the employees of an eligible employer under a health
20 insurance choice policy or group health plan unless (i) 75% of
21 the eligible employer's employees, excluding employees covered
22 by a group health plan of another employer, elect coverage
23 under a health insurance choice policy or a group health plan
24 of the small employer offered by the insurer and (ii) 50% of
25 the eligible employer's total employees elect coverage under a
26 health insurance choice policy or group health plan of the

1 eligible employer offered by the insurer.

2 (g) This Act must not be interpreted to restrict the
3 ability of any insurer or small employer to offer any health
4 insurance coverage permitted by law.

5 Section 20. Standard required benefits. A health insurance
6 choice policy must include a maximum aggregate benefit of not
7 less than \$50,000 per year for each enrollee and the policy
8 must contain the following standard required benefits:

9 (1) physician services, including, primary care,
10 consultation, referral, surgical, anesthesia, or other, as
11 needed by the enrollee in any level of service delivery.
12 Such services need not include organ transplants unless
13 specifically authorized by a physician;

14 (2) outpatient diagnostic, imaging, and pathology
15 services and radiation therapy;

16 (3) 120 days of non-mental-health inpatient services
17 per year, including all professional services,
18 medications, surgically implanted devices, and supplies
19 used by the enrollee while an inpatient;

20 (4) 45 days of inpatient serious mental illness
21 treatment services per year and 60 office visits per year
22 for outpatient serious mental illness treatment services,
23 with the copayment to apply to the cost of treatment if the
24 treatment occurs during the office visit;

25 (5) 30 days of other inpatient mental health and

1 chemical dependency treatment services per year and 30 days
2 of other outpatient mental health and chemical dependency
3 treatment services per year, with a lifetime maximum of 100
4 visits;

5 (6) emergency services for accidental injury or
6 emergency illness 24 hours per day and 7 days per week.
7 Such emergency treatment shall include outpatient visits
8 and referrals for emergency mental health problems;

9 (7) maternity care, including prenatal and post-natal
10 care, care for complications of pregnancy of the mother,
11 and care with respect to a newborn child from the moment of
12 birth, which shall include the necessary care and treatment
13 of an illness, an injury, congenital defects, birth
14 abnormalities, and a premature birth;

15 (8) blood transfusion services, processing, and the
16 administration of whole blood and blood components and
17 derivatives;

18 (9) preventive health services as appropriate for the
19 patient population, including a health evaluation program
20 and immunizations to prevent or arrest the further
21 manifestation of human illness or injury, including, but
22 not limited to, allergy infections and allergy serum. Such
23 health evaluation program shall include at least periodic
24 physical examinations and medical history, hearing and
25 vision testing or screening, routine laboratory testing or
26 screening, blood pressure testing, uterine

1 cervical-cytological testing, and low-dose mammography
2 testing as required by Section 356g of the Illinois
3 Insurance Code; and

4 (10) outpatient rehabilitative therapy (including, but
5 not limited to, speech therapy, physical therapy, and
6 occupational therapy directed at improving physical
7 functioning of the member), up to 60 treatments per year
8 for conditions that are expected to result in significant
9 improvement within 2 months, as determined by the primary
10 care physician.

11 The benefits under a health insurance choice policy may
12 contain reasonable deductibles and co-payments subject to such
13 limitations as the Department may prescribe pursuant to rule.

14 Section 25. Health insurance choice policy requirements.

15 (a) Any insurer, as defined in Section 10 of this Act,
16 shall have the power to issue health insurance choice policies.
17 No such policy may be issued or delivered in this State unless
18 a copy of the form thereof has been filed with the Department
19 and approved by it in accordance with Section 355 of the
20 Illinois Insurance Code, unless it contains in substance those
21 provisions contained in Sections 357.1 through 357.30 of the
22 Illinois Insurance Code as may be applicable to this Act and
23 the provisions set forth in this Section.

24 (b) The policy must provide that the policy and the
25 individual applications of the employees of the eligible

1 employer shall constitute the entire contract between the
2 parties, that all statements made by the employer or by the
3 individual employees shall (in the absence of fraud) be deemed
4 representations and not warranties, and that none of those
5 statements may be used in defense to a claim under the policy
6 unless it is contained in a written application.

7 (c) The policy must provide that the insurer will issue to
8 the eligible employer, for delivery to the employee who is
9 insured under the policy, an individual certificate setting
10 forth a statement as to the insurance protection to which the
11 employee is entitled and to whom payable.

12 (d) The policy must provide that all new employees of the
13 eligible employer shall be eligible to apply for coverage under
14 any health insurance choice policies facilitated by such
15 employer or the group health plan of the employer.

16 (e) Any health insurance choice policy may provide that all
17 or any portion of any indemnities provided by the policy on
18 account of hospital, nursing, medical, or surgical services
19 may, at the insurer's option, be paid directly to the health
20 care professional, health care provider, or the insured; but
21 the policy may not require that the service be rendered by a
22 particular hospital or person. Payment so made shall discharge
23 the insurer's obligation with respect to the amount of
24 insurance so paid. Nothing in this subsection (e) shall
25 prohibit an insurer from providing incentives for insureds to
26 utilize the services of a particular hospital or person.

1 (f) Whenever the Department of Public Health finds that it
2 has paid all or part of any hospital or medical expenses that
3 an insurer is obligated to pay under a policy issued under this
4 Act, the Department of Public Health shall be entitled to
5 receive reimbursement for its payments from the insurer,
6 provided that the Department of Public Health has notified the
7 insurer of its claim before the carrier has paid the benefits
8 to its insureds or the insureds' assignees.

9 (g) No group hospital, medical, or surgical expense policy
10 under this Act may contain any provision whereby benefits
11 otherwise payable thereunder are subject to reduction solely on
12 account of the existence of similar benefits provided under
13 other group or group-type accident and sickness insurance
14 policies if the reduction would operate to reduce total
15 benefits payable under the policies below an amount equal to
16 100% of total allowable expenses provided under the policies.

17 (h) If dependents of insureds are covered under 2 policies,
18 both of which contain coordination of benefit provisions,
19 benefits of the policy of the insured whose birthday falls
20 earlier in the year are determined before those of the policy
21 of the insured whose birthday falls later in the year.
22 "Birthday", as used in this subsection (h), refers only to the
23 month and day in a calendar year, not the year in which the
24 person was born. The Department shall promulgate rules defining
25 the order of benefit determination under this subsection (h).

26 (i) Discrimination between individuals of the same class of

1 risk in the issuance of policies, in the amount of premiums or
2 rates charged for any insurance covered by this Act, in
3 benefits payable thereon, in any of the terms or conditions of
4 the policy, or in any other manner whatsoever is prohibited.
5 Nothing in this subsection (i) prohibits an insurer from
6 providing incentives for insureds to utilize the services of a
7 particular hospital or person.

8 (j) No insurer may make or permit any distinction or
9 discrimination against individuals solely because of handicaps
10 or disabilities in (i) the amount of payment of premiums or
11 rates charged for policies of insurance, (ii) the amount of any
12 dividends or other benefits payable thereon, or (iii) any other
13 terms and conditions of the contract it makes, except if the
14 distinction or discrimination is based on sound actuarial
15 principles or is related to actual or reasonably anticipated
16 experience.

17 (k) No insurer may refuse to insure or refuse to continue
18 to insure, limit the amount, extent, or kind of coverage
19 available to an individual, or charge an individual a different
20 rate for the same coverage solely because of blindness or
21 partial blindness. With respect to all other conditions,
22 including the underlying cause of the blindness or partial
23 blindness, persons who are blind or partially blind shall be
24 subject to the same standards of sound actuarial principles or
25 actual or reasonably anticipated experience as are sighted
26 persons. Refusal to insure includes denial by an insurer of

1 disability insurance coverage on the grounds that the policy
2 defines "disability" as being presumed in the event that the
3 insured loses his or her eyesight. However, an insurer may
4 exclude from coverage disability consisting solely of
5 blindness or partial blindness when the condition existed at
6 the time the policy was issued.

7 Section 30. Applicability of other Insurance Code
8 provisions. All health insurance choice policies issued under
9 this Act shall be subject to the provisions of Sections 356c,
10 356d, 356g, 356h, 356n, 367.2, 367.2-5, 367c, 367d, 367e,
11 367e.1, 367i, 368a, 370, 370a, and 370e of the Illinois
12 Insurance Code even though such policies do not constitute
13 group health plans.

14 Section 35. Means testing; authorized. For purposes of this
15 Act, an employer shall perform means testing to determine
16 eligibility requirements for the health insurance choice
17 policy and shall provide a certification to the insurer
18 respecting the results of the means testing. A health insurance
19 choice policy based on those eligibility requirements shall not
20 be in violation of Section 364 of the Illinois Insurance Code
21 or subsection (i) or (j) of Section 25 of this Act.

22 Section 40. Guaranteed renewability and availability.

23 (a) Subject to subsection (f) of Section 15 of this Act and

1 subsections (b) and (c) of this Section, an insurer (i) must
2 accept the application of every employee of an eligible
3 employer that applies for coverage under subsections (c) or (d)
4 of Section 15 of this Act and (ii) must renew or continue in
5 force such coverage at the option of the covered employee as
6 long as the employee continues as an employee of the eligible
7 employer.

8 (b) An insurer is not obligated to renew or continue in
9 force coverage under subsection (a) of this Section (i) if the
10 coverage requirements of subsection (f) of Section 15 of this
11 Act are not satisfied, (ii) if the insurer would not be
12 obligated to renew or continue in force such coverage had
13 subdivision (2), (4), or (5) of subsection (B) Section 30 of
14 the Illinois Health Insurance Portability and Accountability
15 Act applied to such policies, or (iii) with respect to an
16 employee who has failed to pay premiums in accordance with the
17 applicable policy or the insurer has not received timely
18 premium payments from the employee.

19 (c) An insurer may modify the coverage offered under this
20 Act only at the time of coverage renewal and only if the
21 modification is consistent with State law and effective on a
22 uniform basis with respect to all employees of eligible
23 employers.

24 (d) Subsection (a) of Section 15 of this Act and this
25 Section shall apply with respect to an insurer as long as the
26 insurer offers any health benefit plan to small employers in

1 this State that is subject to the Small Employer Health
2 Insurance Rating Act.

3 Section 45. Notice to policyholders and enrollees.

4 (a) Each written application for enrollment under a health
5 insurance choice policy must contain the following language at
6 the beginning of the application in bold type:

7 "You have the option to choose this health insurance
8 choice policy that, either in whole or in part, does not
9 provide state-mandated health insurance benefits normally
10 required in accident and health insurance policies in
11 Illinois. This health insurance choice policy may provide a
12 more affordable health insurance policy for you, although,
13 at the same time, it may provide you with fewer health
14 insurance benefits than those normally included as
15 state-mandated health insurance benefits in policies in
16 Illinois."

17 (b) Each health insurance choice policy must contain the
18 following language at or near the beginning of the policy in
19 bold type:

20 "This health insurance choice policy, either in whole
21 or in part, does not provide state-mandated health benefits
22 normally required in accident and health insurance
23 policies in Illinois. This health insurance choice policy
24 may provide a more affordable health insurance policy for
25 you, although, at the same time, it may provide you with

1 fewer health insurance benefits than those normally
2 included as state-mandated health insurance benefits in
3 policies in Illinois."

4 Section 50. Disclosure statement.

5 (a) When a health insurance choice policy is issued, the
6 insurer providing such policy must provide an applicant with a
7 written disclosure statement that does the following:

8 (1) acknowledges that the health insurance choice
9 policy being purchased does not provide some or all
10 state-mandated health benefits;

11 (2) lists those state-mandated health benefits not
12 included under the health insurance choice policy; and

13 (3) includes a section that allows for a signature by
14 the applicant attesting to the fact that the applicant has
15 read and understands the disclosure statement and
16 attesting to the fact that the applicant has in fact been
17 given a choice between the health insurance choice policy
18 that he or she has chosen and a health insurance policy
19 that includes all state-mandated health benefits.

20 (b) Each applicant for initial coverage must sign the
21 disclosure statement provided by the insurer under subsection
22 (a) of this Section and return the statement to the insurer.

23 (c) An insurer must:

24 (1) retain the signed disclosure statement in the
25 insurer's records; and

1 (2) provide the signed disclosure statement to the
2 Department upon request from the Secretary.

3 Section 55. Rates.

4 (a) Except as expressly provided in paragraphs (b) and (c)
5 of this Section, the Small Employer Health Insurance Rating Act
6 shall apply to each health insurance choice policy that is
7 delivered, issued for delivery, renewed, or continued in this
8 State.

9 (b) An insurer may establish one or more separate classes
10 of business for purposes of the Small Employer Health Insurance
11 Rating Act for health insurance choice policies delivered,
12 issued for delivery, renewed, or continued in this State, and
13 any such separate classes of business so established and
14 including only health insurance choice policies shall not
15 reduce the number of classes of business that an insurer may
16 otherwise establish under the Small Employer Health Insurance
17 Rating Act.

18 (c) Premium rates for health insurance choice policies
19 included in a separate class of business shall not be subject
20 to subdivision (1) of subsection (a) of Section 25 of the Small
21 Employer Health Insurance Rating Act.

22 Section 60. Rules. The Secretary shall adopt rules as
23 necessary to implement this Act.

1 Section 900. The Illinois Income Tax Act is amended by
2 adding Section 218 as follows:

3 (35 ILCS 5/218 new)

4 Sec. 218. Health insurance choice contribution credit.

5 (a) For those taxable years ending on or after December 31,
6 2007 and ending on or before December 30, 2012, each taxpayer
7 that is an eligible employer under the Health Insurance Choice
8 Act is entitled to a credit against the tax imposed by
9 subsections (a) and (b) of Section 201 in an amount equal to
10 33% of the amount of any contribution made by the taxpayer
11 during the taxable year towards the premium of a health
12 insurance choice policy under the Health Insurance Choice Act.

13 (b) For partners, shareholders of Subchapter S
14 corporations, and owners of limited liability companies, if the
15 liability company is treated as a partnership for purposes of
16 federal and State income taxation, there shall be allowed a
17 credit under this Section to be determined in accordance with
18 the determination of income and distributive share of income
19 under Sections 702 and 704 and Subchapter S of the Internal
20 Revenue Code.

21 (c) The credit under this Section may not be carried
22 forward or back and may not reduce the taxpayer's liability to
23 less than zero.

24 Section 905. The Illinois Insurance Code is amended by

1 changing Section 352 as follows:

2 (215 ILCS 5/352) (from Ch. 73, par. 964)

3 Sec. 352. Scope of Article.

4 (a) Except as provided in subsections (b), (c), (d), and
5 (e), this Article shall apply to all companies transacting in
6 this State the kinds of business enumerated in clause (b) of
7 Class 1 and clause (a) of Class 2 of section 4. Nothing in this
8 Article shall apply to, or in any way affect policies or
9 contracts described in clause (a) of Class 1 of Section 4;
10 however, this Article shall apply to policies and contracts
11 which contain benefits providing reimbursement for the
12 expenses of long term health care which are certified or
13 ordered by a physician including but not limited to
14 professional nursing care, custodial nursing care, and
15 non-nursing custodial care provided in a nursing home or at a
16 residence of the insured.

17 (b) This Article does not apply to policies of accident and
18 health insurance issued in compliance with Article XIXB of this
19 Code or the Health Insurance Choice Act.

20 (c) A policy issued and delivered in this State that
21 provides coverage under that policy for certificate holders who
22 are neither residents of nor employed in this State does not
23 need to provide to those nonresident certificate holders who
24 are not employed in this State the coverages or services
25 mandated by this Article.

1 (d) Stop-loss insurance is exempt from all Sections of this
2 Article, except this Section and Sections 353a, 354, 357.30,
3 and 370. For purposes of this exemption, stop-loss insurance is
4 further defined as follows:

5 (1) The policy must be issued to and insure an
6 employer, trustee, or other sponsor of the plan, or the
7 plan itself, but not employees, members, or participants.

8 (2) Payments by the insurer must be made to the
9 employer, trustee, or other sponsors of the plan, or the
10 plan itself, but not to the employees, members,
11 participants, or health care providers.

12 (e) A policy issued or delivered in this State to the
13 Department of Healthcare and Family Services (formerly
14 Illinois Department of Public Aid) and providing coverage,
15 under clause (b) of Class 1 or clause (a) of Class 2 as
16 described in Section 4, to persons who are enrolled under
17 Article V of the Illinois Public Aid Code or under the
18 Children's Health Insurance Program Act is exempt from all
19 restrictions, limitations, standards, rules, or regulations
20 respecting benefits imposed by or under authority of this Code,
21 except those specified by subsection (1) of Section 143.
22 Nothing in this subsection, however, affects the total medical
23 services available to persons eligible for medical assistance
24 under the Illinois Public Aid Code.

25 (Source: P.A. 92-370, eff. 8-15-01; revised 12-15-05.)

26 Section 999. Effective date. This Act takes effect upon

1 becoming law.