

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 Health Maintenance Organization Act is  
5 amended by changing Sections 1-2, 1-3, 2-1, 2-4, 2-6, 3-1, and  
6 5-3 as follows:

7 (215 ILCS 125/1-2) (from Ch. 111 1/2, par. 1402)

8 Sec. 1-2. Definitions. As used in this Act, unless the  
9 context otherwise requires, the following terms shall have the  
10 meanings ascribed to them:

11 (1) "Advertisement" means any printed or published  
12 material, audiovisual material and descriptive literature of  
13 the health care plan used in direct mail, newspapers,  
14 magazines, radio scripts, television scripts, billboards and  
15 similar displays; and any descriptive literature or sales aids  
16 of all kinds disseminated by a representative of the health  
17 care plan for presentation to the public including, but not  
18 limited to, circulars, leaflets, booklets, depictions,  
19 illustrations, form letters and prepared sales presentations.

20 (2) "Director" means the Director of Insurance.

21 (3) "Basic health care services" means emergency care, and  
22 inpatient hospital and physician care, outpatient medical  
23 services, mental health services and care for alcohol and drug

1 abuse, including any reasonable deductibles and co-payments,  
2 all of which are subject to the limitations described in  
3 Section 4-20 of this Act and as determined by the Director  
4 pursuant to rule.

5 (4) "Enrollee" means an individual who has been enrolled in  
6 a health care plan.

7 (5) "Evidence of coverage" means any certificate,  
8 agreement, or contract issued to an enrollee setting out the  
9 coverage to which he is entitled in exchange for a per capita  
10 prepaid sum.

11 (6) "Group contract" means a contract for health care  
12 services which by its terms limits eligibility to members of a  
13 specified group.

14 (7) "Health care plan" means any arrangement whereby an ~~any~~  
15 organization undertakes to provide or arrange for and pay for  
16 or reimburse the cost of basic health care services, excluding  
17 any reasonable deductibles and copayments, from providers  
18 selected by the Health Maintenance Organization and such  
19 arrangement consists of arranging for or the provision of such  
20 health care services, as distinguished from mere  
21 indemnification against the cost of such services, except as  
22 otherwise authorized by Section 2-3 of this Act, on a per  
23 capita prepaid basis, through insurance or otherwise. A "health  
24 care plan" also includes any arrangement whereby an  
25 organization undertakes to provide or arrange for or pay for or  
26 reimburse the cost of any health care service for persons who

1 are enrolled under Article V of the Illinois Public Aid Code or  
2 under the Children's Health Insurance Program Act through  
3 providers selected by the organization and the arrangement  
4 consists of making provision for the delivery of health care  
5 services, as distinguished from mere indemnification. A  
6 "health care plan" also includes any arrangement pursuant to  
7 Section 4-17. Nothing in this definition, however, affects the  
8 total medical services available to persons eligible for  
9 medical assistance under the Illinois Public Aid Code.

10 (8) "Health care services" means any services included in  
11 the furnishing to any individual of medical or dental care, or  
12 the hospitalization or incident to the furnishing of such care  
13 or hospitalization as well as the furnishing to any person of  
14 any and all other services for the purpose of preventing,  
15 alleviating, curing or healing human illness or injury.

16 (9) "Health Maintenance Organization" means an ~~any~~  
17 organization formed under the laws of this or another state to  
18 provide or arrange for one or more health care plans under a  
19 system which causes any part of the risk of health care  
20 delivery to be borne by the organization or its providers.

21 (10) "Net worth" means admitted assets, as defined in  
22 Section 1-3 of this Act, minus liabilities.

23 (11) "Organization" means a domestic ~~any~~ insurance  
24 company, a nonprofit corporation authorized under the Dental  
25 Service Plan Act or the Voluntary Health Services Plans Act, or  
26 a corporation organized under the laws of this or another state

1 for the purpose of operating one or more health care plans and  
2 doing no business other than that of a Health Maintenance  
3 Organization ~~or an insurance company~~. "Organization" shall  
4 also mean the University of Illinois Hospital as defined in the  
5 University of Illinois Hospital Act or a unit of local  
6 government health system operating within a county with a  
7 population of 3,000,000 or more.

8 (12) "Provider" means any physician, hospital facility,  
9 facility licensed under the Nursing Home Care Act, or facility  
10 or long-term care facility as those terms are defined in the  
11 Nursing Home Care Act or other person which is licensed or  
12 otherwise authorized to furnish health care services and also  
13 includes any other entity that arranges for the delivery or  
14 furnishing of health care service.

15 (13) "Producer" means a person directly or indirectly  
16 associated with a health care plan who engages in solicitation  
17 or enrollment.

18 (14) "Per capita prepaid" means a basis of prepayment by  
19 which a fixed amount of money is prepaid per individual or any  
20 other enrollment unit to the Health Maintenance Organization or  
21 for health care services which are provided during a definite  
22 time period regardless of the frequency or extent of the  
23 services rendered by the Health Maintenance Organization,  
24 except for copayments and deductibles and except as provided in  
25 subsection (f) of Section 5-3 of this Act.

26 (15) "Subscriber" means a person who has entered into a

1 contractual relationship with the Health Maintenance  
2 Organization for the provision of or arrangement of at least  
3 basic health care services to the beneficiaries of such  
4 contract.

5 (Source: P.A. 98-651, eff. 6-16-14; 98-841, eff. 8-1-14; 99-78,  
6 eff. 7-20-15.)

7 (215 ILCS 125/1-3) (from Ch. 111 1/2, par. 1402.1)

8 Sec. 1-3. Definitions of admitted assets. "Admitted assets  
9 ~~Assets~~" includes the investments authorized or permitted by  
10 Section 3-1 of this Act and, in addition thereto, only the  
11 following:

12 (1) Amounts due from affiliates pursuant to management  
13 contracts or service agreements which meet the  
14 requirements of Section 141.1 of the Illinois Insurance  
15 Code to the extent that the affiliate has liquid assets  
16 with which to pay the balance and maintain its accounts on  
17 a current basis; provided that the aggregate amount due  
18 from affiliates may not exceed the lesser of 10% of the  
19 organization's admitted assets or 25% of the  
20 organization's net worth as defined in Section 3-1. Any  
21 amount outstanding more than 3 months shall be deemed not  
22 current. For purpose of this subsection "affiliates" are as  
23 defined in Article VIII 1/2 of the Illinois Insurance Code.

24 (2) Amounts advanced to providers under contract to the  
25 organization for services to be rendered to enrollees

1           pursuant to the contract. Amounts advanced must be for  
2           period of not more than 3 months and must be based on  
3           historical or estimated utilization patterns with the  
4           provider and must be reconciled against actual incurred  
5           claims at least semi-annually. Amounts due in the aggregate  
6           may not exceed 50% of the organization's net worth as  
7           defined in Section 3-1. Amounts due from a single provider  
8           may not exceed the lesser of 5% of the organization's  
9           admitted assets or 10% of the organization's net worth.

10           ~~(3) Amounts permitted under Section 2-7.~~

11           (Source: P.A. 91-357, eff. 7-29-99; 91-549, eff. 8-14-99;  
12           92-16, eff. 6-28-01.)

13           (215 ILCS 125/2-1) (from Ch. 111 1/2, par. 1403)

14           Sec. 2-1. Certificate of authority - Exception for  
15           corporate employee programs - Applications - Material  
16           modification of operation.

17           (a) No organization shall establish or operate a Health  
18           Maintenance Organization in this State without obtaining a  
19           certificate of authority under this Act. No person other than  
20           an organization may lawfully establish or operate a Health  
21           Maintenance Organization in this State. This Act shall not  
22           apply to the establishment and operation of a Health  
23           Maintenance Organization exclusively providing or arranging  
24           for health care services to employees of a corporate affiliate  
25           of such Health Maintenance Organization. This exclusion shall

1 be available only to those Health Maintenance Organizations  
2 which require employee contributions which equal less than 50%  
3 of the total cost of the health care plan, with the remainder  
4 of the cost being paid by the corporate affiliate which is the  
5 employer of the participants in the plan. This Act shall not  
6 apply to the establishment and operation of a Health  
7 Maintenance Organization exclusively providing or arranging  
8 health care services under contract with the State to persons  
9 committed to the custody of the Illinois Department of  
10 Corrections.

11 This Act does not apply to the establishment and operation  
12 of managed care community networks that are certified as  
13 risk-bearing entities under Section 5-11 of the Illinois Public  
14 Aid Code and that contract with the Department of Healthcare  
15 and Family Services (formerly Illinois Department of Public  
16 Aid) pursuant to that Section.

17 (b) Any organization may apply to the Director for and  
18 obtain a certificate of authority to establish and operate a  
19 Health Maintenance Organization in compliance with this Act. ~~A~~  
20 ~~foreign corporation may qualify under this Act, subject to its~~  
21 ~~registration to do business in this State as a foreign~~  
22 ~~corporation.~~

23 (c) Each application for a certificate of authority shall  
24 be filed in triplicate and verified by an officer or authorized  
25 representative of the applicant, shall be in a form prescribed  
26 by the Director, and shall set forth, without limiting what may

1 be required by the Director, the following:

2 (1) A copy of the organizational document;

3 (2) A copy of the bylaws, rules and regulations, or  
4 similar document regulating the conduct of the internal  
5 affairs of the applicant, which shall include a mechanism  
6 to afford the enrollees an opportunity to participate in an  
7 advisory capacity in matters of policy and operations;

8 (3) A list of the names, addresses, and official  
9 positions of the persons who are to be responsible for the  
10 conduct of the affairs of the applicant; including, but not  
11 limited to, all members of the board of directors,  
12 executive committee, the principal officers, and any  
13 person or entity owning or having the right to acquire 10%  
14 or more of the voting securities or subordinated debt of  
15 the applicant;

16 (4) A statement generally describing the applicant,  
17 geographic area to be served, its facilities, personnel and  
18 the health care services to be offered;

19 (5) A copy of the form of any contract made or to be  
20 made between the applicant and any providers regarding the  
21 provision of health care services to enrollees;

22 (6) A copy of the form of any contract made or to be  
23 made between the applicant and any person listed in  
24 paragraph (3) of this subsection;

25 (7) A copy of the form of any contract made or to be  
26 made between the applicant and any person, corporation,



1 partnership or other entity for the performance on the  
2 applicant's behalf of any functions including, but not  
3 limited to, marketing, administration, enrollment,  
4 investment management and subcontracting for the provision  
5 of health services to enrollees;

6 (8) A copy of the form of any group contract which is  
7 to be issued to employers, unions, trustees, or other  
8 organizations and a copy of any form of evidence of  
9 coverage to be issued to any enrollee or subscriber and any  
10 advertising material;

11 (9) Descriptions of the applicant's procedures for  
12 resolving enrollee grievances which must include  
13 procedures providing for enrollees participation in the  
14 resolution of grievances;

15 (10) A copy of the applicant's most recent financial  
16 statements audited by an independent certified public  
17 accountant. If the financial affairs of the applicant's  
18 parent company are audited by an independent certified  
19 public accountant but those of the applicant are not, then  
20 a copy of the most recent audited financial statement of  
21 the applicant's parent, attached to which shall be  
22 consolidating financial statements of the parent including  
23 separate unaudited financial statements of the applicant,  
24 unless the Director determines that additional or more  
25 recent financial information is required for the proper  
26 administration of this Act;

1           (11) A copy of the applicant's financial plan,  
2 including a three-year projection of anticipated operating  
3 results, a statement of the sources of working capital, and  
4 any other sources of funding and provisions for  
5 contingencies;

6           (12) A description of rate methodology;

7           (13) A description of the proposed method of marketing;

8           (14) A copy of every filing made with the Illinois  
9 Secretary of State which relates to the applicant's  
10 registered agent or registered office;

11           (15) A description of the complaint procedures to be  
12 established and maintained as required under Section 4-6 of  
13 this Act;

14           (16) A description, in accordance with regulations  
15 promulgated by the Illinois Department of Public Health, of  
16 the quality assessment and utilization review procedures  
17 to be utilized by the applicant;

18           (17) The fee for filing an application for issuance of  
19 a certificate of authority provided in Section 408 of the  
20 Illinois Insurance Code, as now or hereafter amended; and

21           (18) Such other information as the Director may  
22 reasonably require to make the determinations required by  
23 this Act.

24 (Source: P.A. 95-331, eff. 8-21-07.)

25 (215 ILCS 125/2-4) (from Ch. 111 1/2, par. 1406)

1           Sec. 2-4. Required minimum net worth; special contingent  
2 reserve; deficiency; impairment.

3           (a) A health maintenance organization issued a certificate  
4 of authority on or after the effective date of this amendatory  
5 Act of 1987 shall have and at all times maintain net worth of  
6 not less than \$1,500,000. ~~As an allocation of net worth,~~  
7 ~~organizations certified prior to the effective date of this~~  
8 ~~amendatory Act of 1987 shall maintain a special contingent~~  
9 ~~reserve. The special contingent reserve for an organization~~  
10 ~~certified between January 1, 1986 and the effective date of~~  
11 ~~this amendatory Act of 1987 shall be equal to 5% of its net~~  
12 ~~earned subscription revenue for health care services through~~  
13 ~~December 31st of the year in which certified. In subsequent~~  
14 ~~years such organization shall accumulate additions to the~~  
15 ~~contingent reserve in an amount which is equal to 2% of its net~~  
16 ~~earned subscription revenue for each calendar year. For~~  
17 ~~purposes of this Section, net earned subscription revenue means~~  
18 ~~premium minus reinsurance expenses. Maintenance of the~~  
19 ~~contingent reserve requires that net worth equals or exceeds~~  
20 ~~the contingent reserve at any balance sheet date.~~

21           (b) (Blank). ~~Additional accumulations under subsection (a)~~  
22 ~~will no longer be required at such time that the total special~~  
23 ~~contingent reserve required by subsection (a) is equal to~~  
24 ~~\$1,500,000.~~

25           (c) A deficiency in meeting amounts required in subsections  
26 (a), ~~(b)~~, and (d-5) ~~(d)~~ will require (1) filing with the

1 Director a plan for correction of the deficiency, acceptable to  
2 the Director and (2) correction of the deficiency within a  
3 reasonable time, not to exceed 60 days unless an extension of  
4 time, not to exceed 60 additional days, is granted by the  
5 Director. Such a deficiency will be deemed an impairment, and  
6 failure to correct the deficiency in the prescribed time shall  
7 be grounds for suspension or revocation pursuant to subsection  
8 (h) of Section 5-5.

9 (d) (Blank). ~~All health maintenance organizations issued a~~  
10 ~~certificate of authority on or prior to December 31, 1985 and~~  
11 ~~regulated under this Act must have and at all times maintain,~~  
12 ~~prior to December 31, 1988, the net worth and special~~  
13 ~~contingent reserve that was required for that particular~~  
14 ~~organization at the time it was certified. All such~~  
15 ~~organizations must have by December 31, 1988 and thereafter~~  
16 ~~maintain at all times, net worth of not less than \$300,000 and~~  
17 ~~a special contingent reserve calculated and accumulated in the~~  
18 ~~same manner as required of a health maintenance organization~~  
19 ~~issued a certificate of authority on or between January 1, 1986~~  
20 ~~and the effective date of this amendatory Act of 1987. Such~~  
21 ~~calculation shall commence with the financial reporting period~~  
22 ~~first following certification.~~

23 ~~All organizations issued a certificate of authority~~  
24 ~~between January 1, 1986 and the effective date of this~~  
25 ~~amendatory Act of 1987 must have and at all times maintain the~~  
26 ~~net worth and special contingent reserve that was required for~~

1 ~~that particular organization at the time it was certified.~~

2 (d-5) A health maintenance organization that offers a  
3 point-of-service product must maintain minimum net worth of not  
4 less than:

5 (1) the greater of 300% of the "authorized control  
6 level" as defined by Article IIA of the Illinois Insurance  
7 Code; or

8 (2) \$3,500,000 if the health maintenance  
9 organization's annual projected out-of-plan claims are  
10 less than \$500,000; or

11 (3) \$4,500,000 if the health maintenance  
12 organization's annual projected out-of-plan claims are  
13 equal to or greater than \$500,000 but less than \$1,000,000;  
14 or

15 (4) \$6,000,000 if the health maintenance  
16 organization's annual projected out-of-plan claims are  
17 \$1,000,000 or greater.

18 (e) Unless allowed by the Director, no health maintenance  
19 organization, officer, director, trustee, producer, or  
20 employee of such organization may renew, issue, or deliver, or  
21 cause to be renewed, issued or delivered, any certificate,  
22 agreement, or contract of coverage in this State, for which a  
23 premium is charged or collected, when the organization writing  
24 such coverage is insolvent or impaired, and the fact of such  
25 insolvency or impairment is known to the organization, officer,  
26 director, trustee, producer, or employee of such organization.

1 An organization is impaired when a deficiency exists in meeting  
2 the amounts required in subsections (a), ~~(b)~~, and (d-5) ~~(d)~~ of  
3 Section 2-4.

4 However, the existence of an impairment does not prevent  
5 the issuance or renewal of a certificate, agreement or contract  
6 when the enrollee exercises an option granted under the plan to  
7 obtain new, renewed or converted coverage.

8 Any organization, officer, director, trustee, producer, or  
9 employee of such organization violating this subsection shall  
10 be guilty of a Class A misdemeanor.

11 (Source: P.A. 92-135, eff. 1-1-02.)

12 (215 ILCS 125/2-6) (from Ch. 111 1/2, par. 1406.2)

13 Sec. 2-6. Statutory deposits.

14 ~~(a) An organization subject to the provisions of this Act~~  
15 ~~shall make and maintain with the Director through December 30,~~  
16 ~~1993, for the protection of enrollees of the organization, a~~  
17 ~~deposit of securities which are authorized investments under~~  
18 ~~paragraphs (1) and (2) of subsection (h) of Section 3-1 having~~  
19 ~~a fair market value equal to at least \$100,000. Effective~~  
20 ~~December 31, 1993 and through December 30, 1994, the deposit~~  
21 ~~shall have a fair market value at least equal to \$200,000.~~  
22 ~~Effective December 31, 1994 and thereafter, the deposit shall~~  
23 ~~have a fair market value at least equal to \$300,000. An~~  
24 organization issued a certificate of authority on or after the  
25 effective date of this Amendatory Act of 1993, shall make and

1 maintain with the Director; for the protection of enrollees of  
2 the organization, a deposit of securities which are authorized  
3 investments under paragraphs (1) and (2) of subsection (h) of  
4 Section 3-1 having a fair market value equal to at least  
5 \$300,000. The amount on deposit shall remain as an admitted  
6 asset of the organization in the determination of its net  
7 worth. The Director may release the required deposit of  
8 securities upon receipt of an order of a court having proper  
9 jurisdiction or upon: (i) certification by the organization  
10 that it has no outstanding enrollee creditors, enrollees,  
11 certificate holders, or enrollee obligations in effect and no  
12 plans to engage in the business of insurance as a health  
13 maintenance organization; (ii) receipt of a lawful resolution  
14 of the organization's governing body effecting the surrender of  
15 its certificate of authority, articles of incorporation, or  
16 other organizational documents to their issuing governmental  
17 officer for voluntary or administrative dissolution; and (iii)  
18 receipt of the name and forwarding address for each of the  
19 final officers and directors of the organization, together with  
20 a plan of dissolution approved by the Director.

21 (b) An organization that offers a point-of-service  
22 product, as permitted by Article 4.5, must maintain an  
23 additional deposit in an amount that is not less than the  
24 greater of 125% of the organization's annual projected  
25 point-of-service claims or \$300,000.

26 (Source: P.A. 92-75, eff. 7-12-01; 92-135, eff. 1-1-02; 92-651,

1 eff. 7-11-02.)

2 (215 ILCS 125/3-1) (from Ch. 111 1/2, par. 1407.3)

3 Sec. 3-1. Investment Regulations.

4 (a) Any health maintenance organization may invest its  
5 funds as provided in this Section and not otherwise. A health  
6 maintenance organization that is organized as a domestic ~~an~~  
7 insurance company may also acquire the investment assets  
8 authorized for an Illinois-domiciled insurance company  
9 ~~insurance company pursuant to the laws applicable to an~~  
10 ~~insurance company in the organization's state of domicile.~~  
11 Notwithstanding the provisions of this Section, the Director  
12 may, after notice and hearing, order an organization to limit  
13 or withdraw from certain investments, or discontinue certain  
14 investment practices, to the extent the Director finds that  
15 such investments or investment practices are hazardous to the  
16 financial condition of the organization.

17 (b) No investment or loan shall be made or engaged in by  
18 any health maintenance organization unless the same have been  
19 authorized or ratified by the board of directors or by a  
20 committee thereof charged with the duty of supervising  
21 investments and loans. Nothing contained in this subsection  
22 shall prevent the board of directors of any such organization  
23 from depositing any of its securities with a committee  
24 appointed for the purpose of protecting the interest of  
25 security holders or with the authorities of any state where it



1 is necessary to do so in order to secure permission to transact  
2 its appropriate business therein, and nothing contained in this  
3 subsection shall prevent the board of directors of such  
4 organization from depositing any securities as collateral for  
5 the securing of any bond required for the business of the  
6 organization.

7 (c) No health maintenance organization shall pay any  
8 commission or brokerage for the purchase or sale of property  
9 whether real or personal, in excess of that usual and customary  
10 at the time and in the locality where such purchases or sales  
11 are made, and information regarding payments of commissions and  
12 brokerage shall be maintained.

13 (d) A health maintenance organization may not directly or  
14 indirectly, unless it has notified the Director in writing of  
15 its intention to enter into the transaction at least 30 days  
16 prior thereto, or any shorter period as the Director may  
17 permit, and the Director has not disapproved it within that  
18 period:

19 (1) make a loan to or other investment in an officer or  
20 director of the organization or a person in which the  
21 officer or director has any direct or indirect financial  
22 interest;

23 (2) make a guarantee for the benefit of or in favor of  
24 an officer or director of the organization or a person in  
25 which the officer or director has any direct or indirect  
26 financial interest; or

1           (3) enter into an agreement for the purchase or sale of  
2           property from or to an officer or director of the  
3           organization or a person in which the officer or director  
4           has any direct or indirect financial interest.

5           For the purposes of this Section, an officer or director  
6           shall not be deemed to have a financial interest by reason of  
7           an interest that is held directly or indirectly through the  
8           ownership of equity interests representing less than 2% of all  
9           outstanding equity interests issued by a person that is a party  
10          to the transaction, or solely by reason of that individual's  
11          position as a director or officer of a person that is a party  
12          to the transaction.

13          This subsection does not apply to a transaction between an  
14          organization and any of its subsidiaries or affiliates that is  
15          entered into in compliance with Section 131.20a of the Illinois  
16          Insurance Code, other than a transaction between an insurer and  
17          its officer or director.

18          (e) In applying the percentage limitations imposed by this  
19          Section there shall be used as a base the total of all assets  
20          which would be admitted by this Section without regard to  
21          percentage limitations. All legal measurements used as a base  
22          in the determination of all investment qualifications shall  
23          consist of the amounts determined at the most recent year end  
24          adjusted for subsequent acquisition and disposition of  
25          investments.

26          (f) Valuation of investments. Investments shall be valued

1 in accordance with the published valuation standards of the  
2 National Association of Insurance Commissioners. Securities  
3 investments as to which the National Association of Insurance  
4 Commissioners has not published valuation standards in its  
5 Valuations of Securities manual or its successor publication  
6 shall be valued as follows:

7 (1) All obligations having a fixed term and rate shall,  
8 if not in default as to principal or interest, be valued as  
9 follows: if purchased at par, at the par value; if  
10 purchased above or below par, on the basis of the purchase  
11 price adjusted so as to bring the value to par at maturity  
12 and so as to yield in the meantime the effective rate of  
13 interest at which the purchase was made;

14 (2) Common, preferred or guaranteed stocks shall be  
15 valued at market value.

16 (3) Other security investments shall be valued in  
17 accordance with regulations promulgated by the Director  
18 pursuant to paragraph (6) of this subsection.

19 (4) Other investments, including real property, shall  
20 be valued in accordance with regulations promulgated by the  
21 Director pursuant to paragraph (6) of this subsection, but  
22 in no event shall such other investments be valued at more  
23 than the purchase price. The purchase price for real  
24 property includes capitalized permanent improvements, less  
25 depreciation spread evenly over the life of the property  
26 or, at the option of the company, less depreciation

1           computed on any basis permitted under the Internal Revenue  
2           Code and regulations thereunder. Such investments that  
3           have been affected by permanent declines in value shall be  
4           valued at not more than market value.

5           (5) Any investment, including real property, not  
6           purchased by the Health Maintenance Organization but  
7           acquired in satisfaction of a debt or otherwise shall be  
8           valued in accordance with the applicable procedures for  
9           that type of investment contained in this subsection. For  
10          purposes of applying the valuation procedures, the  
11          purchase price shall be deemed to be the market value at  
12          the time the investment is acquired or, in the case of any  
13          investment acquired in satisfaction of debt, the amount of  
14          the debt, including interest, taxes and expenses,  
15          whichever amount is less.

16          (6) The Director shall promulgate rules and  
17          regulations for determining and calculating values to be  
18          used in financial statements submitted to the Department  
19          for investments.

20          (g) Definitions. As used in this Section, unless the  
21          context otherwise requires.

22          (1) "Business Corporation" means corporations  
23          organized for other than not for profit purposes.

24          (2) "Business Entity" includes sole proprietorships,  
25          corporations, associations, partnerships and business  
26          trusts.

1           (3) "Bank or Trust Company" means any bank or trust  
2           company organized under the laws of the United States or  
3           any State thereof if said bank or trust company is  
4           regularly examined pursuant to such laws and said bank or  
5           trust company has the insurance protection afforded by an  
6           agency of the United States government.

7           (4) "Capital" means capital stock paid-up, if any, and  
8           its use in a provision does not imply that a non-profit  
9           Health Maintenance Organization without stated capital  
10          stock is excluded from the provision. The capital of such  
11          an organization will be zero.

12          (5) "Direct" when used in connection with "obligation"  
13          means that the designated obligor shall be primarily liable  
14          on the instrument representing the obligation.

15          (6) "Facility" means and includes real estate and any  
16          and all forms of tangible personal property and services  
17          used constituting an operating unit.

18          (7) "Guaranteed or insured" means that the guarantor or  
19          insurer will perform or insure the obligation of the  
20          obligor or will purchase the obligation to the extent of  
21          the guaranty or insurance.

22          (8) "Mortgage" shall include a trust deed or other lien  
23          on real property securing an obligation for the payment of  
24          money.

25          (9) "Servicer" means a business entity that has a  
26          contractual obligation to service a pool of mortgage loans.

1           The service provided shall include, but is not limited to,  
2           collection of principal and interest, keeping the accounts  
3           current, maintaining or confirming in force hazard  
4           insurance and tax status and providing supportive  
5           accounting services.

6           (10) "Single credit risk" means the direct, guaranteed  
7           or insured obligations of any one business entity including  
8           affiliates thereof.

9           (11) "Surplus" means the amount properly shown as total  
10          net worth on a company's balance sheet, plus all voluntary  
11          reserves, but not including capital paid-up.

12          (12) "Tangible net worth" means the par value of all  
13          issued and outstanding capital stock of a corporation (or  
14          in the case of shares having no par value, the stated  
15          value) and the amounts of all surplus accounts less the sum  
16          of (a) such intangible assets as deferred charges,  
17          organization and development expense, discount and expense  
18          incurred in securing capital, good will, trade-marks,  
19          trade-names and patents, (b) leasehold improvements, and  
20          (c) any reserves carried by the corporation and not  
21          otherwise deducted from assets.

22          (13) "Unconditional" when used in connection with  
23          "obligation" means that nothing remains to be done or to  
24          occur to make the designated obligor liable on the  
25          instrument, and that the legal holder shall have the status  
26          at least equal to that of general creditor of the obligor.

1           (h) Authorized investments. Any Health Maintenance  
2 Organization, except those organized as a domestic ~~an~~ insurance  
3 company, may acquire the assets set forth in paragraphs 1  
4 through 17, inclusive. A Health Maintenance Organization that  
5 is organized as an insurance company may acquire the investment  
6 assets authorized for ~~an insurance company pursuant to the laws~~  
7 ~~applicable to~~ an Illinois-domiciled insurance company ~~in the~~  
8 ~~organization's state of domicile~~. Any restriction, exclusion  
9 or provision appearing in any paragraph shall apply only with  
10 respect to the authorization of the particular paragraph in  
11 which it appears and shall not constitute a general prohibition  
12 and shall not be applicable to any other paragraph. The  
13 qualifications or disqualifications of an investment under one  
14 paragraph shall not prevent its qualification in whole or in  
15 part under another paragraph, and an investment authorized by  
16 more than one paragraph may be held under whichever authorizing  
17 paragraph the organization elects. An investment which  
18 qualified under any paragraph at the time it was acquired or  
19 entered into by an organization shall continue to be qualified  
20 under that paragraph. An investment in whole or in part may be  
21 transferred from time to time, at the election of the  
22 organization, to the authority of any paragraph under which it  
23 qualifies, whether originally qualifying thereunder or not.

24           (1) Direct obligations of the United States for the  
25 payment of money, or obligations for the payment of money  
26 to the extent guaranteed or insured as to the payment of

1 principal and interest by the United States.

2 (2) Direct obligations for the payment of money, issued  
3 by an agency or instrumentality of the United States, or  
4 obligations for the payment of money to the extent  
5 guaranteed or insured as to the payment of principal and  
6 interest by an agency or instrumentality of the United  
7 States.

8 (3) Direct, general obligations of any state of the  
9 United States for the payment of money, or obligations for  
10 the payment of money to the extent guaranteed or insured as  
11 to the payment of principal and interest by any state of  
12 the United States, on the following conditions:

13 (i) Such state has the power to levy taxes for the  
14 prompt payment of the principal and interest of such  
15 obligations; and

16 (ii) Such state shall not be in default in the  
17 payment of principal or interest on any of its direct,  
18 guaranteed or insured obligations at the date of such  
19 investment.

20 (4) Direct, general obligations of any political  
21 subdivision of any state of the United States for the  
22 payment of money, or obligations for the payment of money  
23 to the extent guaranteed as to the payment of principal and  
24 interest by any political subdivision of any state of the  
25 United States, on the following conditions:

26 (i) The obligations are payable or guaranteed from



1 ad valorem taxes;

2 (ii) Such political subdivision is not in default  
3 in the payment of principal or interest on any of its  
4 direct or guaranteed obligations;

5 (iii) No investment shall be made under this  
6 paragraph in obligations which are secured only by  
7 special assessments for local improvements; and

8 (iv) An organization shall not invest under this  
9 paragraph more than 2% of its admitted assets in  
10 obligations issued or guaranteed by any one such  
11 political subdivision.

12 (5) Anticipation obligations of any political  
13 subdivision of any state of the United States, including  
14 but not limited to bond anticipation notes, tax  
15 anticipation notes and construction anticipation notes,  
16 for the payment of money within 12 months from the issuance  
17 of the obligation, on the following conditions:

18 (i) Such anticipation notes must be a direct  
19 obligation of the issuer under conditions set forth in  
20 paragraph 4;

21 (ii) Such political subdivision is not in default  
22 in the payment of the principal or interest on any of  
23 its direct general obligations or any obligation  
24 guaranteed by such political subdivision;

25 (iii) The anticipated funds must be specifically  
26 pledged to secure the obligation;

1           (iv) An organization shall not invest under this  
2           paragraph more than 2% of its admitted assets in the  
3           anticipation obligations issued by any one such  
4           political subdivision.

5           (6) Obligations of any state of the United States, a  
6           political subdivision thereof, or a public instrumentality  
7           of any one or more of the foregoing, for the payment of  
8           money, on the following conditions:

9           (i) The obligations are payable from revenues or  
10          earnings of a public utility of such state, political  
11          subdivision, or public instrumentality which are  
12          specifically pledged therefor;

13          (ii) The law under which the obligations are issued  
14          requires such rates for service shall be charged and  
15          collected at all times that they will produce  
16          sufficient revenue or earnings together with any other  
17          revenues or moneys pledged to pay all operating and  
18          maintenance charges of the public utility and all  
19          principal and interest on such obligations;

20          (iii) No prior or parity obligations payable from  
21          the revenues or earnings of that public utility are in  
22          default at the date of such investment;

23          (iv) An organization shall not invest more than 20%  
24          of its admitted assets under this paragraph; and

25          (v) An organization shall not invest under this  
26          Section more than 2% of its admitted assets in the

1 revenue obligations issued in connection with any one  
2 facility.

3 (7) Obligations of any state of the United States, a  
4 political subdivision thereof, or a public instrumentality  
5 of any of the foregoing, for the payment of money, on the  
6 following conditions:

7 (i) The obligations are payable from revenues or  
8 earnings, excluding revenues or earnings from public  
9 utilities, specifically pledged therefor by such  
10 state, political subdivision or public  
11 instrumentality;

12 (ii) No prior or parity obligation of the same  
13 issuer payable from revenues or earnings from the same  
14 source has been in default as to principal or interest  
15 during the 5 years next preceding the date of such  
16 investment, but such issuer need not have been in  
17 existence for that period, and obligations acquired  
18 under this paragraph may be newly issued;

19 (iii) An organization shall not invest in excess of  
20 20% of its admitted assets under this paragraph;

21 (iv) An organization shall not invest under this  
22 paragraph more than 2% of its admitted assets in the  
23 revenue obligations issued in connection with any one  
24 facility; and

25 (v) An organization shall not invest under this  
26 paragraph more than 2% of its admitted assets in

1 revenue obligations payable from revenue or earning  
2 sources which are the contractual responsibility of  
3 any one single credit risk.

4 (8) Direct, unconditional obligations of a solvent  
5 business corporation for the payment of money, including  
6 obligations to pay rent for equipment used in its business  
7 or obligations for the payment of money to the extent  
8 guaranteed or insured as to the payment of principal and  
9 interest by any solvent business corporation, on the  
10 following conditions:

11 (i) The corporation shall be incorporated under  
12 the laws of the United States or any state of the  
13 United States;

14 (ii) The corporation shall have tangible net worth  
15 of not less than \$1,000,000;

16 (iii) No such obligation, guarantee or insurance  
17 of the corporation has been in default as to principal  
18 or interest during the 5 years preceding the date of  
19 investment, but the corporation need not have had  
20 obligations guarantees or insurance outstanding during  
21 that period and need not have been in existence for  
22 that period, and obligations acquired under this  
23 paragraph may be newly issued;

24 (iv) An organization shall not invest more than 2%  
25 of its admitted assets in obligations issued,  
26 guaranteed or insured by any one such corporation;

1           (v) An organization may invest under this  
2 paragraph up to an additional 2% of its admitted assets  
3 in obligations which (i) are issued, guaranteed or  
4 insured by any one or more such corporations, each  
5 having a tangible net worth of not less than  
6 \$25,000,000 and (ii) mature within 12 months from the  
7 date of acquisition;

8           (vi) An organization may invest not more than 1/2  
9 of 1% of its admitted assets in such obligations of  
10 corporations which do not meet the condition of  
11 subparagraph (ii) of this paragraph; and

12           (vii) An organization shall not invest more than  
13 75% of its admitted assets under this paragraph.

14           (9) Direct, unconditional obligations for the payment  
15 of money issued or obligations for the payment of money to  
16 the extent guaranteed as to principal and interest by a  
17 solvent not for profit corporation, on the following  
18 conditions:

19           (i) The corporation shall be incorporated under  
20 the laws of the United States or of any state of the  
21 United States;

22           (ii) The corporation shall have been in existence  
23 for at least 5 years and shall have assets of at least  
24 \$2,000,000;

25           (iii) Revenues or other income from such assets and  
26 the services or commodities dispensed by the

1 corporation shall be pledged for the payment of the  
2 obligations or guarantees;

3 (iv) No such obligation or guarantee of the  
4 corporation has been in default as to principal or  
5 interest during the 5 years next preceding the date of  
6 such investment, but the corporation need not have had  
7 obligations or guarantees outstanding during that  
8 period and obligations which are acquired under this  
9 paragraph may be newly issued;

10 (v) An organization shall not invest more than 15%  
11 of its admitted assets under this paragraph; and

12 (vi) An organization shall not invest under this  
13 paragraph more than 2% of its admitted assets in the  
14 obligations issued or guaranteed by any one such  
15 corporation.

16 (10) Direct, unconditional nondemand obligations for  
17 the payment of money issued by a solvent bank, mutual  
18 savings bank or trust company on the following conditions:

19 (i) The bank, mutual savings bank or trust company  
20 shall be incorporated under the laws of the United  
21 States, or of any state of the United States;

22 (ii) The bank, mutual savings bank or trust company  
23 shall have tangible net worth of not less than  
24 \$1,000,000;

25 (iii) Such obligations must be of the type which  
26 are insured by an agency of the United States or have a

1 maturity of no more than 1 day;

2 (iv) An organization shall not invest under this  
3 paragraph more than the amount which is fully insured  
4 by an agency of the United States plus 2% of its  
5 admitted assets in nondemand obligations issued by any  
6 one such financial institution; and

7 (v) An organization may invest under this  
8 paragraph up to an additional 8% of its admitted assets  
9 in nondemand obligations which (1) are issued by any  
10 such banks, mutual savings banks or trust companies,  
11 each having a tangible net worth of not less than  
12 \$25,000,000 and (2) mature within 12 months from the  
13 date of acquisition.

14 (11) Preferred or guaranteed stocks issued or  
15 guaranteed by a solvent business corporation incorporated  
16 under the laws of the United States or any state of the  
17 United States, on the following conditions:

18 (i) The corporation shall have tangible net worth  
19 of not less than \$1,000,000;

20 (ii) If such stocks have been outstanding prior to  
21 purchase, an organization shall not invest under this  
22 paragraph in such stock if prescribed current or  
23 cumulative dividends are in arrears;

24 (iii) An organization shall not invest more than 33  
25 1/3% of its admitted assets under this paragraph and an  
26 organization shall not invest more than 15% of its

1 admitted assets under this paragraph in stocks which,  
2 at the time of purchase, are not Sinking Fund Stocks.  
3 An issue of preferred or guaranteed stock shall be a  
4 Sinking Fund Stock when (1) such issue is subject to a  
5 100% mandatory sinking fund or similar arrangement  
6 which will provide for the redemption of the entire  
7 issue over a period not longer than 40 years from the  
8 date of purchase; (2) annual mandatory sinking fund  
9 installments on each issue commence not more than 10  
10 years from the date of issue; and (3) each annual  
11 sinking fund installment provides for the purchase or  
12 redemption of at least 2 1/2% of the original number of  
13 shares of such issue; and

14 (iv) An organization shall not invest under this  
15 paragraph more than 2% of its admitted assets in the  
16 preferred or guaranteed stocks of any one such  
17 corporation.

18 (12) Common stock issued by any solvent business  
19 corporation incorporated under the laws of the United  
20 States, or of any state of the United States, on the  
21 following conditions:

22 (i) The issuing corporation must have tangible net  
23 worth of \$1,000,000 or more;

24 (ii) An organization may not invest more than an  
25 amount equal to its net worth under this paragraph; and

26 (iii) An organization may not invest under this



1 paragraph an amount equal to more than 10% of its net  
2 worth in the common stock of any one corporation.

3 (13) Shares of common stock or units of beneficial  
4 interest issued by any solvent business corporation or  
5 trust incorporated or organized under the laws of the  
6 United States, or of any state of the United States, on the  
7 following conditions:

8 (i) If the issuing corporation or trust is advised  
9 by an investment advisor which is the organization or  
10 an affiliate of the organization, the issuing  
11 corporation or trust shall have net assets of \$100,000  
12 or more, or if the issuing corporation or trust has an  
13 unaffiliated investment advisor, the issuing  
14 corporation or trust shall have net assets of  
15 \$10,000,000 or more;

16 (ii) The issuing corporation or trust is  
17 registered as an investment company with the  
18 Securities and Exchange Commission under the  
19 Investment Company Act of 1940, as amended;

20 (iii) An organization shall not invest under this  
21 paragraph more than the greater of \$100,000 or 10% of  
22 its admitted assets in any one bond fund, municipal  
23 bond fund or money market fund;

24 (iv) An organization shall not invest under this  
25 paragraph more than 10% of its net worth in any one  
26 common stock fund, balanced fund or income fund;

1           (v) An organization shall not invest more than 50%  
2 of its admitted assets in bond funds, municipal bond  
3 funds and money market funds under this paragraph; and

4           (vi) An organization's investments in common stock  
5 funds, balanced funds or income funds when combined  
6 with its investments in common stocks made under  
7 paragraph (12) shall not exceed the aggregate  
8 limitation provided by subparagraph (ii) of paragraph  
9 (12).

10          (14) Shares of, or accounts or deposits with savings  
11 and loan associations or building and loan associations, on  
12 the following conditions:

13           (i) The shares, accounts, or deposits, or  
14 investments in any form legally issuable shall be of a  
15 withdrawable type and issued by an association which  
16 has the insurance protection afforded by the Federal  
17 Savings and Loan Insurance Corporation; but  
18 nonwithdrawable accounts which are not eligible for  
19 insurance by the Federal Savings and Loan Insurance  
20 Corporation shall not be eligible for investment under  
21 this paragraph;

22           (ii) The association shall have tangible net worth  
23 of not less than \$1,000,000;

24           (iii) The investment shall be in the name of and  
25 owned by the organization, unless the account is under  
26 a trusteeship with the organization named as the

1 beneficiary;

2 (iv) An organization shall not invest more than 50%  
3 of its admitted assets under this paragraph; and

4 (v) Under this paragraph, an organization shall  
5 not invest in any one such association an amount in  
6 excess of 2% of its admitted assets or an amount which  
7 is fully insured by the Federal Savings and Loan  
8 Insurance Corporation, whichever is greater.

9 (15) Direct, unconditional obligations for the payment  
10 of money secured by the pledge of any investment which is  
11 authorized by any of the preceding paragraphs, on the  
12 following conditions:

13 (i) The investment pledged shall by its terms be  
14 legally assignable and shall be validly assigned to the  
15 organization;

16 (ii) The investment pledged shall have a fair  
17 market value which is at least 25% greater than the  
18 amount invested under this paragraph, except that a  
19 loan may be made up to 100% of the full fair market  
20 value of collateral that would qualify as an investment  
21 under paragraph (1) provided it qualifies under  
22 condition (i) of this paragraph; and

23 (iii) An organization's investment under this  
24 paragraph when added to its investment of the category  
25 of the collateral pledged shall not cause the sum to  
26 exceed the limits provided by the paragraph

1 authorizing that category of investments.

2 (16) Real estate (including leasehold estates and  
3 leasehold improvements) for the convenient accommodation  
4 of the organization's business operations, including home  
5 office, branch office, medical facilities and field office  
6 operations, on the following conditions:

7 (i) Any parcel of real estate acquired under this  
8 paragraph may include excess space for rent to others,  
9 if it is reasonably anticipated that such excess will  
10 be required by the organization for expansion or if the  
11 excess is reasonably required in order to have one or  
12 more buildings that will function as an economic unit;

13 (ii) Such real estate may be subject to a mortgage;  
14 and

15 (iii) The greater of the admitted value of the  
16 asset as determined by subsection (f) or the  
17 organization's equity plus all encumbrances on such  
18 real estate owned by a company under this paragraph  
19 shall not exceed 20% of its admitted assets, except  
20 with the permission of the Director if he finds that  
21 such percentage of its admitted assets is insufficient  
22 to provide convenient accommodation for the company's  
23 business; provided, however, an organization that  
24 directly provides medical services may invest an  
25 additional 20% of its admitted assets in such real  
26 estate, not requiring the permission of the Director.

1           (17) Any investments of any kind, in the complete  
2           discretion of the organization, without regard to any  
3           condition of, restriction in, or exclusion from paragraphs  
4           (1) to (16), inclusive, and regardless of whether the same  
5           or a similar type of investment has been included in or  
6           omitted from any such paragraph, on the following  
7           condition: An organization shall not invest under this  
8           paragraph more than the lesser of (i) 10% of its admitted  
9           assets, or (ii) 50% of the amount by which its net worth  
10          exceeds the minimum requirements of a new health  
11          maintenance organization to qualify for a certificate of  
12          authority.

13          (Source: P.A. 92-140, eff. 7-24-01; 92-651, eff. 7-11-02.)

14           (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

15          Sec. 5-3. Insurance Code provisions.

16          (a) Health Maintenance Organizations shall be subject to  
17          the provisions of Sections 132, 132.1, 132.2, 132.3, 132.4,  
18          132.5, 132.6, 132.7, 133, 134, 136, 137, 139, 140, 141.1,  
19          141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,  
20          154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2, 355.3,  
21          355b, 356g.5-1, 356m, 356v, 356w, 356x, ~~356y~~, 356z.2, 356z.4,  
22          356z.5, 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12,  
23          356z.13, 356z.14, 356z.15, 356z.17, 356z.18, 356z.19, 356z.21,  
24          356z.22, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c, 368d,  
25          368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2,

1 409, 412, 444, and 444.1, paragraph (c) of subsection (2) of  
2 Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,  
3 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.

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

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

10 (2) a corporation organized under the laws of this  
11 State; or

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

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

21 (1) the Director shall give primary consideration to  
22 the continuation of benefits to enrollees and the financial  
23 conditions of the acquired Health Maintenance Organization  
24 after the merger, consolidation, or other acquisition of  
25 control takes effect;

26 (2) (i) the criteria specified in subsection (1) (b) of

1 Section 131.8 of the Illinois Insurance Code shall not  
2 apply and (ii) the Director, in making his determination  
3 with respect to the merger, consolidation, or other  
4 acquisition of control, need not take into account the  
5 effect on competition of the merger, consolidation, or  
6 other acquisition of control;

7 (3) the Director shall have the power to require the  
8 following information:

9 (A) certification by an independent actuary of the  
10 adequacy of the reserves of the Health Maintenance  
11 Organization sought to be acquired;

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

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

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

25 (d) The provisions of Article VIII 1/2 of the Illinois  
26 Insurance Code and this Section 5-3 shall apply to the sale by

1 any health maintenance organization of greater than 10% of its  
2 enrollee population (including without limitation the health  
3 maintenance organization's right, title, and interest in and to  
4 its health care certificates).

5 (e) In considering any management contract or service  
6 agreement subject to Section 141.1 of the Illinois Insurance  
7 Code, the Director (i) shall, in addition to the criteria  
8 specified in Section 141.2 of the Illinois Insurance Code, take  
9 into account the effect of the management contract or service  
10 agreement on the continuation of benefits to enrollees and the  
11 financial condition of the health maintenance organization to  
12 be managed or serviced, and (ii) need not take into account the  
13 effect of the management contract or service agreement on  
14 competition.

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

22 (i) the amount of, and other terms and conditions with  
23 respect to, the refund or additional premium are set forth  
24 in the group or enrollment unit contract agreed in advance  
25 of the period for which a refund is to be paid or  
26 additional premium is to be charged (which period shall not



1 be less than one year); and

2 (ii) the amount of the refund or additional premium  
3 shall not exceed 20% of the Health Maintenance  
4 Organization's profitable or unprofitable experience with  
5 respect to the group or other enrollment unit for the  
6 period (and, for purposes of a refund or additional  
7 premium, the profitable or unprofitable experience shall  
8 be calculated taking into account a pro rata share of the  
9 Health Maintenance Organization's administrative and  
10 marketing expenses, but shall not include any refund to be  
11 made or additional premium to be paid pursuant to this  
12 subsection (f)). The Health Maintenance Organization and  
13 the group or enrollment unit may agree that the profitable  
14 or unprofitable experience may be calculated taking into  
15 account the refund period and the immediately preceding 2  
16 plan years.

17 The Health Maintenance Organization shall include a  
18 statement in the evidence of coverage issued to each enrollee  
19 describing the possibility of a refund or additional premium,  
20 and upon request of any group or enrollment unit, provide to  
21 the group or enrollment unit a description of the method used  
22 to calculate (1) the Health Maintenance Organization's  
23 profitable experience with respect to the group or enrollment  
24 unit and the resulting refund to the group or enrollment unit  
25 or (2) the Health Maintenance Organization's unprofitable  
26 experience with respect to the group or enrollment unit and the

1 resulting additional premium to be paid by the group or  
2 enrollment unit.

3 In no event shall the Illinois Health Maintenance  
4 Organization Guaranty Association be liable to pay any  
5 contractual obligation of an insolvent organization to pay any  
6 refund authorized under this Section.

7 (g) Rulemaking authority to implement Public Act 95-1045,  
8 if any, is conditioned on the rules being adopted in accordance  
9 with all provisions of the Illinois Administrative Procedure  
10 Act and all rules and procedures of the Joint Committee on  
11 Administrative Rules; any purported rule not so adopted, for  
12 whatever reason, is unauthorized.

13 (Source: P.A. 97-282, eff. 8-9-11; 97-343, eff. 1-1-12; 97-437,  
14 eff. 8-18-11; 97-486, eff. 1-1-12; 97-592, eff. 1-1-12; 97-805,  
15 eff. 1-1-13; 97-813, eff. 7-13-12; 98-189, eff. 1-1-14;  
16 98-1091, eff. 1-1-15.)

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