



Sen. Julie A. Morrison

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10400SB2838sam001

LRB104 17737 BAB 35196 a

1 AMENDMENT TO SENATE BILL 2838

2 AMENDMENT NO. _____. Amend Senate Bill 2838 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by
5 adding Sections 356z.88, 370u, and 511.119 as follows:

6 (215 ILCS 5/356z.88 new)

7 Sec. 356z.88. Hearing care plans and discounted hearing
8 care plans.

9 (a) Definitions. In this Section:

10 "Administrator" means any administrator as defined in
11 Section 370g or 511.101 of this Code.

12 "Cost sharing" has the meaning given to that term in
13 Section 356z.3a of this Code.

14 "Covered items" means items for which reimbursement or
15 capitation from an enrollee's hearing care plan is provided to
16 a hearing instrument professional or for which a reimbursement

1 or discount is provided to an enrollee under a hearing care
2 plan or discounted hearing care plan.

3 "Covered items" includes, but is not limited to,
4 prescription hearing aids, earmolds, domes or inserts,
5 assistive listening devices, and hearing aid supplies and
6 accessories. "Covered items" does not include over-the-counter
7 hearing aids as defined in 21 CFR 800.30(b).

8 "Covered services" means services for which reimbursement
9 or capitation from an enrollee's hearing care plan is provided
10 to a hearing instrument professional or for which a
11 reimbursement or discount is provided to an enrollee under a
12 hearing care plan or discounted hearing care plan.

13 "Discount hearing care benefit" means a hearing care
14 benefit that is offered in a discounted hearing care plan.

15 "Discounted hearing care plan" means a discounted health
16 care services plan, as defined in 50 Ill. Adm. Code 2051.220,
17 that provides discounts for covered items or services.

18 "Enrollee" means any individual enrolled in a hearing care
19 plan or a beneficiary of a discounted hearing care plan.

20 "Excepted benefits" has the meaning given to that term in
21 42 U.S.C. 300gg-91(c) and federal regulations thereunder.

22 "Funded hearing care benefit" means hearing care benefits
23 that are offered in the enrollee's hearing care plan contract.

24 "Health insurance coverage" has the meaning given to that
25 term in Section 5 of the Illinois Health Insurance Portability
26 and Accountability Act.

1 "Health insurance issuer" has the meaning given to that
2 term in Section 5 of the Illinois Health Insurance Portability
3 and Accountability Act.

4 "Hearing care benefits" means the covered items or covered
5 services listed or otherwise covered in the contract or plan
6 documents for an enrollee's hearing care plan or discounted
7 hearing care plan.

8 "Hearing care organization" means a health insurance
9 issuer or administrator formed under the laws of this State or
10 another state that issues or administers a hearing care plan
11 or discounted hearing care plan.

12 "Hearing care plan" means any policy, certificate,
13 contract, or other plan of health insurance coverage, whether
14 excepted benefits or any other coverage, that provides
15 coverage for covered items and covered services.

16 "Hearing instrument professional" means a person who is
17 licensed in this State as an audiologist, a hearing instrument
18 dispenser, or a physician.

19 "Manufacturer" means the legal person, including any
20 business entity or other form of organization, that
21 manufactures and distributes hearing aids, earmolds, domes or
22 inserts, assistive listening devices, and hearing aid supplies
23 and accessories.

24 "Noncovered items and services" means items and services
25 that are not funded or discounted by the enrollee's hearing
26 care plan or discounted hearing care plan and where the

1 enrollee is fully responsible for the cost of the item or
2 service.

3 "Prescription hearing aid" means any instrument or device,
4 including an instrument or device dispensed pursuant to a
5 prescription or order, that is designed, intended, or offered
6 for the purpose of improving a person's hearing and any parts,
7 attachments, or accessories, including earmolds.

8 "Prescription hearing aid" does not include batteries,
9 cords, and individual or group auditory training devices and
10 any instrument or device used by a public utility in providing
11 telephone or other communication services.

12 "Routine hearing care services" means services that lack
13 medical necessity, such as pass or fail hearing screenings,
14 that are used to determine the need for additional diagnostic
15 hearing testing.

16 "Subcontractor" means any company, group, or third-party
17 entity, including agents, servants, partially owned or wholly
18 owned subsidiaries, and controlled organizations, that the
19 hearing care organization contracts with to supply items or
20 service for a hearing instrument professional or enrollee to
21 fulfill the benefit plan of a hearing care plan or discounted
22 hearing care plan.

23 (b) No hearing care organization that is an issuer or
24 administrator of a hearing care plan or discounted hearing
25 care plan issued, delivered, amended, or renewed on or after
26 the effective date of this amendatory Act of the 104th General

1 Assembly shall issue or renew a contract that requires a
2 hearing instrument professional, as a condition of
3 participation in the hearing care plan or discounted hearing
4 care plan, to provide items or services to an enrollee at a fee
5 set by the hearing care plan or discounted hearing care plan
6 unless the items and services are covered items or covered
7 services under the hearing care plan or discounted hearing
8 care plan.

9 (c) A hearing instrument professional who chooses not to
10 accept as payment an amount set by a hearing care plan or
11 discounted hearing care plan for items and services that are
12 not covered by the hearing care plan or discounted hearing
13 care plan shall:

14 (1) post, in a conspicuous place, a notice stating the
15 following: "IMPORTANT: This hearing instrument
16 professional does not accept the fee schedule set by your
17 hearing care plan for hearing care items and services that
18 are not covered benefits under your plan, when the item or
19 service is provided prior to the hearing aid fitting,
20 after one year following the initial fitting of the
21 hearing aids, or after all of the allowed service visits
22 are exhausted. In these cases, the hearing instrument
23 professional may charge his or her usual and customary
24 fees for those items and services. This hearing instrument
25 professional will provide you with an estimated cost for
26 each noncovered item or service in accordance with the No

1 Surprises Act."; or

2 (2) provide the information required under paragraph
3 (1) in a document provided by the hearing instrument
4 professional to the patient.

5 (d) Hearing care benefits must be communicated in writing
6 by the hearing care organization to an enrollee, prospective
7 enrollee, and the hearing instrument professional. Covered
8 items and services subject to de minimis reimbursement are not
9 required to be listed in this communication. Noncovered items
10 and noncovered services must be identified in the hearing care
11 plan's marketing materials, contract, and plan documents.

12 (e) No hearing care organization or its officers,
13 directors, agents, and employees may represent a discount
14 hearing care benefit as a funded hearing care benefit. A
15 hearing care organization must clearly list and document, in
16 the schedule of benefits and in marketing materials and plan
17 documents, the specific cost sharing amounts to hearing care
18 benefits provided by both in-network and out-of-network
19 providers of a hearing care plan or, in the case of a
20 discounted hearing care plan, the specific discounted amounts
21 for the discount hearing care benefits provided by preferred
22 providers.

23 (f) A hearing care plan or discounted hearing care plan
24 may provide hearing care benefits that include routine hearing
25 care services and medically necessary diagnostic hearing
26 services in accordance with guidance promulgated by the

1 Centers for Medicare and Medicaid Services. If hearing care
2 benefits or discount hearing care benefits include routine
3 hearing testing for the purpose of fitting or modifying a
4 hearing aid, the hearing instrument professional shall be
5 reimbursed, by the hearing care organization, by the enrollee,
6 or by both, as applicable under the terms of the plan, for the
7 costs of performing the testing regardless of whether the
8 enrollee proceeds with the purchase of a prescription hearing
9 aid.

10 (g) If a hearing care organization is owned or operated,
11 in whole or in part, by a hearing aid manufacturer and that
12 manufacturer offers prescription hearing aids within the
13 hearing care benefits of a hearing care plan or discounted
14 hearing care plan, that hearing care organization must
15 disclose, on its websites for enrollees or potential
16 enrollees, in its marketing communications, and in its
17 benefits or plan documents, its ownership or operational
18 interest and specify which prescription hearing aids are
19 available within the hearing care plan or discounted hearing
20 care plan it issues or administers.

21 (h) The provisions of this Section apply to any
22 subcontractors used by a hearing care organization to supply
23 items or services to a hearing instrument professional.

24 (215 ILCS 5/370u new)

25 Sec. 370u. Hearing care plans and discounted hearing care

1 plans. All administrators of hearing care plans or discounted
2 hearing care plans must comply with Section 356z.88 of this
3 Code.

4 (215 ILCS 5/511.119 new)

5 Sec. 511.119. Hearing care plans. All administrators of
6 hearing care plans must comply with Section 356z.88 of this
7 Code.

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

10 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

11 Sec. 5-3. Illinois Insurance Code provisions.

12 (a) Health Maintenance Organizations shall be subject to
13 the provisions of Sections 133, 134, 136, 137, 139, 140,
14 141.1, 141.2, 141.3, 143, 143.31, 143c, 147, 148, 149, 151,
15 152, 153, 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a,
16 155.49, 352c, 355.2, 355.3, 355.6, 355.7, 355b, 355c, 356f,
17 356g, 356g.5-1, 356m, 356q, 356u.10, 356v, 356w, 356x, 356z.2,
18 356z.3a, 356z.4, 356z.4a, 356z.5, 356z.6, 356z.8, 356z.9,
19 356z.10, 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17,
20 356z.18, 356z.19, 356z.20, 356z.21, 356z.22, 356z.23, 356z.24,
21 356z.25, 356z.26, 356z.28, 356z.29, 356z.30, 356z.31, 356z.32,
22 356z.33, 356z.34, 356z.35, 356z.36, 356z.37, 356z.38, 356z.39,
23 356z.40, 356z.40a, 356z.41, 356z.44, 356z.45, 356z.46,

1 356z.47, 356z.48, 356z.49, 356z.50, 356z.51, 356z.53, 356z.54,
2 356z.55, 356z.56, 356z.57, 356z.58, 356z.59, 356z.60, 356z.61,
3 356z.62, 356z.63, 356z.64, 356z.65, 356z.66, 356z.67, 356z.68,
4 356z.69, 356z.70, 356z.71, 356z.72, 356z.73, 356z.74, 356z.75,
5 356z.76, 356z.77, 356z.78, 356z.79, 356z.80, 356z.81, 356z.82,
6 356z.83, 356z.84, 356z.85, 356z.88, 364, 364.01, 364.3, 367.2,
7 367.2-5, 367i, 368a, 368b, 368c, 368d, 368e, 370a, 370c,
8 370c.1, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412, 444,
9 and 444.1, paragraph (c) of subsection (2) of Section 367, and
10 Articles IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV,
11 XXVI, and XXXIIB of the Illinois Insurance Code.

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

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

18 (2) a corporation organized under the laws of this
19 State; or

20 (3) a corporation organized under the laws of another
21 state, 30% or more of the enrollees of which are residents
22 of this State, except a corporation subject to
23 substantially the same requirements in its state of
24 organization as is a "domestic company" under Article VIII
25 1/2 of the Illinois Insurance Code.

26 (c) In considering the merger, consolidation, or other

1 acquisition of control of a Health Maintenance Organization
2 pursuant to Article VIII 1/2 of the Illinois Insurance Code,

3 (1) the Director shall give primary consideration to
4 the continuation of benefits to enrollees and the
5 financial conditions of the acquired Health Maintenance
6 Organization after the merger, consolidation, or other
7 acquisition of control takes effect;

8 (2) (i) the criteria specified in subsection (1) (b) of
9 Section 131.8 of the Illinois Insurance Code shall not
10 apply and (ii) the Director, in making his determination
11 with respect to the merger, consolidation, or other
12 acquisition of control, need not take into account the
13 effect on competition of the merger, consolidation, or
14 other acquisition of control;

15 (3) the Director shall have the power to require the
16 following information:

17 (A) certification by an independent actuary of the
18 adequacy of the reserves of the Health Maintenance
19 Organization sought to be acquired;

20 (B) pro forma financial statements reflecting the
21 combined balance sheets of the acquiring company and
22 the Health Maintenance Organization sought to be
23 acquired as of the end of the preceding year and as of
24 a date 90 days prior to the acquisition, as well as pro
25 forma financial statements reflecting projected
26 combined operation for a period of 2 years;

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

5 (D) such other information as the Director shall
6 require.

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

13 (e) In considering any management contract or service
14 agreement subject to Section 141.1 of the Illinois Insurance
15 Code, the Director (i) shall, in addition to the criteria
16 specified in Section 141.2 of the Illinois Insurance Code,
17 take into account the effect of the management contract or
18 service agreement on the continuation of benefits to enrollees
19 and the financial condition of the health maintenance
20 organization to be managed or serviced, and (ii) need not take
21 into account the effect of the management contract or service
22 agreement on competition.

23 (f) Except for small employer groups as defined in the
24 Small Employer Rating, Renewability and Portability Health
25 Insurance Act and except for medicare supplement policies as
26 defined in Section 363 of the Illinois Insurance Code, a

1 Health Maintenance Organization may by contract agree with a
2 group or other enrollment unit to effect refunds or charge
3 additional premiums under the following terms and conditions:

4 (i) the amount of, and other terms and conditions with
5 respect to, the refund or additional premium are set forth
6 in the group or enrollment unit contract agreed in advance
7 of the period for which a refund is to be paid or
8 additional premium is to be charged (which period shall
9 not be less than one year); and

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

25 The Health Maintenance Organization shall include a
26 statement in the evidence of coverage issued to each enrollee

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

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

15 (g) Rulemaking authority to implement Public Act 95-1045,
16 if any, is conditioned on the rules being adopted in
17 accordance with all provisions of the Illinois Administrative
18 Procedure Act and all rules and procedures of the Joint
19 Committee on Administrative Rules; any purported rule not so
20 adopted, for whatever reason, is unauthorized.

21 (Source: P.A. 103-84, eff. 1-1-24; 103-91, eff. 1-1-24;
22 103-123, eff. 1-1-24; 103-154, eff. 6-30-23; 103-420, eff.
23 1-1-24; 103-426, eff. 8-4-23; 103-445, eff. 1-1-24; 103-551,
24 eff. 8-11-23; 103-605, eff. 7-1-24; 103-618, eff. 1-1-25;
25 103-649, eff. 1-1-25; 103-656, eff. 1-1-25; 103-700, eff.
26 1-1-25; 103-718, eff. 7-19-24; 103-751, eff. 8-2-24; 103-753,

1 eff. 8-2-24; 103-758, eff. 1-1-25; 103-777, eff. 8-2-24;
2 103-808, eff. 1-1-26; 103-914, eff. 1-1-25; 103-918, eff.
3 1-1-25; 103-1024, eff. 1-1-25; 104-1, eff. 6-9-25; 104-28,
4 eff. 1-1-26; 104-42, eff. 8-1-25; 104-68, eff. 1-1-26; 104-73,
5 eff. 1-1-26; 104-98, eff. 1-1-26; 104-289, eff. 1-1-26;
6 104-324, eff. 1-1-26; 104-334, eff. 8-15-25; 104-379, eff.
7 1-1-26; 104-417, eff. 8-15-25; revised 11-21-25.)

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

10 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

11 Sec. 4003. Illinois Insurance Code provisions. Limited
12 health service organizations shall be subject to the
13 provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
14 141.2, 141.3, 143, 143.31, 143c, 147, 148, 149, 151, 152, 153,
15 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.37, 155.49, 352c,
16 355.2, 355.3, 355b, 355d, 356m, 356q, 356v, 356z.4, 356z.4a,
17 356z.10, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.32,
18 356z.33, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 356z.54,
19 356z.57, 356z.59, 356z.61, 356z.64, 356z.67, 356z.68, 356z.71,
20 356z.73, 356z.74, 356z.75, 356z.79, 356z.80, 356z.81, 356z.83,
21 356z.84, 356z.85, 356z.88, 364.3, 368a, 370a, 401, 401.1, 402,
22 403, 403A, 408, 408.2, 409, 412, 444, and 444.1 and Articles
23 IIA, VIII 1/2, XII, XII 1/2, XIII, XIII 1/2, XXV, XXVI, and
24 XXXIIB of the Illinois Insurance Code. Nothing in this Section

1 shall require a limited health care plan to cover any service
2 that is not a limited health service. For purposes of the
3 Illinois Insurance Code, except for Sections 444 and 444.1 and
4 Articles XIII and XIII 1/2, limited health service
5 organizations in the following categories are deemed to be
6 domestic companies:

7 (1) a corporation under the laws of this State; or

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

14 (Source: P.A. 103-84, eff. 1-1-24; 103-91, eff. 1-1-24;
15 103-420, eff. 1-1-24; 103-426, eff. 8-4-23; 103-445, eff.
16 1-1-24; 103-605, eff. 7-1-24; 103-649, eff. 1-1-25; 103-656,
17 eff. 1-1-25; 103-700, eff. 1-1-25; 103-718, eff. 7-19-24;
18 103-751, eff. 8-2-24; 103-758, eff. 1-1-25; 103-832, eff.
19 1-1-25; 103-1024, eff. 1-1-25; 104-1, eff. 6-9-25; 104-42,
20 eff. 8-1-25; 104-73, eff. 1-1-26; 104-98, eff. 1-1-26;
21 104-289, eff. 1-1-26; 104-324, eff. 1-1-26; 104-334, eff.
22 8-15-25; 104-379, eff. 1-1-26; 104-417, eff. 8-15-25; revised
23 11-21-25.)

24 Section 99. Effective date. This Act takes effect January
25 1, 2027."