



Sen. Ann Gillespie

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10200SB1096sam001

LRB102 04919 BMS 25726 a

1 AMENDMENT TO SENATE BILL 1096

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1096 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by  
5 adding Section 356z.43 as follows:

6 (215 ILCS 5/356z.43 new)

7 Sec. 356z.43. Coverage for COVID-19 diagnostic testing for  
8 nursing home employees.

9 (a) As used in this Section:

10 "COVID-19" means the disease caused by SARS-CoV-2 or any  
11 further mutation.

12 "Department" means the Department of Public Health.

13 "Diagnostic testing" means testing administered for the  
14 purposes of diagnosing COVID-19 or a related virus and the  
15 administration of such tests if the test is:

16 (1) approved, cleared, or authorized under Section

1       510(k), 513, 515, or 564 of the Federal Food, Drug, and  
2       Cosmetic Act (21 U.S.C. 360(k), 360c, 360e, and 360bbb-3);

3       (2) the subject of a request or intended request for  
4       emergency use authorization under Section 564 of the  
5       Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bbb-3)  
6       until the emergency use authorization request has been  
7       denied or the developer of the test does not submit a  
8       request within a reasonable timeframe;

9       (3) developed and authorized by a state that has  
10       notified the Secretary of the United States Department of  
11       Health and Human Services of its intention to review a  
12       test intended to diagnose COVID-19; or

13       (4) determined by the Secretary of the United States  
14       Department of Health and Human Services or the Director of  
15       the Centers for Disease Control and Prevention as  
16       appropriate for the diagnosis of COVID-19.

17       "Enrollee" means a long-term care facility employee who is  
18       covered by a health plan.

19       "Health plan" means (i) individual health insurance  
20       coverage, as defined in Section 5 of the Illinois Health  
21       Insurance Portability and Accountability Act, and (ii) group  
22       health insurance coverage, as defined in Section 5 of the  
23       Illinois Health Insurance Portability and Accountability Act  
24       for employees of a licensed long-term care facility.

25       "Long-term care facility" means a long-term care facility  
26       as defined in Section 1-113 of the Nursing Home Care Act, an

1 assisted living establishment as defined in Section 10 of the  
2 Assisted Living and Shared Housing Act, a MC/DD facility as  
3 defined in Section 1-113 of the MC/DD Act, an ID/DD facility as  
4 defined in Section 1-113 of the ID/DD Community Care Act, a  
5 facility as defined in Section 1-102 of the Specialized Mental  
6 Health Rehabilitation Act of 2013, or a supportive living  
7 facility as defined in Section 5.01a of the Illinois Public  
8 Aid Code.

9 "Testing provider" means a provider that is authorized by  
10 the Department of Public Health to perform diagnostic testing  
11 for licensed long-term care facilities.

12 (b) A health plan amended, delivered, issued, or renewed  
13 on or after the effective date of this amendatory Act of the  
14 102nd General Assembly shall provide coverage of diagnostic  
15 testing for enrollees that is performed by a testing provider  
16 in accordance with federal COVID-19 testing requirements as  
17 set forth in subsection (h) of 42 CFR 483.80; emergency rules  
18 adopted by the Department in 77 Ill. Adm. Code 295.4045,  
19 300.696, 330.340, 350.760, and 390.340; and applicable federal  
20 and Department guidance.

21 (c) Testing performed in accordance with subsection (b)  
22 shall be considered medically necessary for the purposes of  
23 this Section.

24 (d) A health plan may inquire as to whether an enrollee is  
25 an employee of the long-term care facility but shall not  
26 require further evidence or verification of the enrollee's

1 employment status.

2 (e) The coverage requirements set forth in this Section  
3 shall only apply when the testing requirements set forth in  
4 subsection (b) are in effect.

5 (f) Any failure to provide coverage pursuant to this  
6 Section shall be deemed a failure to substantially comply with  
7 this Code.

8 (g) This Section is repealed on January 1, 2022.

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

11 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

12 Sec. 5-3. Insurance Code provisions.

13 (a) Health Maintenance Organizations shall be subject to  
14 the provisions of Sections 133, 134, 136, 137, 139, 140,  
15 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153,  
16 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 355.2,  
17 355.3, 355b, 356g.5-1, 356m, 356v, 356w, 356x, 356y, 356z.2,  
18 356z.4, 356z.4a, 356z.5, 356z.6, 356z.8, 356z.9, 356z.10,  
19 356z.11, 356z.12, 356z.13, 356z.14, 356z.15, 356z.17, 356z.18,  
20 356z.19, 356z.21, 356z.22, 356z.25, 356z.26, 356z.29, 356z.30,  
21 356z.30a, 356z.32, 356z.33, 356z.35, 356z.36, 356z.41,  
22 356z.43, 364, 364.01, 367.2, 367.2-5, 367i, 368a, 368b, 368c,  
23 368d, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A, 408,  
24 408.2, 409, 412, 444, and 444.1, paragraph (c) of subsection

1 (2) of Section 367, and Articles IIA, VIII 1/2, XII, XII 1/2,  
2 XIII, XIII 1/2, XXV, XXVI, and XXXIIB of the Illinois  
3 Insurance Code.

4 (b) For purposes of the Illinois Insurance Code, except  
5 for Sections 444 and 444.1 and Articles XIII and XIII 1/2,  
6 Health Maintenance Organizations in the following categories  
7 are 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  
23 financial conditions of the acquired Health Maintenance  
24 Organization after the merger, consolidation, or other  
25 acquisition of 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  
4 to 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,  
9 take into account the effect of the management contract or  
10 service agreement on the continuation of benefits to enrollees  
11 and the financial condition of the health maintenance  
12 organization to be managed or serviced, and (ii) need not take  
13 into account the effect of the management contract or service  
14 agreement on 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  
19 Health Maintenance Organization may by contract agree with a  
20 group or other enrollment unit to effect refunds or charge  
21 additional 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

1 not 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



1 the 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  
9 accordance with all provisions of the Illinois Administrative  
10 Procedure Act and all rules and procedures of the Joint  
11 Committee on Administrative Rules; any purported rule not so  
12 adopted, for whatever reason, is unauthorized.

13 (Source: P.A. 100-24, eff. 7-18-17; 100-138, eff. 8-18-17;  
14 100-863, eff. 8-14-18; 100-1026, eff. 8-22-18; 100-1057, eff.  
15 1-1-19; 100-1102, eff. 1-1-19; 101-13, eff. 6-12-19; 101-81,  
16 eff. 7-12-19; 101-281, eff. 1-1-20; 101-371, eff. 1-1-20;  
17 101-393, eff. 1-1-20; 101-452, eff. 1-1-20; 101-461, eff.  
18 1-1-20; 101-625, eff. 1-1-21.)

19 (215 ILCS 195/Act rep.)

20 Section 15. The COVID-19 Medically Necessary Diagnostic  
21 Testing Act is repealed."