



Sen. Laura M. Murphy

Filed: 2/22/2024

10300SB2672sam001

LRB103 35845 RPS 69884 a

1 AMENDMENT TO SENATE BILL 2672

2 AMENDMENT NO. _____. Amend Senate Bill 2672 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.71 as follows:

6 (215 ILCS 5/356z.71 new)

7 Sec. 356z.71. Coverage during a generic drug shortage.

8 (a) As used in this Section:

9 "Eligible prescription drug" means a prescription drug
10 approved under 21 U.S.C. 355(c) that is not under patent.

11 "Generic drug" means a drug that is approved pursuant to
12 an application referencing an eligible prescription drug that
13 is submitted under subsection (j) of Section 505 of the
14 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 355(j).

15 "Unavailable" means being listed as Currently in Shortage
16 or as a Discontinuation in the United States Food and Drug

1 Administration's Drug Shortages Database. "Unavailable" does
2 not include being listed as a Resolved Shortage in the United
3 States Food and Drug Administration's Drug Shortages Database.

4 (b) If a generic drug or a therapeutic equivalent is
5 unavailable due to a supply issue and dosage cannot be
6 adjusted, a group or individual policy of accident and health
7 insurance or a managed care plan that is amended, delivered,
8 issued, or renewed after January 1, 2026 shall provide
9 coverage for a brand name eligible prescription drug until
10 supply of the generic drug or a therapeutic equivalent is
11 available.

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

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 133, 134, 136, 137, 139, 140,
18 141.1, 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153,
19 154, 154.5, 154.6, 154.7, 154.8, 155.04, 155.22a, 155.49,
20 355.2, 355.3, 355b, 355c, 356f, 356g.5-1, 356m, 356q, 356v,
21 356w, 356x, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5, 356z.6,
22 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13, 356z.14,
23 356z.15, 356z.17, 356z.18, 356z.19, 356z.20, 356z.21, 356z.22,
24 356z.23, 356z.24, 356z.25, 356z.26, 356z.28, 356z.29, 356z.30,

1 356z.30a, 356z.31, 356z.32, 356z.33, 356z.34, 356z.35,
2 356z.36, 356z.37, 356z.38, 356z.39, 356z.40, 356z.41, 356z.44,
3 356z.45, 356z.46, 356z.47, 356z.48, 356z.49, 356z.50, 356z.51,
4 356z.53, 356z.54, 356z.55, 356z.56, 356z.57, 356z.58, 356z.59,
5 356z.60, 356z.61, 356z.62, 356z.64, 356z.65, 356z.67, 356z.68,
6 356z.71, 364, 364.01, 364.3, 367.2, 367.2-5, 367i, 368a, 368b,
7 368c, 368d, 368e, 370c, 370c.1, 401, 401.1, 402, 403, 403A,
8 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of
9 subsection (2) of Section 367, and Articles IIA, VIII 1/2,
10 XII, XII 1/2, XIII, XIII 1/2, XXV, XXVI, and XXXIIB of the
11 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. 102-30, eff. 1-1-22; 102-34, eff. 6-25-21;
22 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-443, eff.
23 1-1-22; 102-589, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665,
24 eff. 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22;
25 102-804, eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff.
26 1-1-23; 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093,

1 eff. 1-1-23; 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24;
2 103-91, eff. 1-1-24; 103-123, eff. 1-1-24; 103-154, eff.
3 6-30-23; 103-420, eff. 1-1-24; 103-426, eff. 8-4-23; 103-445,
4 eff. 1-1-24; 103-551, eff. 8-11-23; revised 8-29-23.)

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

7 (215 ILCS 130/4003) (from Ch. 73, par. 1504-3)

8 Sec. 4003. Illinois Insurance Code provisions. Limited
9 health service organizations shall be subject to the
10 provisions of Sections 133, 134, 136, 137, 139, 140, 141.1,
11 141.2, 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154,
12 154.5, 154.6, 154.7, 154.8, 155.04, 155.37, 155.49, 355.2,
13 355.3, 355b, 356q, 356v, 356z.4, 356z.4a, 356z.10, 356z.21,
14 356z.22, 356z.25, 356z.26, 356z.29, 356z.30a, 356z.32,
15 356z.33, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 356z.54,
16 356z.57, 356z.59, 356z.61, 356z.64, 356z.67, 356z.68, 356z.71,
17 364.3, 368a, 401, 401.1, 402, 403, 403A, 408, 408.2, 409, 412,
18 444, and 444.1 and Articles IIA, VIII 1/2, XII, XII 1/2, XIII,
19 XIII 1/2, XXV, and XXVI of the Illinois Insurance Code.
20 Nothing in this Section shall require a limited health care
21 plan to cover any service that is not a limited health service.
22 For purposes of the Illinois Insurance Code, except for
23 Sections 444 and 444.1 and Articles XIII and XIII 1/2, limited
24 health service organizations in the following categories are

1 deemed to be domestic companies:

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

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

9 (Source: P.A. 102-30, eff. 1-1-22; 102-203, eff. 1-1-22;
10 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-731, eff.
11 1-1-23; 102-775, eff. 5-13-22; 102-813, eff. 5-13-22; 102-816,
12 eff. 1-1-23; 102-860, eff. 1-1-23; 102-1093, eff. 1-1-23;
13 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91, eff.
14 1-1-24; 103-420, eff. 1-1-24; 103-426, eff. 8-4-23; 103-445,
15 eff. 1-1-24; revised 8-29-23.)

16 Section 20. The Voluntary Health Services Plans Act is
17 amended by changing Section 10 as follows:

18 (215 ILCS 165/10) (from Ch. 32, par. 604)

19 Sec. 10. Application of Insurance Code provisions. Health
20 services plan corporations and all persons interested therein
21 or dealing therewith shall be subject to the provisions of
22 Articles IIA and XII 1/2 and Sections 3.1, 133, 136, 139, 140,
23 143, 143c, 149, 155.22a, 155.37, 354, 355.2, 355.3, 355b,
24 356g, 356g.5, 356g.5-1, 356q, 356r, 356t, 356u, 356v, 356w,

1 356x, 356y, 356z.1, 356z.2, 356z.3a, 356z.4, 356z.4a, 356z.5,
2 356z.6, 356z.8, 356z.9, 356z.10, 356z.11, 356z.12, 356z.13,
3 356z.14, 356z.15, 356z.18, 356z.19, 356z.21, 356z.22, 356z.25,
4 356z.26, 356z.29, 356z.30, 356z.30a, 356z.32, 356z.33,
5 356z.40, 356z.41, 356z.46, 356z.47, 356z.51, 356z.53, 356z.54,
6 356z.56, 356z.57, 356z.59, 356z.60, 356z.61, 356z.62, 356z.64,
7 356z.67, 356z.68, 356z.71, 364.01, 364.3, 367.2, 368a, 401,
8 401.1, 402, 403, 403A, 408, 408.2, and 412, and paragraphs (7)
9 and (15) of Section 367 of the Illinois Insurance Code.

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

16 (Source: P.A. 102-30, eff. 1-1-22; 102-203, eff. 1-1-22;
17 102-306, eff. 1-1-22; 102-642, eff. 1-1-22; 102-665, eff.
18 10-8-21; 102-731, eff. 1-1-23; 102-775, eff. 5-13-22; 102-804,
19 eff. 1-1-23; 102-813, eff. 5-13-22; 102-816, eff. 1-1-23;
20 102-860, eff. 1-1-23; 102-901, eff. 7-1-22; 102-1093, eff.
21 1-1-23; 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91,
22 eff. 1-1-24; 103-420, eff. 1-1-24; 103-445, eff. 1-1-24;
23 103-551, eff. 8-11-23; revised 8-29-23.)

24 Section 25. The Illinois Public Aid Code is amended by
25 changing Section 5-16.8 as follows:

1 (305 ILCS 5/5-16.8)

2 Sec. 5-16.8. Required health benefits. The medical
3 assistance program shall (i) provide the post-mastectomy care
4 benefits required to be covered by a policy of accident and
5 health insurance under Section 356t and the coverage required
6 under Sections 356g.5, 356q, 356u, 356w, 356x, 356z.6,
7 356z.26, 356z.29, 356z.32, 356z.33, 356z.34, 356z.35, 356z.46,
8 356z.47, 356z.51, 356z.53, 356z.56, 356z.59, 356z.60, ~~and~~
9 356z.61, 356z.64, 356z.67, and 356z.71 of the Illinois
10 Insurance Code, (ii) be subject to the provisions of Sections
11 356z.19, 356z.44, 356z.49, 364.01, 370c, and 370c.1 of the
12 Illinois Insurance Code, and (iii) be subject to the
13 provisions of subsection (d-5) of Section 10 of the Network
14 Adequacy and Transparency Act.

15 The Department, by rule, shall adopt a model similar to
16 the requirements of Section 356z.39 of the Illinois Insurance
17 Code.

18 On and after July 1, 2012, the Department shall reduce any
19 rate of reimbursement for services or other payments or alter
20 any methodologies authorized by this Code to reduce any rate
21 of reimbursement for services or other payments in accordance
22 with Section 5-5e.

23 To ensure full access to the benefits set forth in this
24 Section, on and after January 1, 2016, the Department shall
25 ensure that provider and hospital reimbursement for

1 post-mastectomy care benefits required under this Section are
2 no lower than the Medicare reimbursement rate.

3 (Source: P.A. 102-30, eff. 1-1-22; 102-144, eff. 1-1-22;
4 102-203, eff. 1-1-22; 102-306, eff. 1-1-22; 102-530, eff.
5 1-1-22; 102-642, eff. 1-1-22; 102-804, eff. 1-1-23; 102-813,
6 eff. 5-13-22; 102-816, eff. 1-1-23; 102-1093, eff. 1-1-23;
7 102-1117, eff. 1-13-23; 103-84, eff. 1-1-24; 103-91, eff.
8 1-1-24; 103-420, eff. 1-1-24; revised 12-15-23.)".