

1 AN ACT concerning insurance coverage.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

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

6 (215 ILCS 5/356z.4 new)

7 Sec. 356z.4. Prescription inhalants. A group or  
8 individual policy of accident and health insurance or managed  
9 care plan amended, delivered, issued, or renewed after the  
10 effective date of this amendatory Act of the 93rd General  
11 Assembly that provides coverage for prescription drugs may  
12 not deny or limit coverage for prescription inhalants to  
13 enable persons to breathe when suffering from asthma or other  
14 life-threatening bronchial ailments based upon any  
15 restriction on the number of days before an inhaler refill  
16 may be obtained if, contrary to those restrictions, the  
17 inhalants have been ordered or prescribed by the treating  
18 physician.

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

21 (215 ILCS 125/5-3) (from Ch. 111 1/2, par. 1411.2)

22 Sec. 5-3. Insurance Code provisions.

23 (a) Health Maintenance Organizations shall be subject to  
24 the provisions of Sections 133, 134, 137, 140, 141.1, 141.2,  
25 141.3, 143, 143c, 147, 148, 149, 151, 152, 153, 154, 154.5,  
26 154.6, 154.7, 154.8, 155.04, 355.2, 356m, 356v, 356w, 356x,  
27 356y, 356z.2, 356z.4, 367i, 368a, 401, 401.1, 402, 403, 403A,  
28 408, 408.2, 409, 412, 444, and 444.1, paragraph (c) of  
29 subsection (2) of Section 367, and Articles IIA, VIII 1/2,

1 XII, XII 1/2, XIII, XIII 1/2, XXV, and XXVI of the Illinois  
2 Insurance Code.

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

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

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

12 (3) a corporation organized under the laws of  
13 another state, 30% or more of the enrollees of which are  
14 residents 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  
17 VIII 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  
22 to 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)  
27 of Section 131.8 of the Illinois Insurance Code shall not  
28 apply and (ii) the Director, in making his determination  
29 with respect to the merger, consolidation, or other  
30 acquisition of control, need not take into account the  
31 effect on competition of the merger, consolidation, or  
32 other acquisition of control;

33 (3) the Director shall have the power to require  
34 the following information:

1           (A) certification by an independent actuary of  
2           the adequacy of the reserves of the Health  
3           Maintenance Organization sought to be acquired;

4           (B) pro forma financial statements reflecting  
5           the combined balance sheets of the acquiring company  
6           and the Health Maintenance Organization sought to be  
7           acquired as of the end of the preceding year and as  
8           of a date 90 days prior to the acquisition, as well  
9           as pro forma financial statements reflecting  
10          projected combined operation for a period of 2  
11          years;

12          (C) a pro forma business plan detailing an  
13          acquiring party's plans with respect to the  
14          operation of the Health Maintenance Organization  
15          sought to be acquired for a period of not less than  
16          3 years; and

17          (D) such other information as the Director  
18          shall require.

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

25          (e) In considering any management contract or service  
26          agreement subject to Section 141.1 of the Illinois Insurance  
27          Code, the Director (i) shall, in addition to the criteria  
28          specified in Section 141.2 of the Illinois Insurance Code,  
29          take into account the effect of the management contract or  
30          service agreement on the continuation of benefits to  
31          enrollees and the financial condition of the health  
32          maintenance organization to be managed or serviced, and (ii)  
33          need not take into account the effect of the management  
34          contract or service agreement on competition.

1 (f) Except for small employer groups as defined in the  
2 Small Employer Rating, Renewability and Portability Health  
3 Insurance Act and except for medicare supplement policies as  
4 defined in Section 363 of the Illinois Insurance Code, a  
5 Health Maintenance Organization may by contract agree with a  
6 group or other enrollment unit to effect refunds or charge  
7 additional premiums under the following terms and conditions:

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

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

29 The Health Maintenance Organization shall include a  
30 statement in the evidence of coverage issued to each enrollee  
31 describing the possibility of a refund or additional premium,  
32 and upon request of any group or enrollment unit, provide to  
33 the group or enrollment unit a description of the method used  
34 to calculate (1) the Health Maintenance Organization's

1 profitable experience with respect to the group or enrollment  
2 unit and the resulting refund to the group or enrollment unit  
3 or (2) the Health Maintenance Organization's unprofitable  
4 experience with respect to the group or enrollment unit and  
5 the resulting additional premium to be paid by the group or  
6 enrollment unit.

7 In no event shall the Illinois Health Maintenance  
8 Organization Guaranty Association be liable to pay any  
9 contractual obligation of an insolvent organization to pay  
10 any refund authorized under this Section.

11 (Source: P.A. 91-357, eff. 7-29-99; 91-406, eff. 1-1-00;  
12 91-549, eff. 8-14-99; 91-605, eff. 12-14-99; 91-788, eff.  
13 6-9-00; 92-764, eff. 1-1-03.)

14 Section 15. The Voluntary Health Services Plans Act is  
15 amended by changing Section 10 as follows:

16 (215 ILCS 165/10) (from Ch. 32, par. 604)

17 Sec. 10. Application of Insurance Code provisions.  
18 Health services plan corporations and all persons interested  
19 therein or dealing therewith shall be subject to the  
20 provisions of Articles IIA and XII 1/2 and Sections 3.1, 133,  
21 140, 143, 143c, 149, 155.37, 354, 355.2, 356r, 356t, 356u,  
22 356v, 356w, 356x, 356y, 356z.1, 356z.2, 356z.4, 367.2, 368a,  
23 401, 401.1, 402, 403, 403A, 408, 408.2, and 412, and  
24 paragraphs (7) and (15) of Section 367 of the Illinois  
25 Insurance Code.

26 (Source: P.A. 91-406, eff. 1-1-00; 91-549, eff. 8-14-99;  
27 91-605, eff. 12-14-99; 91-788, eff. 6-9-00; 92-130, eff.  
28 7-20-01; 92-440, eff. 8-17-01; 92-651, eff. 7-11-02; 92-764,  
29 eff. 1-1-03.)

30 Section 99. Effective date. This Act takes effect upon  
31 becoming law.