



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB4679

by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

215 ILCS 5/351B-4
215 ILCS 5/364

from Ch. 73, par. 963B-4
from Ch. 73, par. 976

Amends the Illinois Insurance Code. Provides that no company, in any policy of accident or health insurance, shall make or permit any distinction or discrimination against individuals solely because of handicaps or disabilities in specified provisions of the contract it makes or permit any distinction or discrimination against individuals solely because of handicaps or disabilities in the specified provisions of the contract it makes (instead of including an exception for those who meet specified criteria). Provides that no company shall refuse to insure or refuse to continue to insure, limit the amount or extent or kind of coverage available to an individual, or charge an individual a different rate for the same coverage solely because of health status or disability (instead of only because of blindness or partial blindness).

LRB096 14875 MJR 29741 b

1 AN ACT concerning insurance.

2 WHEREAS, It is a fundamental right not to be discriminated
3 against because of health status or disabilities; therefore

4 **Be it enacted by the People of the State of Illinois,**
5 **represented in the General Assembly:**

6 Section 5. The Illinois Insurance Code is amended by
7 changing Sections 351B-4, and 364 as follows:

8 (215 ILCS 5/351B-4) (from Ch. 73, par. 963B-4)

9 Sec. 351B-4. Small employer group accident and health
10 insurance policy requirements.

11 (a) Any insurance company authorized to write accident and
12 health insurance in this State shall have power to issue small
13 employer group accident and health policies. No policy of small
14 employer group accident and health insurance may be issued or
15 delivered in this State unless a copy of the form thereof has
16 been filed with the Department and approved by it in accordance
17 with Section 355, unless it contains in substance those
18 provisions contained in Sections 357.1 through 357.30 as may be
19 applicable to small employer group accident and health
20 insurance and unless it contains the provisions set forth in
21 this Section.

22 (b) The policy must provide that the policy, the

1 application of the employer or the executive officer or trustee
2 of any association and the individual applications, if any, of
3 the employees, members, or employees of members insured shall
4 constitute the entire contract between the parties, and that
5 all statements made by the employer or executive officer or
6 trustee, or by the individual employees, members, or employees
7 of members shall (in the absence of fraud) be deemed
8 representations and not warranties, and that none of those
9 statements may be used in defense to a claim under the policy
10 unless it is contained in a written application.

11 (c) The policy must provide that the insurer will issue to
12 the employer or to the executive officer or trustee of the
13 association, for delivery to the employee, member, or employee
14 of a member who is insured under the policy, an individual
15 certificate setting forth a statement as to the insurance
16 protection to which he is entitled and to whom payable.

17 (d) The policy must provide that all new employees of the
18 employer, new members of the association, or new employees of
19 members eligible and applying for insurance in the group or
20 class shall be added periodically to the group or class
21 originally insured.

22 (e) Anything in this Code to the contrary notwithstanding,
23 any small employer group accident and health insurance policy
24 may provide that all or any portion of any indemnities provided
25 by the policy on account of hospital, nursing, medical, or
26 surgical services may, at the insurer's option, be paid

1 directly to the hospital or person rendering the services; but
2 the policy may not require that the service be rendered by a
3 particular hospital or person. Payment so made shall discharge
4 the insurer's obligation with respect to the amount of
5 insurance so paid. Nothing in this subsection shall prohibit an
6 insurer from providing incentives for insureds to utilize the
7 services of a particular hospital or person.

8 (f) Whenever the Department of Public Health finds that it
9 has paid all or part of any hospital or medical expenses that
10 an insurance carrier is obligated to pay under this Article,
11 the Department of Public Health shall be entitled to receive
12 reimbursement for its payments from the insurance carrier,
13 provided that the Department of Public Health has notified the
14 insurance carrier of its claim before the carrier has paid the
15 benefits to its insureds or the insureds' assignees.

16 (g) No group hospital, medical, or surgical expense policy
17 under this Article shall contain any provision whereby benefits
18 otherwise payable thereunder are subject to reduction solely on
19 account of the existence of similar benefits provided under
20 other group or group type accident and sickness insurance
21 policies where the reduction would operate to reduce total
22 benefits payable under the policies below an amount equal to
23 100% of total allowable expenses provided under the policies.

24 (h) When dependents of insureds are covered under 2
25 policies, both of which contain coordination of benefits
26 provisions, benefits of the policy of the insured whose

1 birthday falls earlier in the year are determined before those
2 of the policy of the insured whose birthday falls later in the
3 year. "Birthday", as used herein, refers only to the month and
4 day in a calendar year, not the year in which the person was
5 born. The Department shall promulgate rules defining the order
6 of benefit determination under this subsection.

7 (i) Discrimination between individuals of the same class of
8 risk in the issuance of policies, in the amount of premiums or
9 rates charged for any insurance covered by this Article, in
10 benefits payable thereon, in any of the terms or conditions of
11 the policy, or in any other manner whatsoever is prohibited.
12 Nothing in this subsection shall prohibit an insurer from
13 providing incentives for insureds to utilize the services of a
14 particular hospital or person.

15 (j) No company shall make or permit any distinction or
16 discrimination against individuals solely because of handicaps
17 or disabilities in (i) the amount of payment of premiums or
18 rates charged for policies of insurance, (ii) the amount of any
19 dividends or other benefits payable thereon, or (iii) any other
20 terms and conditions of the contract it makes, ~~except where the~~
21 ~~distinction or discrimination is based on sound actuarial~~
22 ~~principles or is related to actual or reasonably anticipated~~
23 ~~experience.~~

24 (k) No company shall refuse to insure or refuse to continue
25 to insure, limit the amount or extent or kind of coverage
26 available to an individual, or charge an individual a different

1 rate for the same coverage solely because of health status or
2 disability ~~blindness or partial blindness. With respect to all~~
3 ~~other conditions, including the underlying cause of the~~
4 ~~blindness or partial blindness, persons who are blind or~~
5 ~~partially blind shall be subject to the same standards of sound~~
6 ~~actuarial principles or actual or reasonably anticipated~~
7 ~~experience as are sighted persons. Refusal to insure includes~~
8 ~~denial by an insurer of disability insurance coverage on the~~
9 ~~grounds that the policy defines "disability" as being presumed~~
10 ~~in the event that the insured loses his or her eyesight.~~
11 ~~However, an insurer may exclude from coverage disability~~
12 ~~consisting solely of blindness or partial blindness when the~~
13 ~~condition existed at the time the policy was issued.~~

14 (Source: P.A. 86-1407.)

15 (215 ILCS 5/364) (from Ch. 73, par. 976)

16 Sec. 364. Discrimination prohibited. Discrimination
17 between individuals of the same class of risk in the issuance
18 of its policies or in the amount of premiums or rates charged
19 for any insurance covered by this article, or in the benefits
20 payable thereon, or in any of the terms or conditions of such
21 policy, or in any other manner whatsoever is prohibited.
22 Nothing in this provision shall prohibit an insurer from
23 providing incentives for insureds to utilize the services of a
24 particular hospital or person. It is hereby expressly provided
25 that whenever the terms "physician" or "doctor" appear or are

1 used in any way in any policy of accident or health insurance
2 issued in this state, said terms shall include within their
3 meaning persons licensed to practice dentistry under the
4 Illinois Dental Practice Act with regard to benefits payable
5 for services performed by a person so licensed, which such
6 services are within the coverage provided by the particular
7 policy or contract of insurance and are within the professional
8 services authorized to be performed by such person under and in
9 accordance with the said Act.

10 No company, in any policy of accident or health insurance
11 issued in this State, shall make or permit any distinction or
12 discrimination against individuals solely because of handicaps
13 or disabilities in the amount of payment of premiums or rates
14 charged for policies of insurance, in the amount of any
15 dividends or other benefits payable thereon, or in any other
16 terms and conditions of the contract it makes, ~~except where the~~
17 ~~distinction or discrimination is based on sound actuarial~~
18 ~~principles or is related to actual or reasonably anticipated~~
19 ~~experience.~~

20 No company shall refuse to insure, or refuse to continue to
21 insure, or limit the amount or extent or kind of coverage
22 available to an individual, or charge an individual a different
23 rate for the same coverage solely because of health status or
24 disability ~~blindness or partial blindness. With respect to all~~
25 ~~other conditions, including the underlying cause of the~~
26 ~~blindness or partial blindness, persons who are blind or~~

1 ~~partially blind shall be subject to the same standards of sound~~
2 ~~actuarial principles or actual or reasonably anticipated~~
3 ~~experience as are sighted persons. Refusal to insure includes~~
4 ~~denial by an insurer of disability insurance coverage on the~~
5 ~~grounds that the policy defines "disability" as being presumed~~
6 ~~in the event that the insured loses his or her eyesight.~~

7 (Source: P.A. 91-549, eff. 8-14-99.)