



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB0104

Introduced 1/10/2013, by Rep. Elizabeth Hernandez

SYNOPSIS AS INTRODUCED:

215 ILCS 5/5.5

215 ILCS 170/20

305 ILCS 5/12-4.45 new

305 ILCS 5/12-9

from Ch. 23, par. 12-9

Amends the Illinois Insurance Code, the Covering ALL KIDS Health Insurance Act, and the Illinois Public Aid Code. Provides that to the extent authorized under federal law, the Department of Healthcare and Family Services shall identify individuals receiving services under medical assistance programs funded or partially funded by the State who may be or may have been covered by a third party health insurer, the period of coverage for such individuals, and the nature of the coverage. Requires a third party health insurer to provide the Department with eligibility information in a federally recommended or mutually agreed-upon format that includes, at a minimum, the names, addresses, dates, and sex of primary covered persons, the policy group numbers of the covered persons, and other identifiable information. Permits the Department to impose an administrative penalty on a third party health insurer that does not comply with the request for information. Provides that the Attorney General may bring suit on behalf of the Department to collect the penalty. Provides that recoveries made by the Department in connection with the imposition of this administrative penalty shall be deposited into the Public Aid Recoveries Trust Fund. Effective immediately.

LRB098 01530 KTG 31534 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning the Department of Healthcare and Family
2 Services.

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

5 Section 5. The Illinois Insurance Code is amended by
6 changing Section 5.5 as follows:

7 (215 ILCS 5/5.5)

8 Sec. 5.5. Compliance with the Department of Healthcare and
9 Family Services. A company authorized to do business in this
10 State or accredited by the State to issue policies of health
11 insurance, including but not limited to, self-insured plans,
12 group health plans (as defined in Section 607(1) of the
13 Employee Retirement Income Security Act of 1974), service
14 benefit plans, managed care organizations, pharmacy benefit
15 managers, or other parties that are by statute, contract, or
16 agreement legally responsible for payment of a claim for a
17 health care item or service as a condition of doing business in
18 the State must:

19 (1) provide to the Department of Healthcare and Family
20 Services, or any successor agency, on at least a quarterly
21 basis if so requested by the Department, information to
22 determine during what period any individual may be, or may
23 have been, covered by a health insurer and the nature of

1 the coverage that is or was provided by the health insurer,
2 including the name, address, and identifying number of the
3 plan;

4 (2) accept the State's right of recovery and the
5 assignment to the State of any right of an individual or
6 other entity to payment from the party for an item or
7 service for which payment has been made under the medical
8 programs of the Department of Healthcare and Family
9 Services, or any successor agency, under this Code or the
10 Illinois Public Aid Code;

11 (3) respond to any inquiry by the Department of
12 Healthcare and Family Services regarding a claim for
13 payment for any health care item or service that is
14 submitted not later than 3 years after the date of the
15 provision of such health care item or service; and

16 (4) agree not to deny a claim submitted by the
17 Department of Healthcare and Family Services solely on the
18 basis of the date of submission of the claim, the type or
19 format of the claim form, or a failure to present proper
20 documentation at the point-of-sale that is the basis of the
21 claim if (i) the claim is submitted by the Department of
22 Healthcare and Family Services within the 3-year period
23 beginning on the date on which the item or service was
24 furnished and (ii) any action by the Department of
25 Healthcare and Family Services to enforce its rights with
26 respect to such claim is commenced within 6 years of its

1 submission of such claim.

2 The Department of Healthcare and Family Services may impose
3 an administrative penalty as provided under Section 12-4.45 of
4 the Illinois Public Aid Code on entities that have established
5 a pattern of failure to provide the information required under
6 this Section, or in ~~in~~ cases in which the Department of
7 Healthcare and Family Services has determined that an entity
8 that provides health insurance coverage has established a
9 pattern of failure to provide the information required under
10 this Section, and has subsequently certified that
11 determination, along with supporting documentation, to the
12 Director of the Department of Insurance, the Director of the
13 Department of Insurance, based upon the certification of
14 determination made by the Department of Healthcare and Family
15 Services, may commence regulatory proceedings in accordance
16 with all applicable provisions of the Illinois Insurance Code.
17 (Source: P.A. 95-632, eff. 9-25-07; 96-1501, eff. 1-25-11.)

18 Section 10. The Covering ALL KIDS Health Insurance Act is
19 amended by changing Section 20 as follows:

20 (215 ILCS 170/20)

21 (Section scheduled to be repealed on July 1, 2016)

22 Sec. 20. Eligibility.

23 (a) To be eligible for the Program, a person must be a
24 child:

- 1 (1) who is a resident of the State of Illinois;
- 2 (2) who is ineligible for medical assistance under the
3 Illinois Public Aid Code or benefits under the Children's
4 Health Insurance Program Act;
- 5 (3) either (i) who has been without health insurance
6 coverage for 12 months, (ii) whose parent has lost
7 employment that made available affordable dependent health
8 insurance coverage, until such time as affordable
9 employer-sponsored dependent health insurance coverage is
10 again available for the child as set forth by the
11 Department in rules, (iii) who is a newborn whose
12 responsible relative does not have available affordable
13 private or employer-sponsored health insurance, or (iv)
14 who, within one year of applying for coverage under this
15 Act, lost medical benefits under the Illinois Public Aid
16 Code or the Children's Health Insurance Program Act; and
- 17 (3.5) whose household income, as determined by the
18 Department, is at or below 300% of the federal poverty
19 level. This item (3.5) is effective July 1, 2011.

20 An entity that provides health insurance coverage (as
21 defined in Section 2 of the Comprehensive Health Insurance Plan
22 Act) to Illinois residents shall provide health insurance data
23 match to the Department of Healthcare and Family Services as
24 provided by and subject to Section 5.5 of the Illinois
25 Insurance Code. The Department of Healthcare and Family
26 Services may impose an administrative penalty as provided under

1 Section 12-4.45 of the Illinois Public Aid Code on entities
2 that have established a pattern of failure to provide the
3 information required under this Section.

4 The Department of Healthcare and Family Services, in
5 collaboration with the Department of Insurance, shall adopt
6 rules governing the exchange of information under this Section.
7 The rules shall be consistent with all laws relating to the
8 confidentiality or privacy of personal information or medical
9 records, including provisions under the Federal Health
10 Insurance Portability and Accountability Act (HIPAA).

11 (b) The Department shall monitor the availability and
12 retention of employer-sponsored dependent health insurance
13 coverage and shall modify the period described in subdivision
14 (a)(3) if necessary to promote retention of private or
15 employer-sponsored health insurance and timely access to
16 healthcare services, but at no time shall the period described
17 in subdivision (a)(3) be less than 6 months.

18 (c) The Department, at its discretion, may take into
19 account the affordability of dependent health insurance when
20 determining whether employer-sponsored dependent health
21 insurance coverage is available upon reemployment of a child's
22 parent as provided in subdivision (a)(3).

23 (d) A child who is determined to be eligible for the
24 Program shall remain eligible for 12 months, provided that the
25 child maintains his or her residence in this State, has not yet
26 attained 19 years of age, and is not excluded under subsection

1 (e).

2 (e) A child is not eligible for coverage under the Program
3 if:

4 (1) the premium required under Section 40 has not been
5 timely paid; if the required premiums are not paid, the
6 liability of the Program shall be limited to benefits
7 incurred under the Program for the time period for which
8 premiums have been paid; re-enrollment shall be completed
9 before the next covered medical visit, and the first
10 month's required premium shall be paid in advance of the
11 next covered medical visit; or

12 (2) the child is an inmate of a public institution or
13 an institution for mental diseases.

14 (f) The Department may adopt rules, including, but not
15 limited to: rules regarding annual renewals of eligibility for
16 the Program in conformance with Section 7 of this Act; rules
17 providing for re-enrollment, grace periods, notice
18 requirements, and hearing procedures under subdivision (e)(1)
19 of this Section; and rules regarding what constitutes
20 availability and affordability of private or
21 employer-sponsored health insurance, with consideration of
22 such factors as the percentage of income needed to purchase
23 children or family health insurance, the availability of
24 employer subsidies, and other relevant factors.

25 (g) Each child enrolled in the Program as of July 1, 2011
26 whose family income, as established by the Department, exceeds

1 300% of the federal poverty level may remain enrolled in the
2 Program for 12 additional months commencing July 1, 2011.
3 Continued enrollment pursuant to this subsection shall be
4 available only if the child continues to meet all eligibility
5 criteria established under the Program as of the effective date
6 of this amendatory Act of the 96th General Assembly without a
7 break in coverage. Nothing contained in this subsection shall
8 prevent a child from qualifying for any other health benefits
9 program operated by the Department.

10 (Source: P.A. 96-1272, eff. 1-1-11; 96-1501, eff. 1-25-11.)

11 Section 15. The Illinois Public Aid Code is amended by
12 changing Section 12-9 and by adding Section 12-4.45 as follows:

13 (305 ILCS 5/12-4.45 new)

14 Sec. 12-4.45. Third party liability.

15 (a) To the extent authorized under federal law, the
16 Department of Healthcare and Family Services shall identify
17 individuals receiving services under medical assistance
18 programs funded or partially funded by the State who may be or
19 may have been covered by a third party health insurer, the
20 period of coverage for such individuals, and the nature of
21 coverage. A company, as defined in Section 5.5 of the Illinois
22 Insurance Code and Section 2 of the Comprehensive Health
23 Insurance Plan Act, must provide the Department eligibility
24 information in a federally recommended or mutually agreed-upon

1 format that includes at a minimum:

2 (1) The names, addresses, dates, and sex of primary
3 covered persons.

4 (2) The policy group numbers of the covered persons.

5 (3) The names, dates of birth, and sex of covered
6 dependents, and the relationship of dependents to the
7 primary covered person.

8 (4) The effective dates of coverage for each covered
9 person.

10 (5) The generally defined covered services
11 information, such as drugs, medical, or any other similar
12 description of services covered.

13 (b) The Department may impose an administrative penalty on
14 a company that does not comply with the request for information
15 made under Section 5.5 of the Illinois Insurance Code and
16 paragraph (3) of subsection (a) of Section 20 of the Covering
17 ALL KIDS Health Insurance Act. The amount of the penalty may
18 not exceed \$10,000 for each day of noncompliance that occurs
19 after the 180th day after the date of the request. The amount
20 shall be based on:

21 (1) The seriousness of the violation, including the
22 nature, circumstances, extent, and gravity of the
23 violation.

24 (2) The economic harm caused by the violation.

25 (3) The history of previous violations.

26 (4) The amount necessary to deter a future violation.

1 (5) Efforts to correct the violation.

2 (6) Any other matter that justice may require.

3 (c) The enforcement of the penalty may be stayed during the
4 time the order is under administrative review if the company
5 files an appeal.

6 (d) The Attorney General may bring suit on behalf of the
7 Department to collect the penalty.

8 (e) Recoveries made by the Department in connection with
9 the imposition of an administrative penalty as provided under
10 this Section shall be deposited into the Public Aid Recoveries
11 Trust Fund created under Section 12-9.

12 (305 ILCS 5/12-9) (from Ch. 23, par. 12-9)

13 Sec. 12-9. Public Aid Recoveries Trust Fund; uses. The
14 Public Aid Recoveries Trust Fund shall consist of (1)
15 recoveries by the Department of Healthcare and Family Services
16 (formerly Illinois Department of Public Aid) authorized by this
17 Code in respect to applicants or recipients under Articles III,
18 IV, V, and VI, including recoveries made by the Department of
19 Healthcare and Family Services (formerly Illinois Department
20 of Public Aid) from the estates of deceased recipients, (2)
21 recoveries made by the Department of Healthcare and Family
22 Services (formerly Illinois Department of Public Aid) in
23 respect to applicants and recipients under the Children's
24 Health Insurance Program Act, and the Covering ALL KIDS Health
25 Insurance Act, (2.5) recoveries made by the Department of

1 Healthcare and Family Services in connection with the
2 imposition of an administrative penalty as provided under
3 Section 12-4.45, (3) federal funds received on behalf of and
4 earned by State universities and local governmental entities
5 for services provided to applicants or recipients covered under
6 this Code, the Children's Health Insurance Program Act, and the
7 Covering ALL KIDS Health Insurance Act, (3.5) federal financial
8 participation revenue related to eligible disbursements made
9 by the Department of Healthcare and Family Services from
10 appropriations required by this Section, and (4) all other
11 moneys received to the Fund, including interest thereon. The
12 Fund shall be held as a special fund in the State Treasury.

13 Disbursements from this Fund shall be only (1) for the
14 reimbursement of claims collected by the Department of
15 Healthcare and Family Services (formerly Illinois Department
16 of Public Aid) through error or mistake, (2) for payment to
17 persons or agencies designated as payees or co-payees on any
18 instrument, whether or not negotiable, delivered to the
19 Department of Healthcare and Family Services (formerly
20 Illinois Department of Public Aid) as a recovery under this
21 Section, such payment to be in proportion to the respective
22 interests of the payees in the amount so collected, (3) for
23 payments to the Department of Human Services for collections
24 made by the Department of Healthcare and Family Services
25 (formerly Illinois Department of Public Aid) on behalf of the
26 Department of Human Services under this Code, the Children's

1 Health Insurance Program Act, and the Covering ALL KIDS Health
2 Insurance Act, (4) for payment of administrative expenses
3 incurred in performing the activities authorized under this
4 Code, the Children's Health Insurance Program Act, and the
5 Covering ALL KIDS Health Insurance Act, (5) for payment of fees
6 to persons or agencies in the performance of activities
7 pursuant to the collection of monies owed the State that are
8 collected under this Code, the Children's Health Insurance
9 Program Act, and the Covering ALL KIDS Health Insurance Act,
10 (6) for payments of any amounts which are reimbursable to the
11 federal government which are required to be paid by State
12 warrant by either the State or federal government, and (7) for
13 payments to State universities and local governmental entities
14 of federal funds for services provided to applicants or
15 recipients covered under this Code, the Children's Health
16 Insurance Program Act, and the Covering ALL KIDS Health
17 Insurance Act. Disbursements from this Fund for purposes of
18 items (4) and (5) of this paragraph shall be subject to
19 appropriations from the Fund to the Department of Healthcare
20 and Family Services (formerly Illinois Department of Public
21 Aid).

22 The balance in this Fund on the first day of each calendar
23 quarter, after payment therefrom of any amounts reimbursable to
24 the federal government, and minus the amount reasonably
25 anticipated to be needed to make the disbursements during that
26 quarter authorized by this Section, shall be certified by the

1 Director of Healthcare and Family Services and transferred by
2 the State Comptroller to the Drug Rebate Fund or the Healthcare
3 Provider Relief Fund in the State Treasury, as appropriate,
4 within 30 days of the first day of each calendar quarter. The
5 Director of Healthcare and Family Services may certify and the
6 State Comptroller shall transfer to the Drug Rebate Fund
7 amounts on a more frequent basis.

8 On July 1, 1999, the State Comptroller shall transfer the
9 sum of \$5,000,000 from the Public Aid Recoveries Trust Fund
10 (formerly the Public Assistance Recoveries Trust Fund) into the
11 DHS Recoveries Trust Fund.

12 (Source: P.A. 96-1100, eff. 1-1-11; 97-647, eff. 1-1-12;
13 97-689, eff. 6-14-12.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.