

1                                    AMENDMENT TO HOUSE BILL 1040

2            AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1040 by replacing  
3 everything after the enacting clause with the following:

4            "Section 5. The Health Maintenance Organization Act is  
5 amended by changing Sections 2-3, 2-4, and 2-6 and adding  
6 Article 4.5 as follows:

7            (215 ILCS 125/2-3) (from Ch. 111 1/2, par. 1405)

8            Sec. 2-3. Powers of health maintenance organizations.  
9 The powers of a health maintenance organization include, but  
10 are not limited to the following:

11            (a) The purchase, lease, construction, renovation,  
12 operation, or maintenance of hospitals, medical facilities or  
13 both, and their ancillary equipment, and such property as may  
14 reasonably be required for its principal office or for such  
15 other purposes as may be necessary in the transaction of the  
16 business of the organization.

17            (b) The making of loans to a medical group under  
18 contract with it and in furtherance of its program or the  
19 making of loans to a corporation or corporations under its  
20 control for the purpose of acquiring or constructing medical  
21 facilities at hospitals or in furtherance of a program  
22 providing health care services for enrollees.

1 (c) The furnishing of health care services through  
2 providers which are under contract with or employed by the  
3 health maintenance organization.

4 (d) The contracting with any person for the performance  
5 on its behalf of certain functions such as marketing,  
6 enrollment and administration.

7 (e) The contracting with an insurance company licensed  
8 in this State, or with a hospital, medical, dental, vision or  
9 pharmaceutical service corporation authorized to do business  
10 in this State, for the provision of insurance, indemnity, or  
11 reimbursement against the cost of health care service  
12 provided by the health maintenance organization.

13 (f) The offering, in addition to basic health care  
14 services, of (1) health care services, (2) indemnity benefits  
15 covering out of area or emergency services, and (3) indemnity  
16 benefits provided through insurers or hospital, medical,  
17 dental, vision, or pharmaceutical service corporations, and  
18 (4) health maintenance organization point-of-service benefits  
19 as authorized under Article 4.5.

20 (g) Rendering services related to the functions involved  
21 in the operating of its health maintenance organization  
22 business including but not limited to providing health  
23 services, data processing, accounting, or claims.

24 (g-5) Indemnification for services provided to a child  
25 as required under subdivision (e)(3) of Section 4-2.

26 (h) Any other business activity reasonably complementary  
27 or supplementary to its health maintenance organization  
28 business to the extent approved by the Director.

29 (Source: P.A. 89-183, eff. 1-1-96.)

30 (215 ILCS 125/2-4) (from Ch. 111 1/2, par. 1406)  
31 Sec. 2-4. Required minimum net worth; special contingent  
32 reserve; deficiency; impairment.

33 (a) A health maintenance organization issued a

1 certificate of authority on or after the effective date of  
2 this amendatory Act of 1987 shall have and at all times  
3 maintain net worth of not less than \$1,500,000. As an  
4 allocation of net worth, organizations certified prior to the  
5 effective date of this amendatory Act of 1987 shall maintain  
6 a special contingent reserve. The special contingent reserve  
7 for an organization certified between January 1, 1986 and the  
8 effective date of this amendatory Act of 1987 shall be equal  
9 to 5% of its net earned subscription revenue for health care  
10 services through December 31st of the year in which  
11 certified. In subsequent years such organization shall  
12 accumulate additions to the contingent reserve in an amount  
13 which is equal to 2% of its net earned subscription revenue  
14 for each calendar year. For purposes of this Section, net  
15 earned subscription revenue means premium minus reinsurance  
16 expenses. Maintenance of the contingent reserve requires  
17 that net worth equals or exceeds the contingent reserve at  
18 any balance sheet date.

19 (b) Additional accumulations under subsection (a) will  
20 no longer be required at such time that the total special  
21 contingent reserve required by subsection (a) is equal to  
22 \$1,500,000.

23 (c) A deficiency in meeting amounts required in  
24 subsections (a), (b), and (d) will require (1) filing with  
25 the Director a plan for correction of the deficiency,  
26 acceptable to the Director and (2) correction of the  
27 deficiency within a reasonable time, not to exceed 60 days  
28 unless an extension of time, not to exceed 60 additional  
29 days, is granted by the Director. Such a deficiency will be  
30 deemed an impairment, and failure to correct the deficiency  
31 in the prescribed time shall be grounds for suspension or  
32 revocation pursuant to subsection (h) of Section 5-5.

33 (d) All health maintenance organizations issued a  
34 certificate of authority on or prior to December 31, 1985 and

1 regulated under this Act must have and at all times maintain,  
2 prior to December 31, 1988, the net worth and special  
3 contingent reserve that was required for that particular  
4 organization at the time it was certified. All such  
5 organizations must have by December 31, 1988 and thereafter  
6 maintain at all times, net worth of not less than \$300,000  
7 and a special contingent reserve calculated and accumulated  
8 in the same manner as required of a health maintenance  
9 organization issued a certificate of authority on or between  
10 January 1, 1986 and the effective date of this amendatory Act  
11 of 1987. Such calculation shall commence with the financial  
12 reporting period first following certification.

13 All organizations issued a certificate of authority  
14 between January 1, 1986 and the effective date of this  
15 amendatory Act of 1987 must have and at all times maintain  
16 the net worth and special contingent reserve that was  
17 required for that particular organization at the time it was  
18 certified.

19 (d-5) A health maintenance organization that offers a  
20 point-of-service product must maintain minimum net worth of  
21 not less than:

22 (1) the greater of 300% of the "authorized control  
23 level" as defined by Article IIA of the Illinois  
24 Insurance Code; or

25 (2) \$3,500,000 if the health maintenance  
26 organization's annual projected out-of-plan claims are  
27 less than \$500,000; or

28 (3) \$4,500,000 if the health maintenance  
29 organization's annual projected out-of-plan claims are  
30 equal to or greater than \$500,000 but less than  
31 \$1,000,000; or

32 (4) \$6,000,000 if the health maintenance  
33 organization's annual projected out-of-plan claims are  
34 \$1,000,000 or greater.

1 (e) Unless allowed by the Director, no health  
2 maintenance organization, officer, director, trustee,  
3 producer, or employee of such organization may renew, issue,  
4 or deliver, or cause to be renewed, issued or delivered, any  
5 certificate, agreement, or contract of coverage in this  
6 State, for which a premium is charged or collected, when the  
7 organization writing such coverage is insolvent or impaired,  
8 and the fact of such insolvency or impairment is known to the  
9 organization, officer, director, trustee, producer, or  
10 employee of such organization. An organization is impaired  
11 when a deficiency exists in meeting the amounts required in  
12 subsections(a), (b), and (d) of Section 2-4.

13 However, the existence of an impairment does not prevent  
14 the issuance or renewal of a certificate, agreement or  
15 contract when the enrollee exercises an option granted under  
16 the plan to obtain new, renewed or converted coverage.

17 Any organization, officer, director, trustee, producer,  
18 or employee of such organization violating this subsection  
19 shall be guilty of a Class A misdemeanor.

20 (Source: P.A. 85-20.)

21 (215 ILCS 125/2-6) (from Ch. 111 1/2, par. 1406.2)

22 Sec. 2-6. Statutory deposits.

23 (a) Every organization subject to the provisions of this  
24 Act shall make and maintain with the Director through  
25 December 30, 1993, for the protection of enrollees of the  
26 organization, a deposit of securities which are authorized  
27 investments under paragraphs (1) and (2) of subsection (h) of  
28 Section 3-1 having a fair market value equal to at least  
29 \$100,000. Effective December 31, 1993 and through December  
30 30, 1994, the deposit shall have a fair market value at least  
31 equal to \$200,000. Effective December 31, 1994 and  
32 thereafter, the deposit shall have a fair market value at  
33 least equal to \$300,000. An organization issued a

1 certificate of authority on or after the effective date of  
 2 this Amendatory Act of 1993, shall make and maintain with the  
 3 Director; for the protection of enrollees of the  
 4 organization, a deposit of securities which are authorized  
 5 investments under paragraphs (1) and (2) of subsection (h) of  
 6 Section 3-1 having a fair market value equal to at least  
 7 \$300,000. The amount on deposit shall remain as an admitted  
 8 asset of the organization in the determination of its net  
 9 worth.

10 (b) An organization that offers a point-of-service  
 11 product, as permitted by Article 4.5, must maintain an  
 12 additional deposit in an amount that is not less than the  
 13 greater of 125% of the organization's annual projected  
 14 point-of-service claims or \$300,000.

15 (Source: P.A. 88-364.)

16 (215 ILCS 125/Art. 4.5, heading new)

17 ARTICLE 4.5. POINT-OF-SERVICE  
 18 PRODUCTS

19 (215 ILCS 125/4.5-1 new)

20 Sec. 4.5-1. Point-of-service health service contracts.

21 (a) A health maintenance organization that offers a  
 22 point-of-service contract:

23 (1) must include as in-plan covered services all  
 24 services required by law to be provided by a health  
 25 maintenance organization;

26 (2) must provide incentives, which shall include  
 27 financial incentives, for enrollees to use in-plan  
 28 covered services;

29 (3) may not offer services out-of-plan without  
 30 providing those services on an in-plan basis;

31 (4) may include annual out-of-pocket limits and  
 32 lifetime maximum benefits allowances for out-of-plan

1 services that are separate from any limits or allowances  
2 applied to in-plan services;

3 (5) may not consider emergency services, authorized  
4 referral services, or non-routine services obtained out  
5 of the service area to be point-of-service services; and

6 (6) may treat as out-of-plan services those  
7 services that an enrollee obtains from a participating  
8 provider, but for which the proper authorization was not  
9 given by the health maintenance organization.

10 (b) A health maintenance organization offering a  
11 point-of-service contract is subject to all of the following  
12 limitations:

13 (1) The health maintenance organization may not  
14 expend in any calendar quarter more than 20% of its total  
15 expenditures for all its members for out-of-plan covered  
16 services.

17 (2) If the amount specified in item (1) of this  
18 subsection is exceeded by 2% in a quarter, the health  
19 maintenance organization must effect compliance with item  
20 (1) of this subsection by the end of the following  
21 quarter.

22 (3) If compliance with the amount specified in item  
23 (1) of this subsection is not demonstrated in the health  
24 maintenance organization's next quarterly report, the  
25 health maintenance organization may not offer the  
26 point-of-service contract to new groups or include the  
27 point-of-service option in the renewal of an existing  
28 group until compliance with the amount specified in item  
29 (1) of this subsection is demonstrated or until otherwise  
30 allowed by the Director.

31 (4) A health maintenance organization failing,  
32 without just cause, to comply with the provisions of this  
33 subsection shall be required, after notice and hearing,  
34 to pay a penalty of \$250 for each day out of compliance,

1 to be recovered by the Director. Any penalty recovered  
2 shall be paid into the General Revenue Fund. The Director  
3 may reduce the penalty if the health maintenance  
4 organization demonstrates to the Director that the  
5 imposition of the penalty would constitute a financial  
6 hardship to the health maintenance organization.

7 (c) A health maintenance organization that offers a  
8 point-of-service product must do all of the following:

9 (1) File a quarterly financial statement detailing  
10 compliance with the requirements of subsection (b).

11 (2) Track out-of-plan, point-of-service utilization  
12 separately from in-plan or non-point-of-service,  
13 out-of-plan emergency care, referral care, and urgent  
14 care out of the service area utilization.

15 (3) Record out-of-plan utilization in a manner that  
16 will permit such utilization and cost reporting as the  
17 Director may, by rule, require.

18 (4) Demonstrate to the Director's satisfaction that  
19 the health maintenance organization has the fiscal,  
20 administrative, and marketing capacity to control its  
21 point-of-service enrollment, utilization, and costs so as  
22 not to jeopardize the financial security of the health  
23 maintenance organization.

24 (5) Maintain, in addition to any other deposit  
25 required under this Act, the deposit required by Section  
26 2-6.

27 (6) Maintain cash and cash equivalents of  
28 sufficient amount to fully liquidate 10 days' average  
29 claim payments, subject to review by the Director.

30 (7) Maintain and file with the Director,  
31 reinsurance coverage protecting against catastrophic  
32 losses on out of network point-of-service services.  
33 Deductibles may not exceed \$100,000 per covered life per  
34 year, and the portion of risk retained by the health



1 maintenance organization once deductibles have been  
2 satisfied may not exceed 20%. Reinsurance must be placed  
3 with licensed authorized reinsurers qualified to do  
4 business in this State.

5 (d) A health maintenance organization may not issue a  
6 point-of-service contract until it has filed and had approved  
7 by the Director a plan to comply with the provisions of this  
8 Section. The compliance plan must, at a minimum, include  
9 provisions demonstrating that the health maintenance  
10 organization will do all of the following:

11 (1) Design the benefit levels and conditions of  
12 coverage for in-plan covered services and out-of-plan  
13 covered services as required by this Article.

14 (2) Provide or arrange for the provision of  
15 adequate systems to:

16 (A) process and pay claims for all out-of-plan  
17 covered services;

18 (B) meet the requirements for point-of-service  
19 contracts set forth in this Section and any  
20 additional requirements that may be set forth by the  
21 Director; and

22 (C) generate accurate data and financial and  
23 regulatory reports on a timely basis so that the  
24 Department of Insurance can evaluate the health  
25 maintenance organization's experience with the  
26 point-of-service contract and monitor compliance  
27 with point-of-service contract provisions.

28 (3) Comply with the requirements of subsections (b)  
29 and (c)."