

1 AN ACT relating to insurance. 44

2 Be it enacted by the People of the State of Illinois, 48

3 represented in the General Assembly: 49

4 Section 5. The Health Maintenance Organization Act is 52

5 amended by changing Sections 2-3, 2-4, and 2-6 and adding 53

6 Article 4.5 as follows:

7 (215 ILCS 125/2-3) (from Ch. 111 1/2, par. 1405) 56

8 Sec. 2-3. Powers of health maintenance organizations. 58

9 The powers of a health maintenance organization include, but 59

10 are not limited to the following: 60

11 (a) The purchase, lease, construction, renovation, 62

12 operation, or maintenance of hospitals, medical facilities or 63

13 both, and their ancillary equipment, and such property as may 64

14 reasonably be required for its principal office or for such 65

15 other purposes as may be necessary in the transaction of the 66

16 business of the organization.

17 (b) The making of loans to a medical group under 68

18 contract with it and in furtherance of its program or the 69

19 making of loans to a corporation or corporations under its 70

20 control for the purpose of acquiring or constructing medical 71

21 facilities at hospitals or in furtherance of a program 72

22 providing health care services for enrollees.

23 (c) The furnishing of health care services through 74

24 providers which are under contract with or employed by the 75

25 health maintenance organization. 76

26 (d) The contracting with any person for the performance 78

27 on its behalf of certain functions such as marketing, 79

28 enrollment and administration.

29 (e) The contracting with an insurance company licensed 81

30 in this State, or with a hospital, medical, dental, vision or 82

31 pharmaceutical service corporation authorized to do business 83

Clerk of the House

Originated in the House of Representatives

PUBLIC ACT 92-135

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1	in this State, for the provision of insurance, indemnity, or	84
2	reimbursement against the cost of health care service	85
3	provided by the health maintenance organization.	
4	(f) The offering, in addition to basic health care	87
5	services, of (1) health care services, (2) indemnity benefits	88
6	covering out of area or emergency services, and (3) indemnity	89
7	benefits provided through insurers or hospital, medical,	90
8	dental, vision, or pharmaceutical service corporations, and	91
9	<u>(4) health maintenance organization point-of-service benefits</u>	92
10	<u>as authorized under Article 4.5.</u>	
11	(g) Rendering services related to the functions involved	94
12	in the operating of its health maintenance organization	95
13	business including but not limited to providing health	96
14	services, data processing, accounting, or claims.	97
15	(g-5) Indemnification for services provided to a child	99
16	as required under subdivision (e)(3) of Section 4-2.	100
17	(h) Any other business activity reasonably complementary	102
18	or supplementary to its health maintenance organization	103
19	business to the extent approved by the Director.	104
20	(Source: P.A. 89-183, eff. 1-1-96.)	106
21	(215 ILCS 125/2-4) (from Ch. 111 1/2, par. 1406)	109
22	Sec. 2-4. Required minimum net worth; special contingent	111
23	reserve; deficiency; impairment.	112
24	(a) A health maintenance organization issued a	115
25	certificate of authority on or after the effective date of	116
26	this amendatory Act of 1987 shall have and at all times	117
27	maintain net worth of not less than \$1,500,000. As an	118
28	allocation of net worth, organizations certified prior to the	119
29	effective date of this amendatory Act of 1987 shall maintain	120
30	a special contingent reserve. The special contingent reserve	121
31	for an organization certified between January 1, 1986 and the	
32	effective date of this amendatory Act of 1987 shall be equal	122
33	to 5% of its net earned subscription revenue for health care	123

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1 services through December 31st of the year in which 124  
 2 certified. In subsequent years such organization shall 125  
 3 accumulate additions to the contingent reserve in an amount 126  
 4 which is equal to 2% of its net earned subscription revenue 127  
 5 for each calendar year. For purposes of this Section, net 128  
 6 earned subscription revenue means premium minus reinsurance 129  
 7 expenses. Maintenance of the contingent reserve requires 130  
 8 that net worth equals or exceeds the contingent reserve at 131  
 9 any balance sheet date.

10 (b) Additional accumulations under subsection (a) will 133  
 11 no longer be required at such time that the total special 134  
 12 contingent reserve required by subsection (a) is equal to 135  
 13 \$1,500,000.

14 (c) A deficiency in meeting amounts required in 137  
 15 subsections (a), (b), and (d) will require (1) filing with 139  
 16 the Director a plan for correction of the deficiency, 140  
 17 acceptable to the Director and (2) correction of the 141  
 18 deficiency within a reasonable time, not to exceed 60 days 142  
 19 unless an extension of time, not to exceed 60 additional 143  
 20 days, is granted by the Director. Such a deficiency will be 144  
 21 deemed an impairment, and failure to correct the deficiency 145  
 22 in the prescribed time shall be grounds for suspension or  
 23 revocation pursuant to subsection (h) of Section 5-5. 146

24 (d) All health maintenance organizations issued a 148  
 25 certificate of authority on or prior to December 31, 1985 and 149  
 26 regulated under this Act must have and at all times maintain, 150  
 27 prior to December 31, 1988, the net worth and special 151  
 28 contingent reserve that was required for that particular 152  
 29 organization at the time it was certified. All such 153  
 30 organizations must have by December 31, 1988 and thereafter 154  
 31 maintain at all times, net worth of not less than \$300,000  
 32 and a special contingent reserve calculated and accumulated 155  
 33 in the same manner as required of a health maintenance 156  
 34 organization issued a certificate of authority on or between 157

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1 January 1, 1986 and the effective date of this amendatory Act 158  
2 of 1987. Such calculation shall commence with the financial 159  
3 reporting period first following certification.

4 All organizations issued a certificate of authority 161  
5 between January 1, 1986 and the effective date of this 162  
6 amendatory Act of 1987 must have and at all times maintain 163  
7 the net worth and special contingent reserve that was  
8 required for that particular organization at the time it was 164  
9 certified.

10 (d-5) A health maintenance organization that offers a 166  
11 point-of-service product must maintain minimum net worth of 169  
12 not less than:

13 (1) the greater of 300% of the "authorized control 172  
14 level" as defined by Article IIA of the Illinois  
15 Insurance Code; or 174

16 (2) \$3,500,000 if the health maintenance 176  
17 organization's annual projected out-of-plan claims are 177  
18 less than \$500,000; or

19 (3) \$4,500,000 if the health maintenance 179  
20 organization's annual projected out-of-plan claims are 180  
21 equal to or greater than \$500,000 but less than  
22 \$1,000,000; or 182

23 (4) \$6,000,000 if the health maintenance 184  
24 organization's annual projected out-of-plan claims are 185  
25 \$1,000,000 or greater.

26 (e) Unless allowed by the Director, no health 187  
27 maintenance organization, officer, director, trustee, 188  
28 producer, or employee of such organization may renew, issue, 189  
29 or deliver, or cause to be renewed, issued or delivered, any 190  
30 certificate, agreement, or contract of coverage in this  
31 State, for which a premium is charged or collected, when the 191  
32 organization writing such coverage is insolvent or impaired, 192  
33 and the fact of such insolvency or impairment is known to the 193  
34 organization, officer, director, trustee, producer, or 194

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1 employee of such organization. An organization is impaired 195  
 2 when a deficiency exists in meeting the amounts required in  
 3 subsections(a), (b), and (d) of Section 2-4. 196  
 4 However, the existence of an impairment does not prevent 198  
 5 the issuance or renewal of a certificate, agreement or 199  
 6 contract when the enrollee exercises an option granted under 200  
 7 the plan to obtain new, renewed or converted coverage.  
 8 Any organization, officer, director, trustee, producer, 202  
 9 or employee of such organization violating this subsection 203  
 10 shall be guilty of a Class A misdemeanor. 204  
 11 (Source: P.A. 85-20.) 206

12 (215 ILCS 125/2-6) (from Ch. 111 1/2, par. 1406.2) 209  
 13 Sec. 2-6. Statutory deposits. 211  
 14 (a) Every organization subject to the provisions of this 214  
 15 Act shall make and maintain with the Director through  
 16 December 30, 1993, for the protection of enrollees of the 215  
 17 organization, a deposit of securities which are authorized 216  
 18 investments under paragraphs (1) and (2) of subsection (h) of 217  
 19 Section 3-1 having a fair market value equal to at least 218  
 20 \$100,000. Effective December 31, 1993 and through December  
 21 30, 1994, the deposit shall have a fair market value at least 219  
 22 equal to \$200,000. Effective December 31, 1994 and 220  
 23 thereafter, the deposit shall have a fair market value at 221  
 24 least equal to \$300,000. An organization issued a  
 25 certificate of authority on or after the effective date of 222  
 26 this Amendatory Act of 1993, shall make and maintain with the 223  
 27 Director; for the protection of enrollees of the 224  
 28 organization, a deposit of securities which are authorized  
 29 investments under paragraphs (1) and (2) of subsection (h) of 225  
 30 Section 3-1 having a fair market value equal to at least 226  
 31 \$300,000. The amount on deposit shall remain as an admitted 227  
 32 asset of the organization in the determination of its net  
 33 worth. 228

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1	<u>(b) An organization that offers a point-of-service</u>	230
2	<u>product, as permitted by Article 4.5, must maintain an</u>	231
3	<u>additional deposit in an amount that is not less than the</u>	232
4	<u>greater of 125% of the organization's annual projected</u>	
5	<u>point-of-service claims or \$300,000.</u>	233
6	(Source: P.A. 88-364.)	235
7	(215 ILCS 125/Art. 4.5, heading new)	238
8	<u>ARTICLE 4.5. POINT-OF-SERVICE</u>	240
9	<u>PRODUCTS</u>	241
10	(215 ILCS 125/4.5-1 new)	244
11	<u>Sec. 4.5-1. Point-of-service health service contracts.</u>	246
12	<u>(a) A health maintenance organization that offers a</u>	248
13	<u>point-of-service contract:</u>	249
14	<u>(1) must include as in-plan covered services all</u>	251
15	<u>services required by law to be provided by a health</u>	253
16	<u>maintenance organization;</u>	
17	<u>(2) must provide incentives, which shall include</u>	255
18	<u>financial incentives, for enrollees to use in-plan</u>	256
19	<u>covered services;</u>	
20	<u>(3) may not offer services out-of-plan without</u>	258
21	<u>providing those services on an in-plan basis;</u>	259
22	<u>(4) may include annual out-of-pocket limits and</u>	261
23	<u>lifetime maximum benefits allowances for out-of-plan</u>	262
24	<u>services that are separate from any limits or allowances</u>	264
25	<u>applied to in-plan services;</u>	
26	<u>(5) may not consider emergency services, authorized</u>	266
27	<u>referral services, or non-routine services obtained out</u>	267
28	<u>of the service area to be point-of-service services; and</u>	268
29	<u>(6) may treat as out-of-plan services those</u>	270
30	<u>services that an enrollee obtains from a participating</u>	272
31	<u>provider, but for which the proper authorization was not</u>	
32	<u>given by the health maintenance organization.</u>	273

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1           (b) A health maintenance organization offering a 275  
2           point-of-service contract is subject to all of the following 277  
3           limitations:

4           (1) The health maintenance organization may not 279  
5           expend in any calendar quarter more than 20% of its total 280  
6           expenditures for all its members for out-of-plan covered 282  
7           services.

8           (2) If the amount specified in item (1) of this 284  
9           subsection is exceeded by 2% in a quarter, the health 285  
10           maintenance organization must effect compliance with item 287  
11           (1) of this subsection by the end of the following  
12           quarter.

13           (3) If compliance with the amount specified in item 289  
14           (1) of this subsection is not demonstrated in the health 291  
15           maintenance organization's next quarterly report, the 292  
16           health maintenance organization may not offer the  
17           point-of-service contract to new groups or include the 294  
18           point-of-service option in the renewal of an existing  
19           group until compliance with the amount specified in item 296  
20           (1) of this subsection is demonstrated or until otherwise 297  
21           allowed by the Director.

22           (4) A health maintenance organization failing, 299  
23           without just cause, to comply with the provisions of this 300  
24           subsection shall be required, after notice and hearing, 302  
25           to pay a penalty of \$250 for each day out of compliance,  
26           to be recovered by the Director. Any penalty recovered 304  
27           shall be paid into the General Revenue Fund. The Director 305  
28           may reduce the penalty if the health maintenance  
29           organization demonstrates to the Director that the 307  
30           imposition of the penalty would constitute a financial 309  
31           hardship to the health maintenance organization.

32           (c) A health maintenance organization that offers a 311  
33           point-of-service product must do all of the following: 313

34           (1) File a quarterly financial statement detailing 315

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1 compliance with the requirements of subsection (b). 316

2 (2) Track out-of-plan, point-of-service utilization 318

3 separately from in-plan or non-point-of-service, 320

4 out-of-plan emergency care, referral care, and urgent

5 care out of the service area utilization. 322

6 (3) Record out-of-plan utilization in a manner that 324

7 will permit such utilization and cost reporting as the 325

8 Director may, by rule, require.

9 (4) Demonstrate to the Director's satisfaction that 327

10 the health maintenance organization has the fiscal, 328

11 administrative, and marketing capacity to control its 329

12 point-of-service enrollment, utilization, and costs so as 330

13 not to jeopardize the financial security of the health 331

14 maintenance organization.

15 (5) Maintain, in addition to any other deposit 333

16 required under this Act, the deposit required by Section 334

17 2-6.

18 (6) Maintain cash and cash equivalents of 336

19 sufficient amount to fully liquidate 10 days' average 337

20 claim payments, subject to review by the Director.

21 (7) Maintain and file with the Director, 339

22 reinsurance coverage protecting against catastrophic 340

23 losses on out of network point-of-service services.

24 Deductibles may not exceed \$100,000 per covered life per 342

25 year, and the portion of risk retained by the health 343

26 maintenance organization once deductibles have been

27 satisfied may not exceed 20%. Reinsurance must be placed 344

28 with licensed authorized reinsurers qualified to do 345

29 business in this State.

30 (d) A health maintenance organization may not issue a 347

31 point-of-service contract until it has filed and had approved 349

32 by the Director a plan to comply with the provisions of this 351

33 Section. The compliance plan must, at a minimum, include

34 provisions demonstrating that the health maintenance 353

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1 organization will do all of the following:

2 (1) Design the benefit levels and conditions of 355

3 coverage for in-plan covered services and out-of-plan 356

4 covered services as required by this Article.

5 (2) Provide or arrange for the provision of 358

6 adequate systems to:

7 (A) process and pay claims for all out-of-plan 360

8 covered services;

9 (B) meet the requirements for point-of-service 362

10 contracts set forth in this Section and any 363

11 additional requirements that may be set forth by the

12 Director; and 364

13 (C) generate accurate data and financial and 366

14 regulatory reports on a timely basis so that the 367

15 Department of Insurance can evaluate the health

16 maintenance organization's experience with the 368

17 point-of-service contract and monitor compliance 369

18 with point-of-service contract provisions.

19 (3) Comply with the requirements of subsections (b) 371

20 and (c).

APPROVED

this 24<sup>th</sup> day of July, 2001 A.D.,

George H. Ryan  
GOVERNOR

Michael J. Madigan  
Speaker, House of Representatives

J. Philip  
President of the Senate

