

Insurance Legislation in 2003

House Bills

HB 211 (PA 93-0102) effective January 1, 2004—amends the **State Employees Group Insurance Act**, the Insurance Code, the **Health Maintenance Organization Act**, and the **Voluntary Health Services Plans Act** to require coverage for insureds and covered dependents of insureds for all outpatient contraceptive services and all outpatient contraceptive drugs and devices designed to prevent unintended pregnancies when coverage is provided for other outpatient services, drugs and devices. The law excludes coverage for abortions as defined by the Illinois Abortion Law of 1975 and services related to permanent sterilization that require a surgical procedure. This law affects both individual and group policies.

HB 707 (PA 93-0034) effective June 23, 2003—amends the **Comprehensive Health Insurance Plan Act** to make changes to the definitions of “creditable coverage” and “federally eligible individual” contained in HB 3298 to change the references from the federal Trade Adjustment Act of 2002 to the federal Trade Act of 2002. In the Section concerning alternative portable coverage for federally eligible individuals, the bill adds certain persons who qualify to enroll in the Comprehensive Health Insurance Plan under the portability provisions, and provides that for these persons a period of creditable coverage shall be counted when the application for plan coverage was received by the Illinois Comprehensive Health Insurance Board. (See HB 3298.)

HB 1074 (PA 93-0261) effective January 1, 2004—amends the Illinois Insurance Code to provide that a health care professional or health care provider, offered a contract for signature after the effective date of this amendatory Act by an insurer, health maintenance organization, independent practice association, or physician hospital organization, shall be provided with the proposed health care professional or health care provider services contract.

The bill also provides that, within 35 days after a written request, the health care professional or health care provider offered a contract shall be given the opportunity to review and obtain a copy of the following: a specialty-specific fee schedule sample based on a minimum of the 50 highest volume fee schedule codes with the rates applicable to the health care professional or health care provider to whom the contract is offered; the network provider administration manual; and a summary capitation schedule, if payment is made on a capitation basis. The bill establishes that information contained in the fee schedule, the capitation schedule, and the network provider administration manual constitutes confidential, proprietary, and trade secret information and is subject to the provisions of the Illinois Trade Secrets Act.

The bill provides guidelines for providing remittance advice to health care professionals and health care providers, including an explanation of a recoupment or offset taken by an insurer, health maintenance organization, independent practice association, or physician hospital organization, and that a health care professional or health care provider shall make a good faith effort to inform a person if the health care professional or health care provider has a participation contract with the insurer, health maintenance organization, or other entity identified on the card when the person presents a benefits information card.

The bill provides for administration and enforcement of these provisions by the Division of Insurance, provides that preferred provider administrators are subject to the new contract provisions of the Code and adds Insurance Code cross references to the HMO Act for applicability.

HB 1192 (PA 93-0155) effective July 10, 2003—amends the Illinois Insurance Code to provide that at the written request of the insured, an insurer shall provide the insured's loss information to the insured's insurance producer.

HB 1640 (PA 93-0114) effective October 1, 2003—repeals 215 ILCS 5/155.38 of the Illinois Insurance Code and creates the **Use of Credit Information in Personal Insurance Act**. This legislation is applicable to private passenger automobile, homeowners, motorcycle, mobile homeowners and non-commercial dwelling fire insurance policies, and boat, personal watercraft, snowmobile, and recreational vehicle policies. HB 1640 establishes the manner in which credit information may be used in the underwriting and rating of personal insurance. This legislation also provides for resolution of disputes over alleged errors in the credit information used by insurers. Finally, HB 1640 requires insurers to file credit scoring models with the Division of Insurance. HB 1640 is based on a model law adopted by the National Conference of Insurance Legislators (NCOIL). (See HB 3661.)

HB 2379 (PA 93-0333) effective January 1, 2004—amends the Illinois Insurance Code by adding a new section, 155.39, requiring the Director of Insurance and the Division of Insurance to request and obtain information from insurers licensed and doing business in this State regarding any records of slaveholder insurance policies issued by any predecessor corporation during the slavery era and make the names of any slaveholders or slaves described in those records available to the public and General Assembly. Insurance companies are required to research their records and provide any information to the Division of Insurance relating to insurance policies issued to slaveholders that provided coverage for damage to or death of their slaves.

HB 3209 (PA 93-0318) effective January 1, 2004—creates the **Small Business Advisory Act** to require State agencies to create and make available on the World Wide Web a small business advisory page. The bill also requires agencies to post a plain language explanation of proposed and adopted rules and legislation that the agency is designated to administer that affect small businesses on its small business advisory web page. Provides that the explanation must remain posted on the web page for six (6) months after the effective date of the rule or legislation. Each agency is required to notify the Department of Commerce and Community Affairs when it updates its small business advisory web page. The Department of Commerce and Community Affairs will serve as a clearinghouse for notifying the small business community of rulemakings and to seek input from the small business community on those rulemakings. The Department of Commerce and Community Affairs will maintain a small business advisory web page that serves as a coordinated point of access to other agencies' small business advisory web pages. Requires State agencies to post plain language versions of advisory opinions and interpretations on their small business advisory web pages.

HB 3298 (PA 93-0033) effective June 23, 2003—makes changes to the **Comprehensive Health Insurance Plan Act** to add coverage for federally eligible individuals who attain eligibility pursuant to the federal Trade Adjustment Act of 2002 and sets forth criteria for determining creditable coverage.

HB 3522 (PA 93-0269) effective January 1, 2004—amends the Illinois Insurance Code to prohibit an applicant for a policy of automobile insurance from providing a false address. The law provides that a violation is a business offense punishable by a fine of not less than \$1,000 and not more than \$1,200.

HB 3547 (PA 93-0200) effective January 1, 2004—amends the Illinois Insurance Code relating to coverage for subjects of abuse. The bill extends the restrictions on denying coverage for subjects of abuse to property and casualty insurers.

HB 3618 (PA 93-0352) effective January 1, 2004—amends the **Ambulatory Surgical Treatment Center Act** and the **Hospital Licensing Act** to provide that payments for services rendered to a physician by a person assisting surgery who is not an employee of the center or hospital shall be made at the non-physician modifier rate if the payor would have paid for those services if provided by a physician.

HB 3661 (PA 93-0477) effective August 8, 2003, October 1, 2003 and January 1, 2004—amends the Illinois Insurance Code and the **Health Maintenance Organization Act** in relation to continuation of benefits. The bill provides that, for continuation purposes, a notice of death or entry of a judgment of dissolution of marriage to be given to the employer or insurer, rather than both, and requires an employer to give notice of death or dissolution to the insurer. The bill provides for continuation coverage for certain dependents and requires group policies to provide a continuation privilege for covered dependents of a deceased employee. The bill establishes continuation privileges for employees whose work hours have been reduced. Effective January 1, 2004.

The bill also resections Section 367e of the Illinois Insurance Code relating to continuation of group, hospital, surgical, and major medical coverage after termination of employment by establishing a separate Section 367e.1 relating to the group accident and health insurance conversion privilege. Amends various Acts to reflect the resectioning. Effective January 1, 2004.

The bill further amends the Illinois Insurance Code to provide that the Director of Insurance must require trustees to collateralize certain accounts with respect to amounts deposited with the Director for safekeeping. Effective January 1, 2004.

The bill amends the Illinois Insurance Code to provide that, if an insurer fails to provide required notice concerning an increase or change in deductible or coverage, then it must extend the current policy under the same terms, conditions, and premium to allow for renewal and provide the actual renewal premium quotation and any change in coverage or deductible on the policy. If an insurer fails to comply with non-renewal notice requirements, then the policy shall be extended for up to an additional year. Effective August 8, 2003.

Finally, the bill amends the Use of Credit Information in Personal Insurance Act, created by HB 1640, to change the requirement that an insurer treat a consumer in a manner approved by the Division of Insurance to a requirement that an insurer treat a consumer in the manner filed with the Division of Insurance. Effective October 1, 2003.

Senate Bills

SB 467 (PA 93-0529) effective August 14, 2003—amends the Illinois Insurance Code, the **Health Maintenance Organization Act** and the **Voluntary Health Services Plans Act** to provide that if a policy provides coverage for prescription drugs, it may not restrict coverage for prescription inhalants based upon refill limitations if the treating physician prescribes the inhalants in a manner contrary to the insurer's refill limitations. Provides that the inhalants must be medically appropriate.

SB 741 (PA 93-0218) effective July 18, 2003—amends the Illinois Insurance Code to provide that the offer and sale of vehicle protection products are not subject to the Illinois Insurance Code. Vehicle protection products are products designed to prevent loss or damage to vehicles and are backed by warranties to reimburse a purchaser of a vehicle protection product for any loss suffered as a result of a failure of the vehicle protection product.

SB 1104 (PA 93-0326) effective January 1, 2004—amends the Illinois Insurance Code to provide that if the Illinois Life and Health Insurance Guaranty Association elects to succeed to the rights of an insolvent insurer arising after the date of an order of liquidation or rehabilitation under a contract of reinsurance to which the insolvent insurer was a party, the Association must pay all unpaid premiums due under the contract for coverage relating to periods before and after the date of the order of liquidation or rehabilitation (now the Association must pay premiums for coverage relating to periods after the date of the order of liquidation or rehabilitation).

SB 1150 (PA 93-0288) effective January 1, 2004—amends the Insurance Producers Article of the Illinois Insurance Code to authorize a limited line license for sale of insurance by self-service storage facilities. The bill limits the sale of insurance to sales made in conjunction with the rental of self-storage facilities and sets registration fees. The requirements for self-service storage facility limited licenses do not apply to certain distributions of certificates of insurance under a group master policy or to common carriers regulated by the Illinois Commerce Commission.

SB 1207 (PA 93-0485) effective January 1, 2004—amends the Illinois Insurance Code to increase the penalties for unreasonable and vexatious delay. The bill provides that arbitration with respect to claims under uninsured motorists coverage is binding in all cases and that arbitration with respect to claims under uninsured motorist coverage is binding for damages not exceeding \$50,000 per person, \$100,000 per occurrence, or the corresponding policy limits for bodily injury or death, whichever is less.

SB 1417 (PA 93-0568) effective January 1, 2004—amends the Illinois Insurance Code with respect to colorectal cancer examinations to provide that insurance coverage must provide coverage for colorectal cancer examinations and laboratory tests for colorectal cancer in accordance with the published guidelines of the American Cancer Society.

SB 1634 (PA 93-0029) effective July 20, 2003—amends the **Illinois Income Tax Act** concerning a rate reduction for certain foreign insurers, the credit for personal property tax replacement income tax, the training expense credit, the research and development credit, the standard exemption for corporations, and net loss carryback and carryover. The bill amends the Illinois Insurance Code to increase the surplus line tax and amends the Illinois Insurance Code and the Health Maintenance Organization Act concerning tax offsets.

SB 1903 (PA 93-0032) effective June 20, 2003; July 1, 2003; September 1, 2003; December 1, 2003; and January 1, 2004—creates the **FY2004 Budget Implementation (State Finance-Revenues) Act**. The bill makes transfers from various funds into the General Revenue Fund and other Funds; amends numerous Acts by increasing specified fees, charges, taxes, and penalties; changes the disposition of specified fees, charges, taxes, and penalties; and makes other changes to implement the FY2004 budget.

Insurance Rulemaking in 2003

Rule 919 (Improper Claims Practices) was amended effective December 10, 2003. In July of 2002, the Department adopted various amendments to this Part including an amendment that added Section 919.50(d). Prior to the adoption of these amendments last year, much discussion occurred between the Department and interested parties who firmly maintained that the financial impact of implementing the provisions of Section 919.50(d) would be very costly. In an effort to ease the financial burden immediate compliance with Section 919.50(d) would have caused, the Department agreed to incorporate a specific compliance date for this Section giving the insurance industry one year to make the transition.

Since that time, the Department has been compiling information concerning this entire process while conducting our field examinations pursuant to Section 132 of the Illinois Insurance Code [215 ILCS 5/132]. The Department is analyzing this information, and we will need to further evaluate whether our current regulation should be amended. At this time, given the expenses involved to achieve compliance with Section 919.50, the Department is moving the July 1, 2003 compliance date to July 1, 2004.

Rule 925 (Annual Audited Financial Reports) was amended October 6, 2003, in order to bring State requirements concerning annual audited financial reports in line with the National Association of Insurance Commissioners' (NAIC) model regulation. New Sections add penalty provisions and requirements for a CPA Letter of Representation confirming that all applicable audit workpapers have been provided to Division examiners.

Rule 1411 (Universal Life Insurance) was adopted effective January 1, 2004. This rule adopts the National Association of Insurance Commissioners' (NAIC) Universal Life Insurance Model Regulation. The rule will supplement the Department's existing regulations on life insurance policies with standards and requirements specifically applicable to all individual and group universal life insurance policies except variable universal life policies. The rule establishes minimum standards for reserve valuation and cash surrender values and mandatory policy provisions, including a periodic policy status report to the policyowner or group certificate holder.

Rule 2410 (Administrative Dissolutions or Withdrawal of Statutory Deposit) was adopted effective October 27, 2003. The purpose of this Part is to implement Public Act 92-0075 which authorizes the Director to return the statutorily required deposit of securities to an insurance entity in connection with an administrative dissolution or withdrawal. This Part sets forth the procedural and filing requirements which insurance entities must follow when requesting administrative dissolution or withdrawal of their statutory deposit. This process will help eliminate the uncertainty regarding the dissolution of insurance entities and release of their statutory deposits.

Rule 2505 (Fees and Charges) was amended May 12, 2003 to raise the per diem fee insurance companies are charged for market conduct examiners from \$175 to \$300. This change will allow the Division to recover a greater percentage of examination related expenses of salaries, retirement, social security and group insurance for examiners conducting the exam. The current per diem fee of \$175 had been in effect since 1989. In fiscal year 2002, only 74% of the examination staff costs were recovered from the revenue generated by market conduct examinations. Without the increase, the Division estimated that only 64% of fiscal year 2003 costs would be recovered.

The Market Conduct Exam fee was increased to \$300 per day with an effective date of June 1, 2003. All exams in progress at June 1 will be billed at the old rate. All new exams beginning after June 1 will be billed at the new rate.

Rule 3115 (Business Entities) was amended effective March 31, 2003. These changes to the subchapter title and the rule are needed to update all statutory references and terminology affected by the enactment of Public Act 92-0386. The changes include replacing the term "registered firm" with "business entity."

Rule 4003 (Standards for Safeguarding Customer Information) was adopted effective July 7, 2003. In continuing reaction to the federal Gramm-Leach-Bliley Act, the National Association of Insurance Commissioners (NAIC) adopted a model regulation to provide additional guidance to insurance companies on how to further safeguard the protection of consumer financial information. With Part 4003, the Division adopted these additional guidelines.