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HOUSE BILL NO. 165

Offered January 12, 2000

A BILL to amend and reenact § 38.2-4319 of the Code of Virginia, as it is currently effective and as it is to become effective, and to amend the Code of Virginia by adding a section numbered 38.2-3418.12, relating to accident and sickness insurance; coverage for hospitalization and anesthesia for dental procedures.

Patrons—Shuler, Byron, Deeds, Hamilton, Hargrove, Kilgore, Melvin, Morgan, Parrish, Watts and Woodrum; Senators: Barry, Martin, Norment, Potts, Puckett, Saslaw and Wampler

Referred to Committee on Corporations, Insurance and Banking

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4319 of the Code of Virginia, as it is currently effective and as it is to become effective, is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.12 as follows:

§ 38.2-3418.12. Coverage for hospitalization and anesthesia for dental procedures.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing individual or group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services shall provide coverage for medically necessary general anesthesia and hospitalization or facility charges of a facility licensed to provide outpatient surgical procedures for dental care provided to a covered person who is determined by a licensed dentist in consultation with the covered person's treating physician to require general anesthesia and admission to a hospital or outpatient surgery facility to effectively and safely provide dental care and (i) is under the age of five, or (ii) is severely disabled or (iii) has a medical condition and requires admission to a hospital or outpatient surgery facility and general anesthesia for dental care treatment. For purposes of this section, a determination of medical necessity shall include but not be limited to a consideration of whether the age, physical condition or mental condition of the covered person requires the utilization of general anesthesia and the admission to a hospital or outpatient surgery facility to safely provide the underlying dental care.

B. Such insurer, corporation or health maintenance organization may require prior authorization for general anesthesia and hospitalization or surgical facility charges for dental procedures in the same manner that prior authorization is required for other covered benefits.

C. Such insurer, corporation or health maintenance organization shall restrict coverage for general anesthesia expenses to those health care providers who are licensed to provide anesthesia services and shall restrict coverage for facility charges to facilities licensed to provide surgical services.

D. The provisions of this section shall not be construed to require coverage for dental care incident to the coverage provided in this section.

E. The provisions of this section are applicable to any policy, contract or plan delivered, issued for delivery or renewed in this Commonwealth on and after July 1, 2000.

F. The provisions of this section shall not apply to short-term travel, accident-only, limited or specified disease policies, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans. .

§ 38.2-4319. Statutory construction and relationship to other laws.

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1057, 38.2-1306.2 through 38.2-1309, Articles 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.16, 38.2-3411.2, 38.2-3412.1:01, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.11 38.2-3418.12, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, §§ 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, Chapter 53 (§ 38.2-5300 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and Chapter 59 (§ 38.2-5900 et seq.) of this title shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer

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HB165

60 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42
61 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance
62 organization.

63 B. Solicitation of enrollees by a licensed health maintenance organization or by its representatives
64 shall not be construed to violate any provisions of law relating to solicitation or advertising by health
65 professionals.

66 C. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful
67 practice of medicine. All health care providers associated with a health maintenance organization shall
68 be subject to all provisions of law.

69 D. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health
70 maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to
71 offer coverage to or accept applications from an employee who does not reside within the health
72 maintenance organization's service area.

73 § 38.2-4319. (Effective on and after July 1, 2004) Statutory construction and relationship to other
74 laws.

75 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
76 chapter, §§ 38.2-100, 38.2-200, 38.2-203, 38.2-210 through 38.2-213, 38.2-218 through 38.2-225,
77 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500
78 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1057, 38.2-1306.2
79 through 38.2-1309, Articles 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1
80 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836,
81 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through
82 38.2-3407.16, 38.2-3411.2, 38.2-3414.1, 38.2-3418.1 through ~~38.2-3418.11~~ 38.2-3418.12, 38.2-3419.1,
83 38.2-3430.1 through 38.2-3437, 38.2-3500, 38.2-3514.1, 38.2-3514.2, §§ 38.2-3522.1 through
84 38.2-3523.4, 38.2-3525, 38.2-3542, 38.2-3543.2, Chapter 53 (§ 38.2-5300 et seq.), Chapter 58
85 (§ 38.2-5800 et seq.) and Chapter 59 (§ 38.2-5900 et seq.) of this title shall be applicable to any health
86 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer
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