

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 38.2-3540.1 and 38.2-4319 of the Code of Virginia relating to accident and sickness insurance; claims experience.

[H 1408]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-3540.1 and 38.2-4319 of the Code of Virginia are amended and reenacted as follows:

§ 38.2-3540.1. Claims experience.

A. Each group accident and sickness insurance policy *and health care plan* shall contain a provision which provides that ~~an~~ the insurer, upon request, shall provide ~~the~~ a policyholder *that employed an average of at least 100 individuals who were insureds, subscribers, or enrollees on business days during the preceding 12-month period* with a complete record of the policyholder's *medical* claims experience *or medical costs* incurred under the group policy, *contract or plan*. This record shall include all claims incurred for the lesser of (i) the period of time since the policy, *contract or plan* was issued or issued for delivery or (ii) the period of time since the policy, *contract, or plan* was last renewed, reissued or extended, if already issued. This record shall be made available promptly to the policyholder upon request made not less than 30 days prior to the date upon which the premiums or contractual terms of the policy, *contract or plan* may be amended. Nothing in this section shall require the disclosure of personal or privileged information about an individual that is protected from disclosure under Chapter 6 (§ 38.2-600 et seq.) of this title, or under any other applicable federal or state law or regulation. No policyholder shall be required to pay for information requested pursuant to this section.

B. A policyholder ~~that is a large employer as defined in subsection B of § 38.2-3431~~ *that employed an average of at least 100 individuals who were insureds, subscribers or enrollees on business days during the preceding 12-month period* shall receive from its insurer, upon request, at the time that the insurer provides *a record of medical claims experience or medical costs* under subsection A of this section (i) a summary of *medical claims charges or medical costs* incurred and the amount paid with respect to those claims for the most recently available 24-month period; (ii) a listing of the number of *insured, subscribers or enrollees* for whom combined *medical claims payments or medical costs* exceed ~~\$50,000~~ \$100,000 for the most recently available 12-month period, and for the preceding 12 months if not previously provided, with information as to whether these enrollees from the most recently available 12-month period remain enrolled under the policy, *and provided that a policyholder and insurer may agree by contract to provide the listing for amounts less than \$100,000*; and (iii) total enrollment in each membership type as of the end of the most recently available 12-month period. This record shall be made available to the policyholder within ~~45~~ 20 business days upon written request made not less than ~~30~~ 45 days prior to the date upon which the premiums or contractual terms of the policy may be amended. Nothing in this section shall require the disclosure of personal or privileged information about an individual that is protected from disclosure under Chapter 6 (§ 38.2-600 et seq.) of this title, or under any other applicable federal or state law or regulation. No policyholder shall be required to pay for information requested pursuant to this section.

C. *With respect to group accident and sickness insurance policies*, the requirements of this section shall apply to all policies, contracts, and plans delivered, issued for delivery, reissued or extended on and after July 1, 2003, or at any time after the effective date hereof when any term of any such policy, contract or plan is changed or any premium adjustment is made. *With respect to health care plans, the requirements of this section shall apply to all contracts delivered, issued for delivery, reissued or extended on and after January 1, 2005, or at any time after the effective date hereof when any term of any such contract or plan is changed or any premium adjustment is made.*

§ 38.2-4319. (Effective January 1, 2005) 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, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 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.), §§ 38.2-1017 through 38.2-1023, 38.2-1057, Articles 2 (§ 38.2-1306.2 et seq.), 3.1 (§§ 38.2-1316.1 et seq.), 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,

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57 38.2-3411.3, 38.2-3411.4, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.12, 38.2-3418.14, 38.2-3419.1,
58 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504,
59 §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3542,
60 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800
61 et seq.) and § 38.2-5903 of this title shall be applicable to any health maintenance organization granted a
62 license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and
63 regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) of this title except
64 with respect to the activities of its health maintenance organization.

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

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

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

75 E. For purposes of applying this section, "insurer" when used in a section cited in subsection A of
76 this section shall be construed to mean and include "health maintenance organizations" unless the section
77 cited clearly applies to health maintenance organizations without such construction.

78 **2. That the provisions of this act shall become effective on January 1, 2005.**