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HOUSE BILL NO. 894

Offered January 11, 2006

Prefiled January 10, 2006

A *BILL to amend and reenact § 38.2-4319 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 38.2-3418.15, relating to health insurance coverage for treatment of inborn errors of metabolism.*

 Patron—Gear

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4319 of the Code of Virginia, is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 38.2-3418.15 as follows:

§ 38.2-3418.15. Coverage for treatment of inborn errors of metabolism.

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 treatment of inborn errors of metabolism that involve amino acid, carbohydrate, and fat metabolism and for which medically standard methods of diagnosis, treatment, and monitoring exist.*

B. *For the purposes of this section:*

"Inborn error of metabolism" means a rare, genetically determined biochemical disorder in which a specific enzyme deficiency produces a metabolic block that may have pathogenic consequences at birth or later in life. Such "inborn error of metabolism" (i) is present at birth; (ii) if left untreated, results in mental retardation or death; and (iii) requires the consumption of special medical formulas.

"Special medical formulas" means nutritional substances that are (i) prescribed by a health professional with appropriate prescriptive authority; (ii) specifically designed and formulated to be consumed or administered internally under the supervision of such health professional; (iii) specifically designed, processed, or formulated to be distinct in one or more nutrients that are present in natural food; and (iv) intended for the medical and nutritional management of patients with limited capacity to metabolize ordinary foodstuffs or limited capacity to metabolize certain nutrients contained in ordinary foodstuffs. "Special medical foods" shall not include food items naturally low in protein that may be purchased in the marketplace without an order from a health professional.

C. *Coverage under this section shall include benefits for diagnosing, monitoring, and controlling disorders by nutritional and medical assessment, including clinical services, biochemical analysis, medical supplies, prescription drugs, nutritional management, and special medical foods used in treatment to compensate for the metabolic abnormality and to maintain adequate nutritional status if prescribed by a health care professional legally authorized to prescribe or provide such items under law or regulation.*

Coverage under this section shall only apply if:

1. *The special medical formulas are prescribed by a health professional with appropriate prescriptive authority;*

2. *The prescriber and, if different, the treating physician, furnishes supporting documentation to the insurer, corporation, or health maintenance organization that the special medical formula is required to treat an inborn error of metabolism that, without such treatment, leads to malnutrition or malabsorption due to inflammation, protein sensitivity, or inborn errors of digestion; and*

3. *The special medical formula is the primary source of nutrition as certified by the treating physician by diagnosis.*

D. *A managed care health insurance plan, as defined in Chapter 58 (§ 38.2-5800 et seq.), may require such health care professional to be a member of the plan's provider network, if such network includes sufficient health care professionals who are qualified by specific education, experience, and credentials to provide the covered benefits described in this section.*

E. *No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits pursuant to this section any copayment, fee, policy year or calendar year, or durational benefit limitation or maximum for benefits or services that is not equally imposed upon all individuals in the same benefit category.*

F. *The requirements of this section shall apply to all insurance policies, contracts, and plans*

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59 *delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2006,*
60 *or at any time thereafter when any term of the policy, contract, or plan is changed or any premium*
61 *adjustment is made.*

62 *G. This section shall not apply to short-term travel, accident-only, limited or specified disease, or*
63 *individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons*
64 *eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other*
65 *similar coverage under state or federal governmental plans.*

66 § 38.2-4319. Statutory construction and relationship to other laws.

67 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
68 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
69 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
70 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.),
71 §§ 38.2-1017 through 38.2-1023, 38.2-1057, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1
72 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1
73 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836,
74 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
75 38.2-3407.16, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1, 38.2-3418.1 through
76 38.2-3418.15, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503,
77 subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525,
78 38.2-3540.1, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.),
79 Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 of this title shall be applicable to any health
80 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer
81 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42
82 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance
83 organization.

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

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

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

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