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HOUSE BILL NO. 2949

Offered January 10, 2007

Prefiled January 10, 2007

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 intensity modulated radiation therapy for tumors.

Patron—Wittman

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 intensity modulated radiation therapy.

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 under such policy or plan for the cost of treatment by intensity modulated radiation therapy (IMRT), including solid compensator-based IMRT, of breast cancer, brain tumors, prostate cancer, lung cancer, bladder cancer, cancer of the pancreas and other upper abdominal sites, spinal cord tumors, head and neck cancer, adrenal tumors, pituitary tumors, and other solid tumors in situations in which extremely high precision is required in order to spare essential surrounding normal tissue, when such treatment is performed pursuant to protocol dose volume constraints approved by the institutional review board of any United States medical teaching college or the National Cancer Institute.

B. The requirement for coverage of treatment by IMRT described in subsection A shall apply only with respect to individuals who reside, at the time such treatment is prescribed by the attending physician, within an area of the Commonwealth that has been designated by the Board of Health as medically underserved pursuant to § 32.1-122.5.

C. 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.

D. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2008, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

E. This section shall not apply to short-term travel, accident-only, limited or specified disease, or individual conversion policies or contracts, nor to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII 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, 38.2-136, 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, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 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, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.14, 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, 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, 38.2-3540.1, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 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 or health services plan licensed and

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

61 B. For plans administered by the Department of Medical Assistance Services that provide benefits
62 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
63 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
64 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,
65 38.2-232, 38.2-322, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through
66 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1017 through 38.2-1023, 38.2-1057, Article 2
67 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.) and 5
68 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of
69 Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 through
70 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.09:02, subdivisions 1, 2, and 3 of subsection F of
71 § 38.2-3407.10, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13 through 38.2-3407.14, 38.2-3411.2,
72 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of
73 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through
74 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter
75 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to any
76 health maintenance organization granted a license under this chapter. This chapter shall not apply to an
77 insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter
78 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance
79 organization.

80 C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives
81 shall not be construed to violate any provisions of law relating to solicitation or advertising by health
82 professionals.

83 D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful
84 practice of medicine. All health care providers associated with a health maintenance organization shall
85 be subject to all provisions of law.

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

90 F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and
91 B of this section shall be construed to mean and include "health maintenance organizations" unless the
92 section cited clearly applies to health maintenance organizations without such construction.