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SENATE BILL NO. 1084

Offered January 10, 2007

Prefiled January 9, 2007

A BILL to amend the Code of Virginia by adding a section numbered 38.2-3407.9:03, relating to pharmacy cost-savings.

Patron—Puckett

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 38.2-3407.9:03 as follows:

§ 38.2-3407.9:03. Pharmacy cost-savings.

A. As used in this section, unless the context otherwise indicates:

"Covered entity" means (i) an 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, (ii) a corporation providing individual or group accident and sickness subscription contracts, (iii) a health maintenance organization providing a health care plan for health care services, (iv) a health program administered by the Commonwealth or an agency of the Commonwealth in the capacity of provider of health coverage, or (v) an employer, labor union, or other group of persons organized in the Commonwealth that provides health coverage to covered individuals who are employed or reside in the Commonwealth. The provisions of this section shall not apply to short-term travel or accident-only policies, short-term nonrenewable policies of not more than six months' duration, or where the policy, subscription contract or health care plan does not include coverage for prescription drugs.

"Covered individual" means a member, participant, enrollee, contract holder or policyholder, or beneficiary of a covered entity who is provided health coverage by the covered entity. The term includes a dependent or other person provided health coverage through a policy, contract, or plan for a covered individual.

"Generic drug" means a drug marketed or sold by two or more manufacturers or labelers or a drug marketed or sold by the same manufacturer or labeler under two or more different proprietary names or both under a proprietary name and without such a name. The term includes but is not limited to a chemically equivalent copy of a brand-name drug with an expired patent.

"Pharmacy benefits management" means the administration or management of prescription drug benefits provided by a covered entity for the benefit of covered individuals, which may include any of the following services provided with regard to the administration of pharmacy benefits:

1. Mail order pharmacy;
2. Claims processing, retail pharmacy network management and payment of claims to pharmacies for prescription drugs dispensed to covered individuals;
3. Clinical formulary development and management services;
4. Rebate contracting and administration;
5. Certain patient compliance, therapeutic intervention and generic substitution programs; and
6. Disease management programs.

"Pharmacy benefits manager" means an entity that performs pharmacy benefits management. The term includes a person or entity acting for a pharmacy benefits manager in a contractual or employment relationship in the performance of pharmacy benefits management for a covered entity and includes a mail service pharmacy owned or operated by a pharmacy benefits manager.

B. Compliance with the requirements of this section is required in all contracts for pharmacy benefits management entered into in the Commonwealth by a covered entity in the Commonwealth. No such contract for pharmacy benefits management shall be entered into by a covered entity, whether such contract is entered into directly with a pharmacy benefits manager or with a provider of pharmacy services who has in turn contracted with or that controls a pharmacy benefits manager unless the pharmacy benefits manager has agreed in writing to the following:

1. That no manufacturer revenue, rebates, or other forms of incentive or compensation from a manufacturer or distributor with regard to the group or individual policyowner's claims shall be retained by the pharmacy benefits manager, but shall be passed through and credited to the group or individual policyowner;
2. That the pharmacy benefits manager agrees to disclose at point of sale its actual acquisition costs as well as any rebates or other forms of incentive or compensation received or receivable from a

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59 *manufacturer or distributor, both to the group or individual policyowner and to the covered individual;*

60 *3. That charges imposed by the pharmacy benefits manager for retail, mail order, or specialty*
61 *pharmacy drugs, whether brand name or generic, shall not exceed the pharmacy benefits manager's*
62 *actual acquisition costs for obtaining the drug from the manufacturer. However, any such contract shall*
63 *be permitted to include a specified administrative fee by which the pharmacy benefits manager may be*
64 *compensated for its services; and*

65 *4. That the pharmacy benefits manager agrees to give the group or individual policyowner the right*
66 *to audit the records of the pharmacy benefits manager, or any entity with which the pharmacy benefits*
67 *manager has contracted, including a separate mail order entity, whether or not controlled by the*
68 *pharmacy benefits manager, to determine compliance with the requirements of this section.*

69 *C. This section applies to contracts executed or renewed on or after July 1, 2007.*