

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 214

An Act to amend and reenact § 38.2-4303 of the Code of Virginia, relating to the powers of health maintenance organizations; deductibles.

[H 397]

Approved March 3, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-4303 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-4303. Powers.

A. The powers of a health maintenance organization shall include, but shall not be limited to, the following, provided that the activities comply with all applicable state statutes and regulations:

1. The purchase, lease, construction, renovation, operation, or maintenance of hospitals, medical or other health care facilities, and their ancillary equipment and other property reasonably required for its principal office or for other purposes necessary in the transaction of the business of the organization;

2. The making of loans to (i) health care providers under contract with it in advancement of its health care plan or (ii) any corporation under its control for the purpose of acquiring or constructing medical or other health care facilities and hospitals or in advancement of its health care plan providing health care services to enrollees;

3. The furnishing of health care services through providers that are under contract with or employed by the health maintenance organization;

4. The contracting with any person for the performance on its behalf of certain functions including, but not limited to, marketing, enrollment and administration;

5. The contracting with an insurer or with a health services plan licensed in this Commonwealth, for the provision of insurance, indemnity, or reimbursement for the cost of health care services provided by the health maintenance organization;

6. The offering, in addition to basic health care services, of:

a. Additional health care services;

b. Indemnity benefits covering out-of-area services; and

c. Indemnity benefits, in addition to those relating to out-of-area services, provided through insurers or health services plans;

7. The offering of health care plans for limited health care services; and

8. The requirement for the enrollee to pay a reasonable deductible or copayment, or both, for any health care services offered pursuant to this chapter; ~~provided that the total deductible or deductibles for basic health care services per calendar year or contract year shall not exceed the maximum annual deductibles permissible for health plans offered in conjunction with plans made available pursuant to 26 U.S.C. § 220 or any successor thereto. If the federal program for these plans is terminated, the health care plan may offer plans with deductibles that do not exceed those permitted for the last year in which the federal program was in effect plus \$50 per calendar year thereafter. In determining whether a health care plan's deductibles are unreasonable, the Commission may consider at least the following criteria:~~

a. ~~Whether the deductibles will adversely affect accessibility to health care services among the health care plan's enrollees in the Commonwealth;~~

b. ~~Whether the health care plan has demonstrated its ability to monitor and implement the deductible plans; and~~

c. ~~Whether the health care plan's level of capitalization and financial condition are adequate to support the deductible plans.~~

B. 1. A health maintenance organization shall file notice with the Commission within 30 days after the exercise of any power granted in subdivision 1 or 2 of subsection A of this section that exceeds one percent of the admitted assets of the organization or five percent of net worth, whichever is less. A health maintenance organization shall file notice, with adequate supporting information, with the Commission prior to the exercise of any power granted in subdivision 1 or 2 of subsection A of this section that exceeds five percent of the admitted assets of the organization or 25 percent of net worth, whichever is less. Any series of transactions occurring within a 12-month period that are sufficiently similar in nature to be reasonably construed as a single transaction shall be subject to the limitations set forth in this section. The Commission shall disapprove the exercise of power if the Commission believes such exercise of power would substantially and adversely affect the financial soundness of the health maintenance organization and endanger the health maintenance organization's ability to meet its obligations. If the Commission does not disapprove the exercise of power within 30 days of the filing, it shall be deemed approved.

2. Upon application by the health maintenance organization, the Commission may exempt from the

filing requirement of subdivision 1 of subsection B of this section those activities having a minimal effect.