VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 215

An Act to amend and reenact § 38.2-3407 of the Code of Virginia, relating to health benefit programs; exclusive provider policies and contracts.

[H 504]

Approved March 3, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 38.2-3407 of the Code of Virginia is amended and reenacted as follows:

§ 38.2-3407. Health benefit programs.

A. One or more insurers may offer or administer a health benefit program under which the insurer or insurers may offer preferred provider policies or contracts that limit the numbers and types of providers of health care services eligible for payment as preferred providers.

B. Any such insurer shall establish terms and conditions that shall be met by a hospital, physician or type of provider listed in § 38.2-3408 in order to qualify for payment as a preferred provider under the policies or contracts. These terms and conditions shall not discriminate unreasonably against or among such health care providers. No hospital, physician or type of provider listed in § 38.2-3408 willing to meet the terms and conditions offered to it or him shall be excluded. Neither differences in prices among hospitals or other institutional providers produced by a process of individual negotiations with providers or based on market conditions, or price differences among providers in different geographical areas, shall be deemed unreasonable discrimination. The Commission shall have no jurisdiction to adjudicate controversies growing out of this subsection.

C. Mandated types of providers set forth in § 38.2-3408, and types of providers whose services are required to be made available and that have been specifically contracted for by the holder of any such policy or contract shall, to the extent required by § 38.2-3408, have the same opportunity to qualify for payment as a preferred provider as do doctors of medicine.

D. Preferred provider policies or contracts shall provide for payment for services rendered by nonpreferred providers, but the payments need not be the same as for preferred providers.

E. *An insurer may offer individual or group exclusive provider policies or contracts if:*

1. The insurer provides or includes a benefit for preferred and nonpreferred providers in accordance with the provisions of subsection D to a group contract holder to be provided or offered as a benefit for the enrollee, at the enrollee's option, individually to accept or reject. In connection with its group enrollment application, every insurer shall, at no additional cost to the group contract holder, make available or arrange with a carrier to make available to the prospective group contract holder and to all prospective enrollees, in advance of initial enrollment and in advance of each reenrollment, a notice in form and substance approved by the Commission as required under § 38.2-316, that accurately and completely explains to the group contract holder and prospective enrollee the benefit for preferred and nonpreferred providers and permits each enrollee to make his election. The form of notice provided in connection with any reenrollment may be the same as the approved form of notice filed under § 38.2-316 used in connection with initial enrollment and may be made available to the group contract holder and prospective enrollee by the carrier in any reasonable manner; and

2. The insurer provides out-of-network emergency services at the minimum level required by the preferred provider policy or contract.

F. For the purposes of this section, *"exclusive provider policies or contracts" are insurance policies or contracts that condition the payment of benefits on the use of preferred providers, and* "preferred provider policies or contracts" are insurance policies or contracts that specify how services are to be covered when rendered by preferred and nonpreferred classifications of providers.