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HOUSE BILL NO. 250

House Amendments in [] - January 29, 2008

A *BILL to amend and reenact §§ 38.2-5801 and 38.2-5802 of the Code of Virginia, relating to managed care health insurance plans.*

Patron Prior to Engrossment—Delegate O'Bannon

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-5801 and 38.2-5802 of the Code of Virginia are amended and reenacted as follows:
 § 38.2-5801. General provisions.

A. No person shall operate an MCHIP in this Commonwealth unless the health carrier who directly or indirectly manages, owns, contracts with, or employs the providers for the plan is licensed in accordance with provisions in this title as an insurance company, a health maintenance organization, or a nonstock corporation organized in accordance with provisions in Chapter 42 (§ 38.2-4200 et seq.) or Chapter 45 (§ 38.2-4500 et seq.) of this title. Such health carrier shall be deemed responsible for the MCHIP and its compliance with this chapter and the provisions of Title 32.1 concerning quality assurance of MCHIPS. A health carrier may be responsible for more than one MCHIP; however, no MCHIP shall have more than one responsible health carrier.

B. Except as provided in subsection C, no person shall operate an MCHIP in this Commonwealth unless the health carrier responsible for the MCHIP holds an active or temporarily suspended certificate of quality assurance issued by the Department of Health.

C. ~~1. A health maintenance organization applying for licensure under this title on or after July 1, 1998, or whose application for such licensure is pending before the Commission on July 1, 1998, shall request its initial certificate of quality assurance prior to licensing and a copy of its request shall be included with and made a part of the licensing application and material filed with the Commission pursuant to § 38.2-4301 and subsection B of § 38.2-5802. Until July 1, 2000, (i) issuance~~ Issuance of a license under § 38.2-4302 shall be contingent upon receipt of notice from the State Health Commissioner that the health maintenance organization's description of its complaint system has been reviewed and approved by the State Health Commissioner ~~and (ii) upon~~. Upon issuance of the license under § 38.2-4302, such health maintenance organization shall be deemed in compliance with subsection B provided ~~no the State Health Commissioner has not revoked or failed to renew a~~ certificate of quality assurance ~~that has been issued to the health maintenance organization which has been revoked or not renewed by the State Health Commissioner. Effective July 1, 2000, issuance~~ [. Issuance] [of a license under § 38.2-4302 shall be contingent upon the Department of Health's issuance of a certificate of quality assurance] .

2. ~~Until July 1, 2000, a health maintenance organization licensed under this title on and before July 1, 1998, shall be deemed in compliance with the provisions of this section if (i) a request for initial certification has been filed with the Department of Health on or before December 1, 1998, and is pending before the State Health Commissioner and (ii) no certificate has been issued to the health maintenance organization which has been revoked or not renewed by the State Health Commissioner.~~

3. D. A health carrier, other than a health maintenance organization, responsible for an MCHIP pursuant to this chapter, shall request its initial certificate of quality assurance from the Department of Health on or before December 1, 1998, or becoming responsible for a MCHIP under this title. ~~Until July 1, 2000, such health carrier shall be deemed in compliance with the provisions of this section if (i) a request for initial certification is pending before the Department of Health and (ii) no certificate has been issued to the health carrier which has been revoked or not renewed by the State Health Commissioner.~~

E. The provisions of this chapter shall apply to all health carriers and all MCHIPS operating in this Commonwealth unless an exemption is recognized in accordance with § 38.2-3420; and, except as otherwise provided in this chapter, the provisions of this chapter shall be supplemental and in addition to those otherwise applicable under this title or Title 32.1.

§ 38.2-5802. Establishment of an MCHIP.

A. A health carrier, when applying for initial licensing under this title and with each request for renewal ~~that is to be effective on or after July 1, 1999,~~ shall describe and categorize generally its ~~existing or planned~~ transactions and operations in ~~this the~~ Commonwealth, ~~as applicable,~~ that may influence the cost or level of health care services between the health carrier and one or more providers with respect to the delivery of health care services through its MCHIPS. Descriptions and categorization

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60 shall identify generally the arrangements that the health carrier has with providers with respect to the
61 delivery of health care services. Descriptions of incentive arrangements shall include compensation
62 methodology and incentives. The descriptions of incentive arrangements shall not include amounts of
63 compensation and values of incentives. Renewal filings shall clearly identify new matter and material
64 changes of information disclosed in the preceding filing.

65 B. A health carrier applying to the Department of Health for initial certification of quality assurance
66 shall simultaneously file a copy of its request for certification with the Commission and shall include the
67 list of providers required by § 38.2-5805. Such filings shall be assessed by the Department of Health.

68 C. In addition to items specified in subsection B, the initial filing under this chapter by a health
69 carrier subject to subsection B of § 38.2-5801 shall include any forms of contracts, including any
70 amendments thereto, made with health care providers enabling the health carrier to provide health care
71 services through its MCHIPs to covered persons. Individual provider contracts and contracts with
72 persons outside this Commonwealth shall not be filed with the Commission unless requested by the
73 Commission or necessary to explain or fully disclose pursuant to subsection D operational changes that
74 are materially at variance with the information currently on file with the Commission. The health carrier
75 shall maintain a complete file of all contracts made with health care providers which shall be subject to
76 examination by the Commission. The contracts shall be retained in the file for a period of at least five
77 years after their expiration. Notwithstanding the provisions of Chapter 37 (§ 2.2-3700 et seq.) of Title
78 2.2 of the Code of Virginia, such contracts shall be confidential and shall not be subject to discovery
79 upon subpoena.

80 D. No MCHIP shall be operated in a manner that is materially at variance with the information
81 submitted pursuant to this section. Any change in such information which would result in operational
82 changes that are materially at variance with the information currently on file with the Commission shall
83 be subject to the Commission's prior approval. [*The requirements of this subsection apply when a*
84 *health carrier proposes material changes to information of the type described in this section that*
85 *previously had been filed with the Commission pursuant to provisions of Chapter 43 (§ 38.2-4300 et*
86 *seq.).*] If the Commission fails to act on a notice of material change within ~~thirty~~ 30 days of its filing,
87 the proposed changes shall be deemed approved. A material change in the MCHIP's health care delivery
88 system shall be deemed to result in operational changes that are materially at variance with the
89 information on file with the Commission. The Commission may determine that other changes are
90 material and may require disclosure to secure full and accurate knowledge of the affairs and condition of
91 the health carrier.

92 E. A health carrier shall give notice to the State Health Commissioner of ~~the~~ any filings it makes
93 with the Commission pursuant to this section.

94 F. The provisions of this section are applicable generally for all health carriers subject to licensure
95 under this title. The provisions of this section shall be applied specifically as follows: (i) the provisions
96 of subsection A are applicable for each health carrier requesting renewal of a license on or after July 1,
97 1998, and also for each health carrier applying for initial licensing on or after July 1, 1998; (ii) the
98 provisions of subsection B shall be applied to any health carrier that files an application with the
99 Department of Health for initial certification of quality assurance; (iii) the provisions of subsection C
100 become applicable as soon as a health carrier makes a filing pursuant to this section; (iv) the filing
101 requirements described in subsection D are applicable for all material filed with the Commission
102 pursuant to this section, and shall be applied also when a health carrier proposes material changes to
103 information of the type described in this section which previously had been filed with the Commission
104 pursuant to provisions of Chapter 43 (~~§ 38.2-4300 et seq.~~) of this title; and (v) the provisions of
105 subsection E are applicable whenever a health carrier makes a filing pursuant to this section.