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**HOUSE BILL NO. 669**

Offered January 9, 2008

Prefiled January 8, 2008

*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 amino acid-based formulas.*

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Patron—Marshall, R.G.

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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 amino-acid-based formulas.*

*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 for the expense of amino-acid-based formulas whose protein source has been extensively or completely hydrolyzed.*

*B. Coverage under this section shall apply only if:*

*1. The amino-acid-based formula is prescribed by a licensed physician. A managed care health insurance plan, as defined in Chapter 58 (§ 38.2-5800 et seq.) of this title, may require such physician to be a member of the plan's provider network;*

*2. The physician furnishes supporting documentation to the insurer, corporation, or health maintenance organization that the amino-acid-based formula is required to treat either a diagnosed inborn error of amino acid or organic acid metabolism or a diagnosed disease or disorder of the gastrointestinal tract that leads to malnutrition or malabsorption due to inflammation, protein sensitivity, or inborn errors of digestion; and*

*3. The amino-acid-based formula is the primary source of nutrition as certified by the treating physician by diagnosis.*

*C. No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits pursuant to this section any copayment, coinsurance, or deductible amounts, or any policy year, calendar year, lifetime, or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the policy, contract, or plan.*

*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, 2009, 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.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1306.1, § 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.)*

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59 and § 38.2-5903 of this title shall be applicable to any health maintenance organization granted a license  
60 under this chapter. This chapter shall not apply to an insurer or health services plan licensed and  
61 regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) of this title except  
62 with respect to the activities of its health maintenance organization.

63 B. For plans administered by the Department of Medical Assistance Services that provide benefits  
64 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title  
65 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,  
66 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,  
67 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  
68 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, § 38.2-1306.1,  
69 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  
70 seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et  
71 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 and  
72 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions 1, 2, and 3 of subsection F  
73 of § 38.2-3407.10, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, and 38.2-3407.14,  
74 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,  
75 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
76 through 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.),  
77 Chapter 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to  
78 any health maintenance organization granted a license under this chapter. This chapter shall not apply to  
79 an insurer or health services plan licensed and regulated in conformance with the insurance laws or  
80 Chapter 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health  
81 maintenance organization.

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

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

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

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