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SENATE BILL NO. 631

Offered January 9, 2008

Prefiled January 9, 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 infertility.

Patron—Ticer

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 infertility treatment.

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 treatment of infertility under any such policy, contract, or plan.

B. For purposes of this section, "infertility" means the inability to conceive after one year of unprotected sexual intercourse. "Treatment for infertility" includes, but is not limited to, the following procedures performed on a covered individual who is less than 50 years old: in vitro fertilization, embryo transfer, artificial insemination, gamete intrafallopian tube transfer, intracytoplasmic sperm injection, zygote intrafallopian transfer, and low tubal ovum transfer. Such treatment shall be required only if the covered individual has not undergone four complete oocyte retrievals, except that if a live birth follows a complete oocyte retrieval, then two more oocyte retrievals shall be covered. "Treatment for infertility" does not include the reversal of a vasectomy or a tubal ligation.

C. 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 July 1, 2008, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

D. The reimbursement for treatment for infertility shall be determined according to the same formula by which charges are developed for other medical and surgical procedures. Such coverage shall have durational limits, deductibles, and coinsurance factors that are no less favorable than for physical illness generally.

E. This section shall not apply to short-term travel, accident-only, limited, or specified disease 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 governmental plans or to short-term nonrenewable policies of not more than six months' duration.

§ 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.), §§ 38.2-1017 through 38.2-1023, 38.2-1057, 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 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.) and § 38.2-5903 of this title shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits

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59 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
60 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
61 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,
62 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
63 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1017 through 38.2-1023, 38.2-1057, Article 2
64 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.) and 5
65 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of
66 Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 through
67 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.09:02, subdivisions 1, 2, and 3 of subsection F of
68 § 38.2-3407.10, 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13 through 38.2-3407.14, 38.2-3411.2,
69 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of
70 § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through
71 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.), Chapter
72 55 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to any
73 health maintenance organization granted a license under this chapter. This chapter shall not apply to an
74 insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter
75 42 (§ 38.2-4200 et seq.) of this title except with respect to the activities of its health maintenance
76 organization.

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

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

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

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