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SENATE BILL NO. 450

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact § 38.2-4319 of the Code of Virginia, as it is currently effective and as it may become effective, and to amend the Code of Virginia by adding a section numbered 38.2-3418.18, relating to insurance; parity of coverage for oral chemotherapy medications.

Patrons—Vogel; Delegate: Peace

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, as it is currently effective and as it may become effective, is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.18 as follows:

§ 38.2-3418.18. Coverage for oral chemotherapy medications.

A. Notwithstanding the provisions of § 38.2-3419, each insurer proposing to issue group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; each corporation providing group accident and sickness subscription contracts; and each health maintenance organization providing a health care plan for health care services, if the policy, contract, or plan provides coverage for cancer chemotherapy treatment, (i) shall provide coverage under such policy, contract, or plan for a prescribed, orally administered anticancer medication on a basis no less favorable than that on which it provides coverage for intravenously administered or injected anticancer medications and (ii) shall not require a higher copayment, deductible, or coinsurance amount for a prescribed, orally administered anticancer medication that is used to kill or slow the growth of cancerous cells than what the policy, contract, or plan requires for an intravenously administered or injected anticancer medication that is provided, regardless of formulation or benefit category determination by the insurer, corporation, or health maintenance organization.

B. An insurer, corporation, or health maintenance organization shall not achieve compliance with this section by imposing an increase in copayment, deductible, or coinsurance amount for an intravenously administered or injected anticancer chemotherapy agent covered under the policy, contract, or plan.

C. Nothing in this section shall be interpreted to (i) prohibit an insurer, corporation, or health maintenance organization from requiring prior authorization or imposing other appropriate utilization controls in approving coverage for any chemotherapy or (ii) require coverage in a policy, contract, or plan for cancer chemotherapy treatment.

D. No insurer, corporation, or health maintenance organization shall impose any policy-year or calendar-year dollar or durational benefit limitations or maximums for benefits or services provided under this section.

E. The requirements of this section shall apply to all insurance policies, contracts, and plans delivered, issued for delivery, reissued, or extended on and after July 1, 2012, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

F. 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.

G. Pursuant to the provisions of § 2.2-2818.2, this section shall apply to health coverage offered to state employees pursuant to § 2.2-2818 and to health insurance coverage offered to employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, local officers, teachers, and retirees pursuant to § 2.2-1204.

§ 38.2-4319. (Effective until July 1, 2014) 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, 38.2-1306.1, 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, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6.1,

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59 38.2-3407.9 through 38.2-3407.17, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1,
60 38.2-3418.1 through ~~38.2-3418.17~~ 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through 38.2-3446, 38.2-3500,
61 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
62 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2, 38.2-3542,
63 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter
64 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be
65 applicable to any health maintenance organization granted a license under this chapter. This chapter shall
66 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance
67 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance
68 organization.

69 B. For plans administered by the Department of Medical Assistance Services that provide benefits
70 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title
71 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,
72 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,
73 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
74 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,
75 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
76 seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et
77 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 and
78 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of
79 § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14,
80 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,
81 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
82 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter
83 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be
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85 not apply to an insurer or health services plan licensed and regulated in conformance with the insurance
86 laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance
87 organization.

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

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

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

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

101 § 38.2-4319. (Effective July 1, 2014) Statutory construction and relationship to other laws.

102 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this
103 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
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106 §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.),
107 § 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
108 Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800
109 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1,
110 38.2-3407.9 through 38.2-3407.17, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1,
111 38.2-3418.1 through ~~38.2-3418.17~~ 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500,
112 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1
113 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2, 38.2-3542,
114 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55
115 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to any health
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