

13101790D

## SENATE BILL NO. 866

Offered January 9, 2013

Prefiled January 3, 2013

A *BILL to amend and reenact § 38.2-4319, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3418.18, relating to health insurance coverage for enteral formulas for individuals diagnosed as having short bowel syndrome.*

Patron—Edwards

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

1. That § 38.2-4319, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3418.18 as follows:

§ 38.2-3418.18. *Coverage for enteral formulas for individuals diagnosed as having short bowel syndrome.*

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, whose policy, contract, or plan, including any certificate or evidence of coverage issued in connection with such policy, contract, or plan, includes coverage for prescription drugs on an outpatient basis shall provide coverage for the cost of enteral formulas for home use by covered individuals who suffer from short bowel syndrome.

B. Coverage under this section shall apply to enteral formulas for which the covered individual's physician has issued a written order stating that the enteral formula is clearly medically necessary and has been proven effective as a treatment regimen for the covered individual diagnosed with short bowel syndrome, and that the enteral formula is the primary source of nutrition as certified by the physician by diagnosis. Coverage under this section shall not apply to nutritional supplements taken electively.

C. No insurer, corporation, or health maintenance organization shall impose upon any person receiving benefits for any enteral formula pursuant to this section any (i) copayment, coinsurance payment, or fee that is not equally imposed upon all individuals in the same benefit category, class, coinsurance level, or copayment level receiving benefits for prescription drugs or (ii) reduction in allowable reimbursement for prescription drug benefits.

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, 2014, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

E. The provisions of 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 federal governmental plans, or to short-term nonrenewable policies of not more than six months' duration.

**§ 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, 38.2-3407.9 through 38.2-3407.18, 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 38.2-3418.17, 38.2-3418.18, 38.2-3419.1, 38.2-3430.1 through 38.2-3446, 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, 38.2-3540.2, 38.2-3541.1, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter

INTRODUCED

SB866

59 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall  
60 be applicable to any health maintenance organization granted a license under this chapter. This chapter  
61 shall not apply to an insurer or health services plan licensed and regulated in conformance with the  
62 insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health  
63 maintenance organization.

64 B. For plans administered by the Department of Medical Assistance Services that provide benefits  
65 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title  
66 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,  
67 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,  
68 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  
69 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,  
70 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  
71 seq.) and 5 (§ 38.2-1322 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et  
72 seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6 and  
73 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  
74 § 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,  
75 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,  
76 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
77 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  
78 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall  
79 be applicable to any health maintenance organization granted a license under this chapter. This chapter  
80 shall not apply to an insurer or health services plan licensed and regulated in conformance with the  
81 insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health  
82 maintenance organization.

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

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

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

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

96 **§ 38.2-4319. (Effective July 1, 2014) Statutory construction and relationship to other laws.**

97 A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this  
98 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  
99 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  
100 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.),  
101 §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.),  
102 § 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.)  
103 of Chapter 13, Articles 1 (§ 38.2-1400 et seq.) and 2 (§ 38.2-1412 et seq.) of Chapter 14, §§ 38.2-1800  
104 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,  
105 38.2-3407.9 through 38.2-3407.18, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1:01, 38.2-3414.1,  
106 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,  
107 subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1  
108 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,  
109 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55  
110 (§ 38.2-5500 et seq.), Chapter 58 (§ 38.2-5800 et seq.) and § 38.2-5903 shall be applicable to any health  
111 maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer  
112 or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42  
113 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

114 B. For plans administered by the Department of Medical Assistance Services that provide benefits  
115 pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title  
116 except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136,  
117 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,  
118 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  
119 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,  
120 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, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 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 § 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, 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, 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, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, 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 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.) except with respect to the activities of its health maintenance organization.

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

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

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

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